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JUN 29 2006

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 26, 2006

PCB 06-193

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Ron Fisher Motorsports, Inc.***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Jennifer Bonkowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

JB/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 29 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 RON FISHER MOTORSPORTS, INC.,)
 an Illinois corporation, d/b/a F & L)
 Salvage,)
)
 Respondent.)

PCB No. 06-193
(Enforcement)

NOTICE OF FILING

To: Ron Fisher Motorsports, Inc.
an Illinois corporation
c/o Michael Reed, R.A.
310 South Elm Street
Centralia, IL 62801

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith 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 this 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.


FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), 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: 
JENNIFER BONKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 26, 2006


CERTIFICATE OF SERVICE

I hereby certify that I did on July 26, 2006, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Ron Fisher Motorsports, Inc.
an Illinois corporation
c/o Michael Reed, R.A.
310 South Elm Street
Centralia, IL 62801

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601


Jennifer Bonkowski
Assistant Attorney General

This filing is submitted on recycled paper.

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JUN 29 2006

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

RON RISHER MOTORSPORTS, INC.,
an Illinois corporation, d/b/a F & L
Salvage,

Respondent.

PCB No. 06-193
(Enforcement)

ENTRY OF APPEARANCE

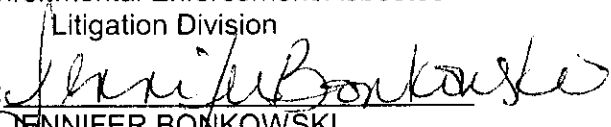
On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, JENNIFER BONKOWSKI, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

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:


JENNIFER BONKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 26, 2006

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 RON FISHER MOTORSPORTS, INC.,)
 an Illinois corporation, d/b/a F & L Salvage,)
)
 Respondent.)

PCB NO. 06-193
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, RON FISHER MOTORSPORTS, INC., an Illinois corporation, d/b/a F & L Salvage, as follows:

COUNT I

UNPERMITTED HAZARDOUS WASTE STORAGE VIOLATIONS

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 (2004).

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 (2004), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2004), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Ron Fisher Motorsports, Inc., d/b/a F & L Salvage ("F & L"), is an Illinois corporation in good standing.

5. F & L's registered agent is Michael Reed, 310 South Elm Street, Centralia, Illinois 62801.

6. Section 3.220 of the Act, 415 ILCS 5/3.220 (2004), provides as follows:

"Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contributes to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations.

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

No person shall:

* * *

(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.

(f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:

(1) without a RCRA permit for the site issued by the Agency . . . ; or

(2) in violation of any regulations or standards adopted by the Board under this Act; or

* * *

8. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), defines "person" as:

any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

9. During an Illinois EPA inspection on November 30, 2004, nineteen 55-gallon drums were present on the western edge of the F & L site, located on Mitchell Lane, in Washington County, Illinois. At the time of the inspection, the Respondent was burning copper wire in two other 55-gallon drums to remove the insulation.

10. At least three of the drums on site were labeled as hazardous waste. Many of the drums were labeled as "bad." One was dated November 7, 2000.

11. The Respondent's facility does not meet the requirements of the Act and regulations for hazardous waste-storage. Additionally, a RCRA permit is required by Section 703.121(a) of the Board's Hazardous Waste Regulations, 35 Ill. Adm. Code 703.121(a), for any hazardous waste-storage operation.

12. On March 29, 2005, during an Illinois EPA reconnaissance inspection, twelve drums of paint solids and eight drums of liquid paint waste were on the site. Ashes from the burned copper wire were in garbage bags on the site and a composite sample of the ash failed the toxic characteristic leachate procedure for lead. F & L had failed to make any hazardous waste determinations as required by Section 722.11 of the Board's Hazardous Waste Regulations.

13. On May 2, 2005, F & L shipped twenty drums of waste paint related material and one container of hazardous waste solids lead to Heritage Environmental Services.

14. On May 17, 2005, F & L shipped four drums of waste paint related material to Heritage Environmental Services.

15. The discarded drums and the copper wire insulation ashes were wastes. Waste containing waste paint related material is designated as a D001 hazardous waste. Waste containing waste solids lead is designated as a D008 hazardous waste. The drums were improperly stored in such a quantity as to pose a potential hazard to human health or the environment.

16. F & L stored hazardous waste at its site from some date prior to November 30, 2004, through May 17, 2005.

17. F & L did not have a RCRA permit from the Illinois EPA for the storage of any hazardous waste.

18. By failing to make the required hazardous waste determinations, the Respondent violated Section 722.111 of the Board's Hazardous Waste Regulations, 35 Ill. Adm. Code 722.111, and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

19. By storing waste at a site that does not meet the requirements of the Act and of the standards and regulations promulgated thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

20. By conducting a hazardous waste-storage operation without a permit issued by the Agency and in violation of Section 703.121(a) of the Board's Hazardous Waste Regulations, 35 Ill. Adm. Code 703.121(a), the Respondent violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, F & L:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent 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) (2004), impose a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II

LAND POLLUTION VIOLATIONS

1-15. Complainant realleges and incorporates herein by reference paragraphs 1 through 15 of Count I as paragraphs 1 through 15 of this Count II.

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

No person shall:

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

* * *

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

* * *

- (3) open burning;

* * *

17. Section 3.300 of the Act, 415 ILCS 5/3.300 (2004), provides as follows:

"Open dumping" means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

18. Section 3.535 of the Act, 415 ILCS 5/3.535 (2004), provides as follows:

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. . . .

19. On November 30, 2004, during the Illinois EPA inspection of the site, waste materials other than scrap metal and automotive parts were deposited upon the ground, including approximately 300 used or waste tires, two 55-gallon drums filled with copper wire and about nineteen 55-gallon drums, referenced in Count I, paragraphs 9 and 10.

20. On March 29, 2005, during an Illinois EPA reconnaissance inspection, ashes from the burned copper wire were in garbage bags on the site and the 55-gallon drums were still present. The accumulation of used or waste tires had been removed from the site.

21. On or before November 30, 2004, and continuing through May 2005, the Respondent caused or allowed the open dumping of waste at the site through the consolidation of refuse from several sources. The site is not permitted by the Illinois EPA as a sanitary landfill nor does the site meet the requirements of the Act and of the regulations and the standards promulgated thereunder.

22. By causing or allowing the open dumping of waste, the Respondent violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2004).

23. By disposing or abandoning waste at a site that does not meet the requirements

of the Act and of the regulations and the standards promulgated thereunder, the Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, F & L:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent 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) (2004), impose a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT III

WASTE TIRE VIOLATIONS

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

21. Section 54.12 of the Act, 415 ILCS 5/54.12 (2004), provides, in relevant part, 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.

22. Section 55 of the Act, 415 ILCS 5/55 (2004), provides, in relevant part, as

follows:

(a) No person shall:

* * *

(4) Cause or allow the operation of a tire storage site except in compliance with Board regulations.

* * *

(c) On or before January 1, 1990, any person who operates a tire storage site or a tire disposal site which contains more than 50 used or waste tires shall give notice of such activity to the Agency. Any person engaging in such activity for the first time after January 1, 1990, shall give notice to the Agency within 30 days after the date of commencement of the activity. . . .

* * *

23. Section 848.202(b) of the Pollution Control Board's Waste Disposal

Regulations, 35 Ill. Adm. Code 848.202(b), provides, in relevant part, as follows:

Requirements

* * *

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

* * *

- (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 . . . covered or otherwise prevented from accumulating water . . .

24. The Respondent has operated a tire storage site, as that term is defined at Section 54.12 of the Act, 415 ILCS 5/54.12 (2004), containing more than 50 used or waste tires, since some date better known to Respondent, between the date the facility opened in March 2004 and November 30, 2004.

25. No measures had been implemented to prevent the tires from accumulating water. Some of the tires contained water on November 30, 2004.

26. Since some date better known to Respondent, but since at least November 30, 2004, by storing used and/or waste tires which are outside with no cover and contain accumulated water, Respondent has violated Section 848.202(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 848.202(b), and Sections 55(a) of the Act, 415 ILCS 5/55(a) (2004).

27. The Respondent did not provide notice of tire storage activity to the Illinois EPA within 30 days after the date of commencement of the activity and has thereby violated Section 55(c) of the Act, 415 ILCS 5/55(c) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, F & L:

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

- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent 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) (2004), impose a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT IV

OPEN BURNING VIOLATIONS

1-9. Complainant realleges and incorporates herein by reference paragraphs 1 through 9 of Count I as paragraphs 1 through 9 of this Count IV.

10. Section 9 of the Act, 415 ILCS 5/9 (2004), provides, in pertinent part, the following:

No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

* * *

- (c) Cause or allow the open burning of refuse. . . .

* * *

11. Section 3.115 of the Act, 415 ILCS 5/3.115 (2004), provides the following definition:

"Air pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to

property, or to unreasonably interfere with the enjoyment of life or property.

12. Section 3.300 of the Act, 415 ILCS 5/3.300 (2004), provides the following definition:

"Open burning" is the combustion of any matter in the open or in an open dump.

13. By causing or allowing the open burning of waste, the Respondent violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2004).

14. By causing the open dumping of waste in a manner which has resulted in open burning at or from the dump site, the Respondent violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2004).

15. By causing, threatening, or allowing the discharge or emission of any contaminant into the environment so as to cause or tend to cause air pollution in Illinois, the Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, F & L:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent 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) (2004), impose a civil penalty of not more than the statutory maximum; and

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

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,
Attorney General
State of Illinois

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

BY: _____


THOMAS DAVIS
Assistant Attorney General
Environmental Bureau

Of Counsel

JENNIFER BONKOWSKI
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031

Dated: 6/26/06