## ILLINOIS POLLUTION CONTROL BOARD September 16, 2008

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	) )	
v.	)	PCB 07-46 (Enforcement – Land)
D & L DISPOSAL, L.L.C., a Delaware	)	
corporation,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On December 13, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against D & L Disposal L.L.C. (D & L). D & L is engaged in a waste hauling business with an office located at 900 Willard Street in Greenville, Bond County. The case concerns a glass vial of mercury that was found by a D & L driver to have been discarded or abandoned at or in a D & L dumpster near Carlyle Lake. After being placed in a trash bag at the D & L office, the glass vial of mercury broke and spilled outside of the office on a wooden deck and in the parking lot. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide notice of the stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. See 415 ILCS 5/31 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that D & L violated Sections 21(e), (f), and (g) of the Act (415 ILCS 5/21(e), (f), (g) (2006)) and Sections 722.111, 723.111(a), and 728.134 of the Board's hazardous waste regulations (35 Ill Adm. Code 722.111, 723.111(a), 728.134). The People further allege that D & L violated these provisions by (1) conducting a hazardous waste transportation operation without a permit issued by the Illinois Environmental Protection Agency (Agency); (2) failing to make a required hazardous waste determination and failing to obtain an EPA identification number prior to transporting waste mercury; (3) conducting a hazardous waste storage operation at a facility that does not meet the requirements of the Act and regulations for handling waste storage; (4) conducting a hazardous waste storage operation without a permit issued by the Agency and in violation of regulations; (5) disposing of hazardous waste at a facility that does not meet the requirements of the Act and regulations; and (6) disposing of hazardous waste without a Resource Conservation and Recovery Act (RCRA) permit.

On September 4, 2008, the People and D & L filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS

5/31(c)(2) (2006)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 III. Adm. Code 103.300(a). Under the proposed stipulation, D & L does not affirmatively admit the alleged violations but agrees to pay a civil penalty of \$8,500. The proposed settlement includes a supplemental environmental project (SEP), as authorized by Section 42(h)(7) of the Act (415 ILCS 5/42(h)(7) (2006)). The SEP consists of the provision of 1,300 tons of disposal capacity to be used by the People at any of three identified landfills. According to the proposed settlement, the SEP has a settlement value of \$45,500, which will offset penalties sought by the People and the Agency.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 16, 2008, by a vote of 4-0.

John T. Therrian

John Therriault, Assistant Clerk Illinois Pollution Control Board