

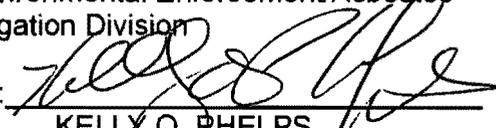
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2010), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

KELLY O. PHELPS
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 2, 2013

SERVICE LIST

Demolition Excavating Group, Inc.
C/O Rhonda Fisher, President
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Manito, IL 61546

Rhonda Fisher
7841 Warner Road
Manito, IL 61546-8150

Edward W. Fisher
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Springfield, IL 62794-9276

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

vs.)

DEMOLITION EXCAVATING GROUP,)
INC., an Illinois Corporation,)
RHONDA FISGER, and EDWARD FISHER)

Respondent.)

PCB No. 13-
(Enforcement-Land)

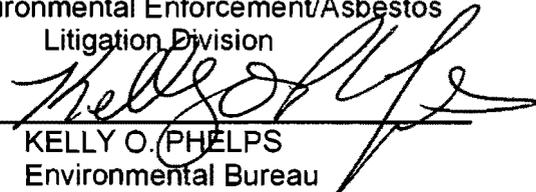
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, KELLY O. PHELPS, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
KELLY O. PHELPS
Environmental Bureau
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN,)
Attorney General of the State of Illinois,)**

Complainant,)

v.)

**PCB No. 13-)
(Enforcement-Land))**

**DEMOLITION EXCAVATING GROUP,)
INC., an Illinois Corporation,)
RHONDA FISHER, and EDWARD)
FISHER,)**

Respondents.)

COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondents, DEMOLITION EXCAVATING GROUP, INC., RHONDA FISHER and EDWARD FISHER as follows:

COUNT I
OPEN DUMPING / HILST SITE

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), after providing the Respondents with notice and opportunity for a meeting with the Illinois EPA.

4. Respondent, Demolition Excavating Group, Inc. ("DEG"), is a closely held Illinois corporation, properly registered and in good standing with the Secretary of State. Respondent, DEG is a demolition and excavating contracting company. Likewise, DEM/EX Group Inc. was a demolition and excavating contracting company which is a closely held Illinois corporation. DEM/EX Group Inc. is not in good standing with the Secretary of State. Both corporations are closely held by Rhonda and Edward Fisher and both corporations share a principal place of business at 805 Adams, Manito, Mason County, Illinois.

5. The Respondent DEG is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

6. At all times relevant to this Complaint, Respondent, Rhonda Fisher, was the President of Respondent DEG. Respondent Edward Fisher is an authorized agent or employee of Respondent DEG and Edward Fisher is the President and Secretary of the predecessor corporation DEM/EX Group, Inc.

7. At all times relevant to this Complaint, Respondent, Edward Fisher, was the husband of Respondent Rhonda Fisher and was the authorized agent of Respondent DEG.

8. The Board issued orders against Respondent Rhonda Fisher, Respondent Edward Fisher, and DEM/EX Group, Inc. for open dumping violations related to demolition debris wastes cited in AC-2008-026 and PCB 2013-003 on June 5, 2008 and May 16, 2013, respectively. Likewise, the Rock Island Circuit Court issued an order against DEM/EX Group, Inc. in July 2012 for Clean Air Act violations cited in Case No. 11-CH-413.

9. At all times relevant to this Complaint, Joyce Hilst, and Scott Hilst were the owners of the real property located at 13000 block of East Manito Road, Pekin, Tazewell County, Illinois which has two lagoons upon it ("Hilst Site").

10. At some time prior to May 10, 2012, Scott Hilst met with Respondent, Rhonda Fisher at the West Pekin High School campus to inquire about obtaining free excavated demolition material from the West Pekin High School campus to be used as fill at the Hilst Site. Based on Scott Hilst's inquiry, Respondent Rhonda Fisher arranged for Scott Hilst to meet with Respondent Edward Fisher at DEG's corporate office in Manito, Illinois. Thereafter, Scott Hilst met with Respondent Edward Fisher and made arrangements to have excavated demolition material delivered to the Hilst Site for fill on the condition precedent that everything was cleared with the Illinois EPA before dumping any excavated demolition material at the Hilst Site.

11. At some time prior to May 10, 2012, DEG, through its employee, Daniel Saal, falsely represented to Ms. Hilst that it had obtained permission from the Illinois EPA to dump clean demolition debris at the Hilst Site; however, the excavated demolition material contained metal, wood and other waste and thus was not clean demolition debris as defined by the Act.

12. On May 10, 2012, Illinois EPA inspector, Gene Figge, inspected the Hilst Site and determined that demolition debris containing rock, dirt, brick, wood and metal had been openly dumped. At that time, Inspector Figge took photographs of the Hilst Site which are attached hereto and incorporated herein as Complainant's Exhibit 1 [CX1].

13. Later that day, Inspector Figge contacted DEG's Project Coordinator Daniel Saal and DEG's President, Rhonda Fisher, and both admitted that DEG had been removing the demolition debris from an excavation project at Pekin High School West Campus and dumping it at the Hilst Site with purported permission of the owner.

14. On May 11, 2012, another inspection was conducted at the Hilst Site by Illinois EPA Inspectors Jason Thorp, Jeb McGhee and Illinois EPA, Land Field Operations Section, Peoria Regional Manager, John Tripses. At that time, demolition debris from the Pekin High School West Campus excavation was openly dumped along the south edge of the Hilst Site's west lagoon and contained a mixture of brick, concrete, metal, wood, plastic and cardboard.

15. On May 24, Inspector Figge contacted Ed Fisher of DEG by telephone and Mr. Fisher informed Inspector Figge that the Hilst Site was being cleaned up. Later that day, Inspector Figge went to the Hilst Site and DEG employee Tyler Dawe was removing wood waste from the debris with a bucket. Subsequently Inspector Figge called Mr. Fisher and informed him that all wastes had to be removed from the Hilst Site, not just the wood wastes. Mr. Fisher advised Inspector Figge that DEG was not responsible for all of the waste and DEG would not remove all of the waste.

16. On June 1, 2012, Inspector Figge met with Ed Fisher, Rhonda Fisher, Tyler Dawe, Daniel Saal, and Seth Rice of Demolition Excavating Group, Inc. at the Pekin High School West Campus excavation site. During the meeting, Inspector Figge handed out copies of Section 3.160 of the Act and explained that the waste that had been placed on the Hilst Site was a waste and would have to be removed and properly disposed. At Mr. Fisher's request, Inspector Figge looked at the accumulations of wastes at the Pekin High School West Campus excavation site. After looking at the accumulations of wastes with Mr. Fisher, Inspector Figge advised Mr. Fisher that the accumulations of wastes were not clean demolition debris and that all of the wastes would have to be taken to a landfill.

17. On June 4, 2012, Ed Fisher of DEG called Inspector Figge to inform him that DEG was removing all of the wastes from the Hilst Site and taking it to a landfill.

18. At all times relevant to this Complaint, Edward and Rhonda Fisher were actively and personally in directing the violations set forth and alleged in this Complaint.

19. On June 5, 2012, the Illinois EPA issued a violation notice to DEG pursuant to Section 31(a) of the Act, 415 ILCS 5/31(a) (2010).

20. On July 3, 2012, Inspector Figge conducted an inspection of the Hilst Site and approximately 12 dump-truck loads, or 200 cubic yards, of demolition debris, which had been generated at the Pekin High School West Campus, had recently been dumped by Respondents at the Hilst Site and in the lagoons. The wastes included two loads of asphalt and a load of wood wastes.

21. On December 10, 2012, Inspector Figge conducted an inspection of the Hilst Site and most of the wastes had been removed from the lagoons, but for two loads of stockpiled waste which had been prepared for transport.

22. On March 12, 2013, Inspector Figge conducted an inspection of the Hilst Site and all wastes had been removed.

23. Section 3.160(a) of the Act, 415 ILCS 5/3.160(a) (2010) defines general demolition debris and provides in pertinent part:

(a) "General construction or demolition debris" means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities,

structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste.

To the extent allowed by federal law, uncontaminated concrete with protruding rebar shall be considered clean construction or demolition debris and shall not be considered "waste" if it is separated or processed and returned to the economic mainstream in the form of raw materials or products within 4 years of its generation, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with item (i) in subsection (b) of this Section.

24. Section 21 of the Act, 415 ILCS 5/21 (2010), provides in pertinent part:

No person shall:

(a) Cause or allow the open dumping of any waste.

* * *

(e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

* * *

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter;

* * *

(4) deposition of waste in standing or flowing waters;

* * *

(7) deposition of:

(i) general construction or demolition debris as defined in Section 3.160(a) of this Act; or

25. Respondents had caused or allowed the open dumping of wastes at the Hilst Site.

26. By causing or allowing open dumping of wastes at the Hilst Site, Respondents violated Section 21(a) of the Act.

27. Respondents had disposed of wastes at the Hilst Site which did not meet the requirements of the Act or the regulations and standards thereunder.

28. By disposing of wastes at the Hilst Site which did not meet the requirements of the Act or the regulations and standards thereunder, Respondents violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

29. Respondents had caused or allowed open dumping of wastes at the Hilst Site in a manner which resulted in litter and deposition of waste in standing water.

30. By causing or allowing the open dumping of wastes at the Hilst Site in a manner which resulted in litter and deposition of waste in standing water, Respondents violated Section 21(p)(1) and (p)(4) of the Act, 415 ILCS 5/21(p)(1) and (p)(4) (2010).

31. Respondents had caused or allowed open dumping of wastes at the Hilst Site in a manner which resulted in deposition of general construction or demolition debris as defined in Section 3.160(a) of this Act.

32. By causing or allowing open dumping of wastes at the Hilst Site in a manner which resulted in deposition of general construction or demolition debris as defined in Section 3.160(a) of this Act, Respondents violated Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2010).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN respectfully requests that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that Respondents have violated the Act and regulations as alleged herein;
- C. Ordering Respondents to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), awarding to Complainant its costs and reasonable attorney fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT II
OPEN DUMPING / PEKIN S & G SITE

1-8. The Complainant hereby adopts and incorporates by reference herein, Paragraphs 1 through 8 of Count I of this Complaint as Paragraphs 1 through 8 of this Count II.

9-10. The Complainant hereby adopts and incorporates by reference herein, Paragraphs 23 and 24 of Count I of this Complaint as Paragraphs 9 and 10 of this Count II.

11. On July 19, 2012, Inspector Figge conducted an inspection of a property located at 13018 Manito Road, Tazewell County, Pekin, Illinois owned by Pekin Sand & Gravel ("Pekin S & G Site) in response to a complaint that DEG had been dumping wastes from the Pekin High School West Campus site at the Pekin S & G Site. At that time, Inspector Figge met with the owner, Derrek Henry, who confirmed that DEG had been delivering wastes from the Pekin High School West Campus site to the Pekin S & G site.

12. During Inspector Figge's July 19, 2012, inspection there was 250 cubic yards of demolition debris wastes present which had come from the Pekin High School West Campus site. The demolition debris waste contained wood, protruding metal bars and other wastes. At that time, Inspector Figge informed Derrek Henry that all of the wastes would have to be removed. During the conversation between Inspector Figge and Derrek Henry, a DEG dumptruck arrived and Inspector Figge and Derrek Henry told the driver that no more loads of demolition debris waste would be accepted from the Pekin High School West Campus site.

13. On July 20, 2012, Derrek Henry contacted DEG and requested that DEG remove the wastes from the Pekin S & G Site. On July 23, DEG removed the wastes and returned it to the Pekin High School West Campus site.

14. Respondents had caused or allowed the open dumping of wastes at the Pekin S & G Site.

15. By causing or allowing open dumping of wastes at the Pekin S & G Site, Respondents violated Section 21(a) of the Act.

16. Respondents had disposed of wastes at the Pekin S & G Site which did not meet the requirements of the Act or the regulations and standards thereunder.

17. By disposing of wastes at the Pekin S & G Site which did not meet the requirements of the Act or the regulations and standards thereunder, Respondents violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

18. Respondents had caused or allowed open dumping of wastes at the Pekin S & G Site in a manner which resulted in deposition of general construction or demolition debris as defined in Section 3.160(a) of this Act.

19. By causing or allowing open dumping of wastes at the Pekin S & G Site in a manner which resulted in deposition of general construction or demolition debris as defined in Section 3.160(a) of this Act, Respondents violated Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2010).

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F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN,
Attorney General of the State
of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

BY: 
THOMAS DAVIS, Chief
Environmental Bureau

OF COUNSEL:

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Dated: 7/02/13