

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

OCT 14 2005

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
 ex re]. 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: Jeff Styron  
Counsel for CSX Transportation, Inc.  
Law Department J-150  
500 Water Street  
Jacksonville, FL 32202

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, an ENTRY OF APPEARANCE and a COMPLAINT, copies of which are 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.

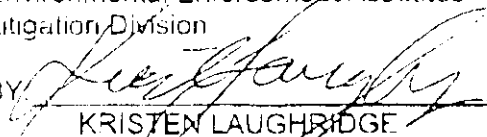
Respectfully submitted,

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



KRISTEN LAUGHRIDGE  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 13, 2005

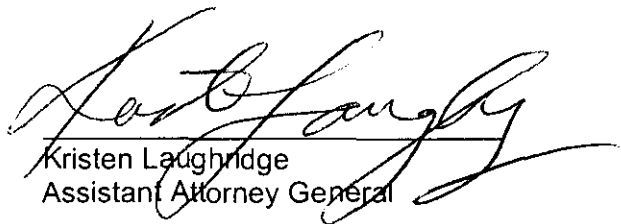
**CERTIFICATE OF SERVICE**

I hereby certify that I did on October 12, 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: Jeff Styron  
Counsel for CSX Transportation, Inc.  
Law Department J-150  
500 Water Street  
Jacksonville, FL 32202

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.

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STATE OF ILLINOIS  
Pollution Control Board

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

PCB No. 06-51  
(Enforcement)


ENTRY OF APPEARANCE

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.

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  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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ex rel. LISA MADIGAN, Attorney )  
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STATE OF ILLINOIS  
Pollution Control Board

No. ~~05-PCB-~~ 06-51  
(Enforcement)

**COMPLAINT**

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* 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, CSX TRANSPORTATION, INC., a Virginia Corporation, as follows:

**COUNT I**  
**AIR POLLUTION VIOLATIONS**

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 (2004).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. The Complaint is brought pursuant to Section 43 of the Act, 415 ILCS 5/43 (2004), due to the emergency nature at the time of the derailment.

4. The Respondent, CSX TRANSPORTATION, INC., is a Virginia corporation in good standing. The Respondent was a foreign business corporation in Illinois, however, that status was revoked on July 1, 2002.

5. On December 22, 2004 at approximately 7:30 AM, thirteen engines and cars of a 55-car train owned by the Respondent went off track into a farm field about one mile north of downtown Paris, Edwards County, Illinois ("derailment site").

6. Four engines derailed and four hazardous material cars derailed. Two hazardous materials cars contained hydrochloric acid ("HCl"), one contained silicon tetrachloride and the fourth contained methyl triChloroSilane. The remaining derailed cars contained grain.

7. Three engines were breached and released approximately 5,700 gallons of diesel fuel.

8. Of the hazardous materials cars, one HCl car breached, one HCl car did not breach, and neither of the silicon tetrachloride and methyl triChloroSilane cars breached.

9. The breached HCl car released approximately 20,700 gallons of HCl.

10. On December 22, 2004 , Illinois EPA, the City of Paris Fire Department and other state and local agencies responded to the train derailment.

11. The HCl release caused an airborne HCl plume and an HCl spill on a field just west of the railroad tracks.

12. Due to the presence of the HCl plume, the City of Paris Fire Department and Illinois EPA ordered evacuations of approximately 250 people within approximately one mile radius of the derailment site.

13. HCl is a corrosive acid that can irritate eyes, the respiratory system, and skin. Inhalation of HCl fumes can aggravate certain medical conditions including asthma and respiratory disorders.

14. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), contains the following definition:

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

15. Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), provides:

No person shall:

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

16. By releasing HCl which created an HCl airborne plume, the Respondent caused or allowed air pollution in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests 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 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;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney fees; and

F. Granting such other relief as the Board may deem appropriate.

## COUNT II

### ABANDONMENT OF WASTE

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count II.

15. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), contains the following definition:

“Waste” means any ... other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities...

16. Section 21(e) of the Act, 415 ILCS 5/21(e) (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 there under.

17. During the week of January 10, 2005, at times better known to the Respondent, diesel fuel was migrating through subsurface soil during rain events.

18. The Respondent failed to promptly remove the spilled diesel fuel and thereby abandoned waste at the site of the derailment.

19. By abandoning waste at or to a site which does not meet the requirements of the Act and of the standards and regulations promulgated thereunder, the Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2004).

### PRAYER FOR RELIEF



WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests 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;
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- 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;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney fees; and
- F. Granting such other relief as the Board may deem appropriate.

### **COUNT III**

#### **WATER POLLUTION HAZARD**

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count III.

15. Section 12(d) of the Act, 415 ILCS 5/12(d) (2004), provides as follows:

No person shall:

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

16. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), contains the following definition:

'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 water 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.

17. Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), contains the following definition:

'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.

18. The releases occurred approximately 200 yards from Twin Lakes, which provides drinking water for the community of Paris, Illinois.

19. A marshy wooded area and an unnamed creek, which drains into Twin Lakes, are between the release site and Twin Lakes. The unnamed creek is approximately 1/10 of a mile southwest of the diesel fuel spill site.

20. The creek and Twin Lakes are each "waters" of the State as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2004).

21. The Respondent caused or allowed contaminants to be deposited upon the land in such place and manner as to create a water pollution hazard through its proximity to the unnamed creek and Twin Lakes.

22. By depositing contaminants upon the land in such place and manner as to create a water pollution hazard, the Respondent violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests 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 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;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), awarding to Complainant its costs and reasonable attorney fees; and
- F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* 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

KRISTEN LAUGHRIDGE  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: 10/11/05