## ILLINOIS POLLUTION CONTROL BOARD January 19, 2012

PEOPLE OF THE STATE OF ILLINOIS,	)
	)
Complainant,	)
	)
V.	)
	)
HOME DEPOT U.S.A., Inc., a Delaware	)
corporation,	)
	)
Respondent.	)

PCB 12-100 (Enforcement -Land)

## ORDER OF THE BOARD (C.K. Zalewski):

On January 3, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Home Depot U.S.A., Inc., a Delaware corporation (Home Depot). The complaint concerns two separate facilities: Home Depot Store #1924 (HD #1924)located at 1706 W. Highway 50, O'Fallon, St. Clair County, and Home Depot Store #6961 (HD #6961) located at 1049 Collinsville Crossing, Collinsville, Madison County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties therefore seek to settle the complaint without a hearing. For the reasons below, the Board accepts the complaint and directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for hearing relief.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Home Depot violated Sections 21(i) and 22.01, of the Act (415 ILCS 5/21(i), 22.01 (2010)) and Sections 722.111, 722.120(a), 728.107(a), 728.107(h), 808.121(a), and 809.501(a) of the Board's and hazardous waste regulations (35 Ill. Adm. Code 722.111, 720.120(a), 728.107(a), 728.107(h), 808.121(a), 809.501(a)) by: 1) failing to determine if sump pit wastes were hazardous wastes; 2) failing to determine if sump pit wastes were special wastes; 3) failing to prepare a manifest for the HD 1924 sump pit water shipped in September of 2007; 4) improperly listing the HD 6961 sump pit water as "non-RCRA" on manifest #001654744; 5) failing to send a one-time notice to the treatment, storage and disposal (TSD) facility where the HD 6961 sump pit water was shipped; and 6) failing to file annual nonhazardous special waste reports with the Illinois Environmental Protection Agency for nonhazardous special waste shipped out-of-state. The Board finds that the complaint meets the applicable content requirements of the Board's procedural rules and accepts the complaint. See 35 Ill. Adm. Code 103.204(c).

On January 3, 2012, simultaneously with the People's complaint, the People and Home Depot 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) (2010)). This filing is

authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Home Depot does not affirmatively admit the alleged violations, but agrees to pay a civil penalty of \$12,000.00.

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) (2010); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

Chairman T. A. Holbrook abstained.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 19, 2012, by a vote of 4-0.

John T. Therian

John T. Therriault, Assistant Clerk Illinois Pollution Control Board