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DEC 13 2006  
STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

December 11, 2006

PCB07-46

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

Re: ***People v. D & L Disposal, L.L.C.***

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,

J. L. Homan  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

JLH/pp  
Enclosures

**RECEIVED**  
CLERK'S OFFICE

DEC 13 2006

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

|                                    |   |
|------------------------------------|---|
| PEOPLE OF THE STATE OF             | ) |
| ILLINOIS,                          | ) |
|                                    | ) |
| Complainant,                       | ) |
|                                    | ) |
| vs.                                | ) |
|                                    | ) |
| D & L DISPOSAL, L.L.C., a Delaware | ) |
| corporation,                       | ) |
|                                    | ) |
| Respondent.                        | ) |

PCB No. **07-46**  
(Enforcement)

**NOTICE OF FILING**

To: D & L Disposal, L.L.C.  
c/o Brian Konzen  
Lueders, Robertson & Konzen  
1939 Delmar Avenue  
P.O. Box 735  
Granite City, IL 62040

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.

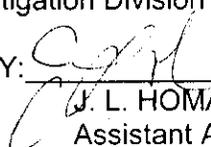
Respectfully submitted,

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:

  
\_\_\_\_\_  
J. L. HOMAN

Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: December 11, 2006

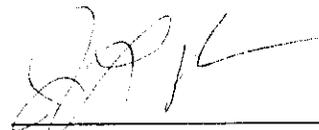
## CERTIFICATE OF SERVICE

I hereby certify that I did on December 11, 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: D & L Disposal, LLC  
c/o Brian Konzen  
Lueders, Robertson & Konzen  
1939 Delmar Avenue  
P.O. Box 735  
Granite City, IL 62040

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



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J. L. Homan  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

DEC 13 2006

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 D & L DISPOSAL, L.L.C., a Delaware )  
corporation, )  
 )  
 Respondent. )

PCB No. 07-46  
(Enforcement)

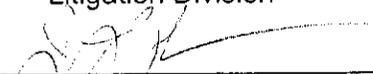
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, J. L. HOMAN, 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:   
\_\_\_\_\_  
J. L. HOMAN  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: December 11, 2006

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

DEC 13 2006

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
D & L DISPOSAL L.L.C., a Delaware )  
corporation, )  
)  
Respondent. )

PCB No. ~~08-07-46~~  
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, D & L DISPOSAL L.L.C., as follows:

COUNT I  
HAZARDOUS WASTE-TRANSPORTATION VIOLATIONS

1. This action is brought against the Respondent in the name of 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 ("Illinois EPA"), pursuant to the terms and provisions of Section 31 the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/31 (2004).

2. The Illinois EPA is an agency of the State of Illinois created under Section 4 of the Act, 415 ILCS 5/4 (2004), and is charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. The Respondent, D & L Disposal, L.L.C. ("D & L"), is a Delaware corporation, currently registered and in good standing, and engaged in the waste hauling business with an office located at 900 Willard Street, Greenville, Bond County, Illinois.

5. Sometime in early July of 2003, on a date better known to the Respondent, a glass vial of mercury was found by a D & L driver to have been discarded or abandoned at or in a D & L dumpster near Carlyle Lake. A D & L supervisor was alerted to this discovery and brought the mercury to the D & L office in Greenville, placing it in the drawer of his desk.

6. On July 9, 2004, the glass vial of mercury broke after being placed in a trash bag at D & L office. The mercury waste spilled outside of the office on a wooden deck and in the parking lot as the trash bag was taken plastic garbage container. D & L notified the Bond County Health Department of the spill and the County reported it to the Illinois EPA.

7. 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.

8. Section 3.225 of the Act, 415 ILCS 5/3.225 (2004), defines a hazardous waste disposal site as “a site at which hazardous waste is disposed.”

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

- (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

\* \* \*

- (g) Conduct any hazardous waste-transportation operation:
  - (1) without registering with and obtaining a permit from the Agency . . . ; or
  - (2) in violation of any regulations or standards adopted by the Board under this Act.

10. The discarded vial of mercury was a waste at the time it was discovered and transported to the D & L office in July 2003. Waste containing mercury in excess of 0.2 mg/L is a characteristic hazardous waste due to its toxicity, pursuant to Section 721.124(b) of the Board's Hazardous Waste Regulations, 35 Ill. Adm. Code 721.124(b), and is designated as a D009 hazardous waste.

11. D & L stored the hazardous waste at its office from July 2003 until its spillage onto the land and consequent disposal on July 9, 2004.

12. D & L did not have a RCRA permit from the Illinois EPA for the transportation, storage or disposal of mercury or any other hazardous waste.

13. D & L failed to make any hazardous waste determination as required by Section 722.111 of the Board's Hazardous Waste Regulations, 35 Ill. Adm. Code 722.111, and to obtain an EPA identification number prior to transporting the waste mercury as required by Section 723.111(a) of the Board's Hazardous Waste Regulations, 35 Ill. Adm. Code 723.111(a).

14. By failing to make the required hazardous waste determination, the Respondent has 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).

15. By failing to obtain the required EPA identification number prior to transporting the waste mercury, the Respondent has violated Section 723.111(a) of the Board's Hazardous

Waste Regulations, 35 Ill. Adm. Code 723.111(a), and thereby violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

16. In July 2003, the Respondent conducted a hazardous waste-transportation operation without a permit issued by the Agency and in violation of regulations adopted by the Board.

17. By conducting a hazardous waste-transportation operation without a permit issued by the Agency and in violation of the regulations adopted by the Board, the Respondent has violated Section 21(g) of the Act, 415 ILCS 5/21(g) (2004).

### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, D & L DISPOSAL L.L.C.:

- 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** **HAZARDOUS WASTE-STORAGE VIOLATIONS**

1-12. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of this Count II.

13. The Respondent's Greenville 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 .

14. From July 2003 through July 9, 2004, the Respondent conducted a hazardous waste-storage operation without a permit issued by the Agency and in violation of regulations adopted by the Board.

15. By conducting a hazardous waste-storage operation at a facility which does not meet the requirements of the Act and regulations for hazardous waste-storage, the Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

16. By conducting a hazardous waste-storage operation without a permit issued by the Agency and in violation of the regulations adopted by the Board, the Respondent has 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 request that the Board enter an order against the Respondent, D & L DISPOSAL L.L.C.:

- 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**  
**HAZARDOUS WASTE-DISPOSAL VIOLATIONS**

1-12. Complainant realleges and incorporates herein by reference paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of this Count III.

13. The Respondent's Greenville facility does not meet the requirements of the Act and regulations for hazardous waste-disposal. Additionally, the land disposal of the D009 hazardous waste is prohibited by Section 728.134(a) of the Board's Hazardous Waste Regulations, 35 Ill. Adm. Code 728.134(a).

14. On July 9, 2004, the Respondent conducted a hazardous waste-disposal operation without a permit issued by the Agency and in violation of regulations adopted by the Board.

15. By disposing of the D009 hazardous waste at a facility that does not meet the requirements of the Act and regulations, the Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

16. By conducting hazardous waste-disposal without a RCRA permit issued by the Agency, the Respondent has violated Section 21(f)(1) of the Act, 415 ILCS 21 (f)(1) (2004).

17. By causing the land disposal of the D009 hazardous waste, the Respondent has violated Section 728.134(a) of the Board's Hazardous Waste Regulations, 35 Ill. Adm. Code 728.134(a).

18. By causing or allowing the disposal of hazardous waste in violation of any regulations or standards adopted by the Board under this Act, the Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2004).

**PRAYER FOR RELIEF**

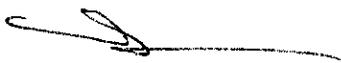
WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent, D & L DISPOSAL L.L.C.:

- 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  
of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division

BY: 

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel

J.L. HOMAN

Assistant Attorney General

Environmental Bureau/Springfield

500 South Second Street

Springfield, Illinois 62706

Date: 12-11-06