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AUG 04 2005

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 2, 2005

PCB06-16

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

Re: ***People v. OGOCO, Inc., an Illinois corporation***

Dear Clerk Gunn:

Enclosed for filing please find the original and five copies of a NOTICE OF FILING, APPEARANCE and COMPLAINT in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

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

KL/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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AUG 04 2005

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF
ILLINOIS,

Complainant,

vs.

OGOCO, INC.,
an Illinois corporation,

Respondent.

PCB No. 06-16
(Water-Enforcement)

NOTICE OF FILING

To: OGOCO, INC.
c/o William W. Austin, R.A.
307 N. Third Street
Effingham, IL 62401-3467

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 (2002), to correct the pollution alleged in the Complaint filed in this case.

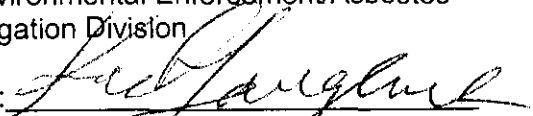
Respectfully submitted,

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:



KRISTEN LAUGHRIDGE
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: August 2, 2005

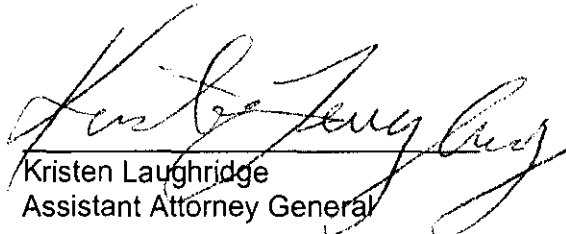
CERTIFICATE OF SERVICE

I hereby certify that I did on August 2, 2005, 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: OGOCO, INC.
 c/o William W. Austin, R.A.
 307 N. Third Street
 Effingham, IL 62401-3467

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


Kristen Laughridge
Assistant Attorney General

This filing is submitted on recycled paper.

RECEIVED
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AUG 04 2005
STATE OF ILLINOIS
Pollution Control Board

PCB No. 06-76
(Water-Enforcement)

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, KRISTEN LAUGHRIDGE, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN
Attorney General of the
State of Illinois

BY:

KRISTEN LAUGHRIDGE
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: August 2, 2005

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PEOPLE OF THE STATE OF ILLINOIS,
Complainant,
v.
OGOCO, INC.,
an Illinois corporation,
Respondent.

PCB No. 06-16
(Water-Enforcement)

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, OGOCO, INC., an Illinois corporation, as follows:

COUNT I

1. This Complaint is brought by the Attorney General 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 (2002).

2. The Illinois EPA is an agency of the State of Illinois created by Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act.

3. Ogoco, Inc., ("Ogoco") is an Illinois corporation in good standing.

4. Ogoco is authorized to operate oil production wells in accordance with permits issued by the Illinois Department of Natural Resources ("IDNR") pursuant to Subsection 6(2) of the Illinois Oil and Gas Act, 225 ILCS 725/6(2) (2002).

5. Section 12 of the Act, 415 ILCS 5/12 (2002), provides in pertinent part that:

No person shall:

- a. Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;

* * *

- d. Deposit any contaminants upon the land in such place and manner as to create a water pollution hazard;

* * *

- 6. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002) provides:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

- 7. Section 3.395 of the Act, 415 ILCS 5/3.395 (2002) provides in pertinent part:

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment. . . .

- 8. Section 3.545 of the Act, 415 ILCS 5/3.545 (2002) provides:

"Water pollution" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

- 9. Section 3.550 of the Act, 415 ILCS 3.550 (2002) provides:

"Waters" means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

- 10. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides:

Offensive Conditions

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

11. Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, provides:

Violations of Water Quality Standards

In addition to the other requirements of this Part, no effluent shall, alone or in combination with other sources, cause a violation of any applicable water quality standard. . . .

12. Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106, provides:

Offensive Discharges

In addition to the other requirements of this Part, no effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

13. On October 10, 2003, an IDNR investigator discovered spills of crude oil and salt water from two facilities operated by Ogoco and located on Mocassin Road, near Little Mocassin Creek, in Effingham County, Illinois. Approximately 10 barrels of crude oil and 10 barrels of salt water were released from the first facility, the David Reed #1 well and Reed #1 salt water disposal tank battery, due to a leak in the well's firewall and the overflowing of the tank battery's firewall. Approximately 10 barrels of crude oil and 10 barrels of salt water were also released from the second facility, the Wachtel- Reed #2 tank battery, due to the overflowing of the tank battery's firewall. The spills had apparently been ongoing for several days, flowing through a pasture and a wooded area, and into Little Moccasin Creek.

14. On October 10, 2003, a sheen was on Little Moccasin Creek and a drainage ditch that drained into the Little Moccasin Creek was heavily oiled.

15. A water sample taken in from a roadside ditch downstream of the crude oil and saltwater release showed 9,510 mg/L of total chlorides.

16. The salt water is a produced fluid generated by Ogoco's oil production activities and contains a large concentration of chlorides and varying amounts of petroleum constituents, which are "contaminants" as that term is defined in the Act, 415 ILCS 5/3.165 (2002).

17. The salt water and crude oil were deposited upon the land in such place and manner as to create a water pollution hazard in that it eventually flowed approximately one-quarter of a mile across the ground before entering Little Moccasin Creek.

18. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard, Ogoco has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2002).

20. Ogoco's discharge of salt water into Little Moccasin Creek altered its physical and chemical properties so as to likely create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

21. By causing or allowing the discharge of salt water into the "waters" of the State, the Respondent has caused water pollution in the State of Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, OGOCO, INC.:

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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II
WATER QUALITY VIOLATIONS

1-20. Complainant realleges and incorporates herein by reference paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count II.

21. Ogoco's discharge of salt water has caused offensive conditions in the tributary to in that the waters contained bottom deposits and visible oil, and were discolored and turbid. Respondent has thereby violated 35 Ill. Adm. Code 302.203, 304.105, and 304.106.

22. Ogoco's discharge of salt water has caused the concentration of chlorides in the tributary to Big Creek to exceed the general use water quality standard of 500 mg/L. Respondent has thereby violated 35 Ill. Adm. Code 302.203

23. By discharging contaminants into waters of the State so as to violate regulations or standards adopted by the Pollution Control Board under this Act, Ogoco has thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2002).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent,

- 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. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter; 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/Asbestos
Litigation Division

BY: 

THOMAS DAVIS, Chief
Assistant Attorney General
Environmental Bureau

OF COUNSEL
KRISTEN LAUGHRIDGE
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 8/01/05