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STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 6, 2006

PCB06-136

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 Landfill, 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,


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

JLH/pp
Enclosures

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 D & L LANDFILL, INC.,)
 an Illinois corporation,)
)
 Respondent.)

PCB No. 06-136
(Enforcement)

NOTICE OF FILING

To: D & L LANDFILL, INC,
c/o Lee Roy McCray, R.A.
1212 Ayers Road
Greenville, IL 62246

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: February 6, 2006

CERTIFICATE OF SERVICE

I hereby certify that I did on February 6, 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 LANDFILL, INC,
c/o Lee Roy McCray, R.A.
1212 Ayers Road
Greenville, IL 62246

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



J. L. HOMAN
Assistant Attorney General

This filing is submitted on recycled paper.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 D & L LANDFILL, INC.,)
 an Illinois corporation,)
)
 Respondent.)

PCB No. 06-136
(Enforcement)

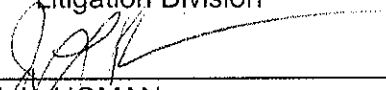
ENTRY OF APPEARANCE

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: February 6, 2006

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
D & L LANDFILL, INC.,)
an Illinois corporation,)
)
Respondent.)

No. PCB 06-136
(Enforcement)

COMPLAINT

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, complains of the Respondent, D & L LANDFILL, INC., as follows:

COUNT I
FAILURE TO PROPERLY COVER WASTE AT LANDFILL

1. This Complaint is brought on behalf 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 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 pursuant to Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act before the Illinois Pollution control Board ("Board").

3. The Respondent, D & L Landfill, Inc. ("D & L Landfill") is an Illinois corporation in good standing. Lee Roy McCray is the registered agent for D & L Landfill with the address of 1212 Ayers Road, Greenville, Illinois 62246.

4. 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.

* * *

d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

1. Without a permit granted by the Agency or in violation of any conditions imposed by such permit. . . .
2. In violation of any regulations or standards adopted by the Board under this Act.

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 there under.

* * *

o. Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:

- (5) uncovered refuse remaining from any previous operating day or at the conclusion of any operating day, unless authorized by permit;

* * *

5. Section 3.445 of the Act, 415 ILCS 5/3.445 (2004), provides the following definition:

"Sanitary landfill" means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation.

* * *

6. Section 811.106(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.106(a), provides as follows:

- a) A uniform layer of at least 0.15 meter (six inches) of clean soil material must be placed on all exposed waste by the end of each day of operation.

* * *

7. Section 811.313 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.313, provides as follows:

- a) All waste which is not to be covered within 60 days of placement by another lift of waste or final cover in accordance with Section 811.314 shall have a cover equivalent to that provided by 0.30 meter (1 foot) of compacted clean soil material.
- b) All areas with intermediate cover shall be graded so as to facilitate drainage of runoff and minimize infiltration and standing water.
- c) The grade and thickness of intermediate cover shall be maintained until the placement of additional wastes or the final cover. All cracks, rills, gullies and depressions shall be repaired to prevent access to the solid waste by vectors, to minimize infiltration and to prevent standing water.

8. The Respondent has operated, at all times herein, a sanitary landfill pursuant to Landfill Permit Number 1993-188-LF ("the permit") at Rural Route 3, Greenville, Bond County, Illinois.

9. On June 24, 2003, the Illinois EPA inspected the active area of the site which was along the northern line of the cell, towards the eastern side of the site. There was a large amount of exposed refuse along the entire length of the northern line of the cell and this exposed refuse extended all the way to the northwest portion of the cell.

10. This northwestern area of the cell had received a lift of waste more than sixty days prior to the June 24, 2003, inspection and had not been covered with one foot of compacted clean soil material as intermediate cover.

11. On September 8, 2003, which was a Monday, the Illinois EPA conducted another inspection of the site. There was exposed refuse that had not been covered at the conclusion of operations on the previous Friday.

12. On September 8, 2003, the Illinois EPA inspected the northwest area of the active cell where a large amount of exposed refuse was observed on June 24, 2003; there was still some exposed refuse without a one foot cover of compacted clean soil material.

13. By failing to properly cover landfill waste within sixty days of placement of

another lift of waste by the covering the refuse with one foot of compacted clean soil material, the Respondent has violated Sections 21(d)(2) and 21(o)(5) of the Act, 415 ILCS 5/21(d)(2) and (o)(5) (2004), and Section 811.313(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code Section 811.313(a).

14. By failing to properly cover landfill waste by placing a uniform layer of at least six inches of clean soil material on top of the landfill waste by the end of each day of operation, the Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004), and Section 811.106(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code Section 811.106(a).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, D & L LANDFILL, INC.:

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

B. Finding the Respondent has violated the Act and regulations as alleged herein;

C. Ordering the 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. Grant such other and further relief as the Board deems appropriate.

COUNT II **VIOLATION OF LANDFILL PERMIT**

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

13. The Respondent's permit includes the following conditions:

The operator of this solid waste facility shall not conduct the operation in a

manner which results in any of the following: uncovered refuse remaining from any previous operating day or at the conclusion of any operating day, unless authorized by permit.

All waste, which is not covered within 60 days of placement of another lift of waste or final cover, shall have an intermediate cover of compacted clean soil with a minimum thickness of one (1) foot applied to it.

14. By failing to properly cover landfill waste by the end of each day of operation with six inches of clean soil material being placed on top of the waste, the Respondent has violated its permit.

15. By failing to properly cover landfill waste by means of covering the waste with a uniform layer of at least one foot in thickness of compacted clean soil material, within sixty days of placement of another lift of waste, the Respondent has violated its permit.

16. By violating the conditions of its permit, the Respondent has also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, D & L LANDFILL, INC.:

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

B. Finding the Respondent has violated the Act and regulations as alleged herein;

C. Ordering the 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. Grant such other and further relief as the Board deems appropriate.

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: _____

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel

JAVONNA HOMAN
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: February 1, 2006