

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

- vs -

SHERIDAN SAND & GRAVEL CO.,  
an Illinois corporation,

Respondent.

PCB No. 06-  
(Enforcement - Used Tires)

**NOTICE OF FILING**

TO: See Attached Service List (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office or an attorney.

**NOTIFICATION**

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental facilities financing act [20 ILCS 3515/1 *et seq.*] to correct the alleged pollution.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General of the State of Illinois

BY:

  
VANESSA A. VAIL

Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20<sup>th</sup> Floor  
Chicago, Illinois 60601  
312-814-5361

DATE: May 22, 2006

**SERVICE LIST**

**Attorney for Respondent**

Mr. Kenneth Anspach  
Eight South Michigan Avenue  
Suite 3400  
Chicago, Illinois 60603

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
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v.	)	PCB No. 06-
	)	(Enforcement – Used Tires)
SHERIDAN SAND & GRAVEL CO.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), complains of Respondent, SHERIDAN SAND & GRAVEL CO., as follows:

**COUNT I**

**FAILURE TO REGISTER**

1. This complaint is brought on behalf of the People of the State of Illinois, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), against SHERIDAN SAND & GRAVEL CO., pursuant to the terms and conditions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2004), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent SHERIDAN SAND & GRAVEL CO. ("Sheridan S & G"), is an

Illinois corporation duly authorized to transact business in Illinois. Sheridan S & G owns and operates a sand and gravel mine located at 2679 North 4201 Road, Sheridan, LaSalle County, Illinois ("Site"). The Site consists of approximately 291.56 acres.

4. On April 19, 2005, the Illinois EPA and the LaSalle County Environmental Services & Land Use Department ("LaSalle County Environmental Department") conducted an inspection of the Site. During the inspection, the Illinois EPA inspectors observed approximately 500 used and waste tires at the Site.

5. The tires were stored inside seven (7) uncovered roll-off boxes and two (2) uncovered semi-trailers.

6. The tires that were off the rims were stored inside the roll-off boxes and semi-trailers and contained water.

7. Tires located outdoors can fill with water from precipitation events and provide breeding habitat for mosquitoes.

8. On May 4, 2005, Illinois EPA sent a Violation Notice ("VN") to Sheridan S & G, advising Respondent that the accumulation of tires at the Site constituted violations of the Act and Board regulations.

9. On June 6, 2005, the LaSalle County Environmental Department visited the Site and observed that the used and waste tires had been removed.

10. Illinois EPA received a response to the VN from Sheridan S & G on June 15, 2005, summarizing the actions Sheridan S & G had performed since May 4, 2005.

11. On August 26, 2005, Illinois EPA sent a Notice of Intent to Pursue Legal Action ("NIPLA") to Respondent.

12. Section 55(d) of the Act, 415 ILCS 5/55(d) (2004), provides, in pertinent part, as

follows:

(d) Beginning January 1, 1992, no person shall cause or allow the operation of:

(1) a tire storage site which contains more than 50 used tires, unless the owner or operator, by January 1, 1992 (or the January 1 following commencement of operation, whichever is later) and January 1 of each year thereafter, (i) registers the site with the Agency, (ii) certifies to the Agency that the site complies with any applicable standards adopted by the Board pursuant to Section 55.2, (iii) reports to the Agency the number of tires accumulated, the status of vector controls, and the actions taken to handle and process the tires, and (iv) pays the fee required under subsection (b) of Section 55.6;

13. Section 54.13 of the Act, 415 ILCS 5/54.13 (2004), provides as follows:

"Used tire" means a worn, damaged, or defective tire that is not mounted on a vehicle.

14. During the inspection at the Site, the Illinois EPA observed unmounted tires that were worn, damaged or defective and that, therefore, constituted used tires as defined in Section 54.13 of the Act, 415 ILCS 5/54.13 (2004).

15. Section 54.12 of the Act, 415 ILCS 5/54.12 (2004), provides as follows:

"Tire storage site" means a site where used tires are stored or processed, other than (1) the site at which the tires were separated from the vehicle wheel rim, (2) the site where the used tires were accepted in trade as part of a sale of new tires, or (3) a site at which tires are sold at retail in the regular course of business, and at which not more than 250 used tires are kept at any time or (4) a facility at which tires are sold at retail provided that the facility maintains less than 1300 recyclable tires, 1300 tire carcasses, and 1300 used tires on site and those tires are stored inside a building or so that they are prevented from accumulating water."

16. The Site constitutes a tire storage site as that term is defined in Section 54.12 of the Act, 415 ILCS 5/54.12 (2004), because used tires were stored or processed at the Site.

17. Respondent failed to register the Site with the Illinois EPA, certify that the Site

complies with applicable Board standards, report to the Agency the number of tires accumulated, the status of vector controls, and the actions taken to handle and process the tires, and failed to pay the fee required under subsection (b) of Section 55.6, in violation of Section 55(d)(1) of the Act, 415 ILCS 5/55(d)(1) (2004).

18. Respondent operated a tire storage site in violation of Section 55(d)(1) of the Act, 415 ILCS 5/55(d)(1) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, SHERIDAN SAND AND GRAVEL CO., on this Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Section 55(d)(1) of the Act, 415 ILCS 5/55(d)(1) (2004);

3. Ordering the Respondent to cease and desist from any future violations of Section 55(d)(1) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

**COUNT II**

**IMPROPER STORAGE OF USED OR WASTE TIRES**

1-16. Complainant hereby realleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count II.

17. Section 55(e) of the Act, 415 ILCS 5/55(e) (2004), provides in pertinent part, as follows:

- (e) No person shall cause or allow the storage, disposal, treatment or processing of any used or waste tire in violation of any regulation or standard adopted by the Board.

18. Section 54.16 of the Act, 415 ILCS 5/54.16 (2004), provides as follows:

"Waste tire" means a used tire that has been disposed of.

19. Section 54.04 of the Act, 415 ILCS 5/54.04 (2004), provides as follows:

"Disposal" means the placement of used tires into or on any land or water except as an integral part of systematic reuse or conversion in the regular course of business.

20. During the April 19, 2005 inspection, the Illinois EPA observed waste tires at the Site that were placed in uncovered receptacles on the land and were not part of a systematic reuse or conversion in the regular course of business and, therefore, constituted disposal of waste tires as those terms are defined at Sections 54.04 and 54.16 of the Act, 415 ILCS 5/54.04 and 54.16 (2004).

21. Section 848.202(b) of the Board regulations, 35 Ill. Adm. Code 848.202(b), provides, in pertinent part, as follows:

- b) At sites at which more than 50 used or waste tires are located the owner or operator shall comply with the following requirements:

\* \* \*

- 4) Used or waste tires shall be drained of water on the day of generation or receipt.

\* \* \*

- 5) Used or waste tires received at the site shall not be stored unless within 14 days after the receipt of any used tire the used tire is altered, reprocessed, converted, covered or otherwise prevented from accumulating water. All used and waste tires received at the site before June 1, 1989, shall be altered, reprocessed, converted, covered or otherwise prevented from accumulating water by January 1, 1992.

22. Respondent stored or disposed of used and/or waste tires at the Site in violation of Section 55(e) of the Act, 415 ILCS 5/55(e) (2004), and 35 Ill. Adm. Code 848.202(b)(4) and (b)(5).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, SHERIDAN SAND AND GRAVEL CO., on this Count II:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 55(e) of the Act, 415 ILCS 5/55(e) (2004), and 35 Ill. Adm. Code 848.202(b)(4) and (5);
3. Ordering the Respondent to cease and desist from any future violations of Section 55(e) of the Act, and 35 Ill. Adm. Code 848.202(b)(4) and (5);
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and



6. Granting such other relief as the Board deems appropriate and just.

**COUNT III**

**FAILURE TO COMPLY WITH TIRE STORAGE NOTIFICATION AND  
RECORDKEEPING REQUIREMENTS**

1-20. Complainant hereby realleges and incorporates by reference herein paragraphs 1 through 20 of Count II as paragraphs 1 through 20 of this Count III.

21. Section 848.304 of the Board regulations, 35 Ill. Adm. Code 848.304, provides, in pertinent part, as follows:

- a) The owner or operator shall maintain an Annual Tire Summary at the site; such record shall include the Agency designated site number, the site name and address and the calendar year for which the summary applies.

\* \* \*

- c) The Annual Tire Summary shall be received by the Agency on or before January 31 of each year and shall cover the preceding calendar year.

22. Section 848.305 of the Board regulations, 35 Ill. Adm. Code 848.305, provides as follows:

Copies of all records required to be kept under this Subpart shall be retained by the owner and operator for three years and shall be made available at the site during the normal business hours of the operator for inspection and photocopying by the Agency.

23. Respondent failed to maintain and submit an annual tire summary to the Illinois EPA at any time relevant to the Complaint in violation of Section 55(e) of the Act, 415 ILCS 5/55(e) (2004), and 35 Ill. Adm. Code 848.304(a) and (c).

24. Respondent failed to maintain records at the Site at all times relevant to this Complaint, in violation of Section 55(e) of the Act, 415 ILCS 5/55(e) (2004), and 35 Ill. Adm. Code 848.305.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, SHERIDAN SAND AND GRAVEL CO., on this Count III:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Section 55(e) of the Act, 415 ILCS 5/55(e) (2004), and 35 Ill. Adm. Code 848.304(a) and (c) and 848.305;

3. Ordering the Respondent to cease and desist from any future violations of Section 55(e) of the Act, and 35 Ill. Adm. Code 848.304(a) and (c) and 848.305;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

**COUNT IV**

**FAILURE TO PAY REGISTRATION FEE**

1-20. Complainant hereby realleges and incorporates by reference herein paragraphs 1 through 20 of Count II as paragraphs 1 through 20 of this Count IV.

21. Section 21(k) of the Act, 415 ILCS 5/21(k) (2004), provides, in pertinent part, as follows:

No person shall:

k. Fail or refuse to pay any fee imposed under this Act.

22. Section 55.6(b) of the Act, 415 ILCS 5/55.6(b) (2004), provides, in pertinent part, as follows:

(b) Beginning January 1, 1992, in addition to any other fees required by law, the owner or operator of each site required to be registered under subsection (d) of Section 55 shall pay to the Agency an annual fee of \$100. Fees collected under this subsection shall be deposited into the Environmental Protection Permit and Inspection Fund.

23. At the time of the April 19, 2005 inspection, Respondent operated a tire storage site that contained more than 50 used tires and was required to register with the Illinois EPA as a tire storage site, and therefore, required to pay an annual fee.

24. Respondent failed to pay the annual fee in violation of Sections 55.6(b), 55(d)(1) and 21(k) of the Act, 415 ILCS 5/55.6(b), 5/55(d)(1) and 5/21(k) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, SHERIDAN SAND AND GRAVEL CO., on this Count IV:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Sections 55.6(b), 55(d)(1) and 21(k) of the Act, 415 ILCS 5/55.6(b), 5/55(d)(1) and 5/21(k) (2004);
3. Ordering the Respondent to cease and desist from any future violations of Sections 55.6(b), 55(d)(1) and 21(k) of the Act;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

#### **COUNT V**

##### **FAILURE TO COMPLY WITH TIRE TRANSPORTER REQUIREMENTS**

1-20. Complainant hereby realleges and incorporates by reference herein paragraphs 1 through 20 of Count II as paragraphs 1 through 20 of this Count V.

21. Section 55(g) of the Act, 415 ILCS 5/55(g) (2004), provides, in pertinent part, as follows:

- (g) No person shall engage in any operation as a used or waste tire transporter except in compliance with Board regulations.

22. Section 54.12(b) of the Act, 415 ILCS 5/54.12(b) (2004), provides as follows:

“Tire Transporter” means a person who transports used or waste tires in a vehicle.

23. Respondent transported used or waste tires to the Site, and is therefore a tire transporter as defined in Section 54.12(b) of the Act, 415 ILCS 5/54.12(b) (2004).

24. Section 848.601 of the Board regulations, 35 Ill. Adm. Code 848.601, provides, in pertinent part, as follows:

- (a) Except as provided in Subsection (c), no person shall transport more than 20 used or waste tires in a vehicle unless the following requirements are met.
  - 1) The owner or operator has registered the vehicle with the Agency in accordance with this Subpart, received approval of such registration from the Agency, and such registration is current, valid and in effect.
  - 2) The owner or operator displays a placard on the vehicle, issued by the Agency following registration, in accordance with the requirements of this Subpart.

25. Respondent failed to register vehicles that were used for transporting used or waste tires with the Illinois EPA, in violation of Section 55(g) of the Act, 415 ILCS 5/55(g) (2004), and 35 Ill. Adm. Code 848.601(a)(1).

26. Respondent failed to display a placard on vehicles used for transporting used or waste tires, in violation of Section 55(g) of the Act, 415 ILCS 5/55(g) (2004), and 35 Ill. Adm. Code 848.601(a)(2).

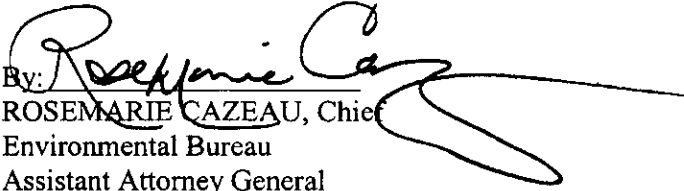
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, SHERIDAN SAND AND GRAVEL CO., on this Count V:

- 1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
- 2. Finding that Respondent violated Section 55(g) of the Act, 415 ILCS 5/55(g) (2004), and 35 Ill. Adm. Code 848.601(a)(1) and (2);
- 3. Ordering the Respondent to cease and desist from any future violations of Section 55(g) of the Act, and 35 Ill. Adm. Code 848.601(a)(1) and (2);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

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:   
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:  
Vanessa A. Vail  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Floor  
Chicago, Illinois 60601  
(312) 814-5361

CERTIFICATE OF SERVICE

I, VANESSA A. VAIL, an attorney, do certify that I caused to be served this 22nd day of May, 2006, the foregoing Complaint and Notice of Filing upon the persons listed on said Notice, by Certified Mail and U.S. MAIL.

  
\_\_\_\_\_  
VANESSA A. VAIL  
Assistant Attorney General