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STATE OF ILLINOIS
Pollution Control Board

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February 8, 2007

Office of the Clerk
Attn: Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

Re: People v. D & L Disposal PCB 07-46

Dear Ms. Gunn,

Enclosed please find for filing the original and ten copies of the answer to the complaint in this cause, notice of filing, and proof of service. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed, stamped envelope.

This filing is submitted on recycled paper. Thank you for your courtesy.

Yours very truly,


Brian Konzen

BEK:cr
Enclosure-original

cc w/ copy of enclosure: Allen Steinkamp
J. L. Homan, Esq.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FEB 14 2007

People of the State of Illinois

)

)

v.

) PCB 07-46

)

D & L Disposal, LLC,

)

)

Respondent

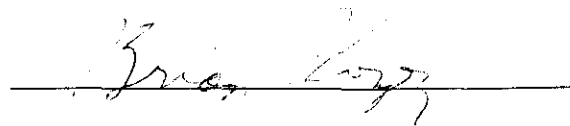
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STATE OF ILLINOIS
Pollution Control Board

PROOF OF SERVICE

I, the undersigned, verify the copies of D & L Disposal's answer was served by US mail upon the following persons on February 9th, 2007 in Granite City, Illinois by depositing it in a U.S. Post Office Box in Granite City, IL before 5 p.m., with first-class postage fully prepaid and the envelopes addressed to:

J. L. Homan, Esq.
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 S. 2nd St.
Springfield, IL 62706



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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People of the State of Illinois

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FEB 14 2007

v.

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) PCB 07-46

STATE OF ILLINOIS
Pollution Control Board

D & L Disposal, LLC,

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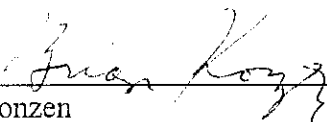
Respondent

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Notice of Filing

Notice is hereby given to you that answer with affirmative defenses was filed by US Mail on behalf of Respondent in this cause on February 14, 2007



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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

FEB 14 2007

STATE OF ILLINOIS
Pollution Control Board

People of the State of Illinois)	
)	
v.)	PCB 07-46
)	
D & L Disposal, LLC)	

ANSWER

Comes now, D & L Disposal, LLC, and responds to the Complaint as follows:

COUNT 1

1. Admitted
2. Admitted
3. Admitted
4. Paragraph four is omitted in Respondent's copy of the filed complaint.
5. Respondent admits a D & L employee brought a small vial containing mercury to the Respondent's Office in Greenville, but otherwise admits to no knowledge as to the allegations of paragraph five, and therefor denies same.
6. Respondent admits it immediately self-reported the release, on or before 1:00 pm July 9, 2004. Respondent otherwise denies sufficient knowledge of the remaining allegations of paragraph six and therefore denies same.
7. Admitted
8. Admitted
9. Admitted

10. Respondent admits waste containing mercury in excess of 0.2 mg/L is a characteristic hazardous waste per 35 Illinois Administrative Code 721.124(b), but denies the vial of mercury was waste, during at least some of the times relevant.

11. Denied

12. Admitted

13. Respondent denies 35 Illinois Administrative Code 722.111, and 35 Illinois Administrative Code 723.111(a), were applicable to transportation of the alleged vial at some or all of the times referenced in the complaint

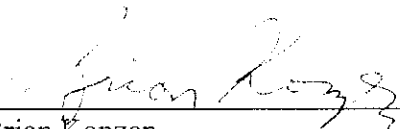
14. Denied

15. Denied

16. Denied. Respondent is not and was not in the business or enterprise of conducting a hazardous waste transportation operation.

17. Denied

Therefore, Respondent prays the Illinois Pollution Control Board dismiss the complaint.



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COUNT 2

1. Admitted

2. Admitted

3. Admitted

4. Paragraph four is omitted in Respondent's copy of the filed complaint.

5. Respondent admits a D & L employee brought a small vial containing mercury to the Respondent's Office in Greenville, but otherwise admits to no knowledge as to the allegations of paragraph five, and therefor denies same.

6. Respondent admits it immediately self-reported the release, on or before 1:00 pm July 9, 2004. Respondent otherwise denies sufficient knowledge of the remaining allegations of paragraph six and therefore denies same.

7. Admitted

8. Admitted

9. Admitted

10. Respondent admits waste containing mercury in excess of 0.2 mg/L is a characteristic hazardous waste per 35 Illinois Administrative Code 721.124(b), but denies the vial of mercury was waste, during at least some of the times relevant.

11. Denied

12. Admitted

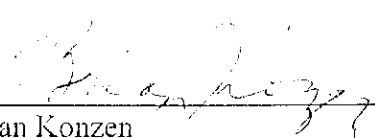
13. Admitted

14. Denied. Respondent is not in the business of conducting hazardous waste storage.

15. Denied.

16. Denied.

Therefore, Respondent prays the Illinois Pollution Control Board dismiss the complaint.



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COUNT 3

1. Admitted

2. Admitted

3. Admitted

4. Paragraph four is omitted in Respondent's copy of the filed complaint.

5. Respondent admits a D & L employee brought a small vial containing mercury to the Respondent's Office in Greenville, but otherwise admits to no knowledge as to the allegations of paragraph five, and therefor denies same.

6. Respondent admits it immediately self-reported the release, on or before 1:00 pm July 9, 2004. Respondent otherwise denies sufficient knowledge of the remaining allegations of paragraph six and therefore denies same.

7. Admitted

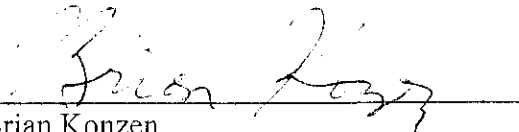
8. Admitted

9. Admitted

10. Respondent admits waste containing mercury in excess of 0.2 mg/L is a characteristic hazardous waste per 35 Illinois Administrative Code 721.124(b), but denies the vial of mercury was waste at least some of the times relevant.

- 11. Denied
- 12. Admitted
- 13. Admitted
- 14. Denied
- 15. Denied
- 16. Denied
- 17. Denied
- 18. Denied

Therefore, Respondent prays the Illinois Pollution Control Board dismiss the complaint.



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AFFIRMATIVE DEFENSES TO ALL COUNTS

1. Any mercury referenced in the complaint was disposed of by Environmental Restoration Company, LLC, which timely obtained a RCRA permit, in accordance with 415 ILCS 21(f)(1), said process beginning on or before 1:00 pm on July 9, 2004. Environmental Restoration LLC, further complied with the disposal requirements for mercury under 35 Illinois Administrative Code 728.134(a), beginning on or before 1:00 pm on July 9, 2004.

2. During at least some of the times alleged in the complaint, the vial referenced was not “waste” or “hazardous waste”.

3. Environmental Restoration LLC timely obtained the proper permits in order to lawfully transport the material referenced in the complaint to an approved disposal location, per 415 ILCS 21(g)(1) and (2).

4. Environmental Restoration LLC timely obtained the proper permitting in order to store and dispose of the material referenced in the complaint, at an approved disposal location, in accordance with 35 Illinois Administrative Code 703.121(a)(1).

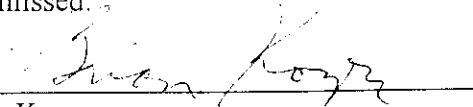
5. Environmental Restoration LLC made a hazardous waste determination, in compliance with 35 Illinois Administrative Code 722.111, and timely obtained an identification number per 35 Illinois Administrative Code 723.111(a).

6. Environmental Restoration LLC timely obtained any RCRA permit required by 35 Illinois Administrative Code 703.121 (a), for waste storage, if applicable.

7. At all times relevant, Respondent has not and did not accept any special hazardous wastes for disposal, in the course of its operation and business.

8. The total materials allegedly spilled in the complaint, amounted to approximately three ounces.

Therefore, Respondent prays the complaint be dismissed.



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