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STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

December 27, 2005

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

Re: ***People v. CSX Transportation***  
**PCB No. 06-51**

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing and Complainant's Motion to Strike Affirmative Defenses 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,

  
Kristen Laughridge Gale  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

KLG/pp  
Enclosures

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STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
ex rel. LISA MADIGAN, Attorney )  
General of the State of Illinois, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
CSX TRANSPORTATION, INC., a )  
Virginia corporation, )  
 )  
Respondent. )

PCB No. 06-51  
(Enforcement)

**NOTICE OF FILING**

To: David L. Rieser  
McGuire Woods LLP  
77 West Wacker Drive, Suite 4100  
Chicago, IL 60601

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, Complainant's Motion to Strike Affirmative Defenses, a copy of which is attached hereto and herewith served upon you.

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: 

KRISTEN LAUGHRIDGE GALE  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: December 27, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that I did on December 27, 2005, send by First Class 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 and COMPLAINANT'S MOTION TO STRIKE AFFIRMATIVE DEFENSES

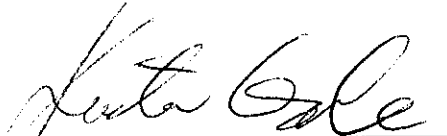
To: David L. Rieser  
McGuire Woods LLP  
77 West Wacker Drive, Suite 4100  
Chicago, IL 60601

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

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Springfield, IL 62794

  
KRISTEN LAUGHRIDGE GALE  
Assistant Attorney General

This filing is submitted on recycled paper.

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DEC 29 2005

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
vs.	)	No. 06-51
	)	(Enforcement)
CSX TRANSPORTATION, a Virginia	)	
corporation,	)	
Respondent.	)	

**COMPLAINANT'S MOTION TO STRIKE AFFIRMATIVE DEFENSES**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 2-615 of the Code of Civil Procedure, 735 ILCS 5/2-615 (2004) and Section 103.204(d) of the Illinois Pollution Control Board's Procedural Rules, 35 Ill. Adm. Code 101.100(b), respectfully moves the Illinois Pollution Control Board ("Board") for the entry of an order striking the affirmative defenses set forth in the Respondent's Answer, and states as follows:

1. The first Affirmative Defense does not plainly set forth facts, but merely states a legal conclusion. This Affirmative Defense is substantially insufficient in law and does not meet the Board's procedural requirements; therefore it should be stricken.
2. The second Affirmative Defense does not plainly set forth facts, but merely states a legal conclusion. This Affirmative Defense is substantially insufficient in law and does not meet the Board's procedural requirements; therefore it should be stricken.
3. The third Affirmative Defense does not plainly set forth facts, but merely states a legal conclusion. This Affirmative Defense is substantially insufficient in law and does not meet the Board's procedural requirements; therefore it should be stricken.

4. The fourth Affirmative Defense does not plainly set forth facts, but merely states a legal conclusion. This Affirmative Defense is substantially insufficient in law and does not meet the Board's procedural requirements; therefore it should be stricken.

5. The fifth Affirmative Defense is regarding a Compliance Commitment Agreement submitted by the Defendant. The Compliance Commitment Agreement was not accepted. This Affirmative Defense is substantially insufficient in law and does not meet the Board's procedural requirements; therefore it should be stricken.

6. The sixth Affirmative Defense does not plainly set forth facts, but merely states a legal conclusion. This Affirmative Defense is substantially insufficient in law and does not meet the Board's procedural requirements; therefore it should be stricken.

7. The seventh Affirmative Defense does not plainly set forth facts, but merely states a legal conclusion. This Affirmative Defense is substantially insufficient in law and does not meet the Board's procedural requirements; therefore it should be stricken.


WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, hereby respectfully requests that the Board strike the Affirmative Defenses propounded by the Respondent.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division

BY:   
KRISTEN LAUGHRIDGE GALE  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
Dated: December 27, 2005