



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

JUL 30 2009

STATE OF ILLINOIS  
Pollution Control Board

Lisa Madigan  
ATTORNEY GENERAL

July 28, 2009

PLB10-10

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Thermogas Company, Inc.***

Dear Clerk:

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,

A handwritten signature in cursive script that reads "James L. Morgan".

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

JLM/pjk  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

JUL 30 2009

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
THERMOGAS COMPANY, INC., )  
d/b/a MCLEANSBORO THERMOGAS, )  
a foreign corporation, )  
)  
Respondent. )

PCB No. 10-10  
(Enforcement)

NOTICE OF FILING

~~ORIGINAL~~

To: THERMOGAS COMPANY, INC.  
d/b/a McLeansboro Thermogas  
c/o CT Corporation System  
208 South LaSalle, Suite 814  
Chicago, IL 60604

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.

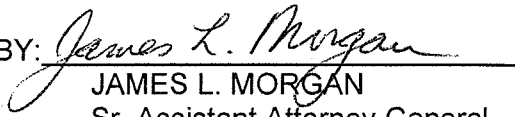
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2006), to correct the pollution alleged in the Complaint filed in this case.

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:   
JAMES L. MORGAN  
Sr. Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: July 28, 2009


**CERTIFICATE OF SERVICE**

I hereby certify that I did on July 28, 2009, 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: THERMOGAS COMPANY, INC.  
d/b/a McLeansboro Thermogas  
c/o CT Corporation System  
208 South LaSalle, Suite 814  
Chicago, IL 60604

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

  
JAMES L. MORGAN  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
THERMOGAS COMPANY, INC., )  
d/b/a MCLEANSBORO THERMOGAS, )  
a foreign corporation, )  
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Respondent. )

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Pollution Control Board

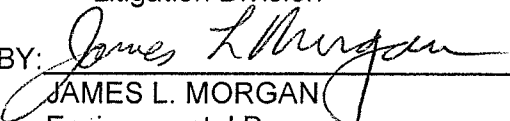
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, JAMES L. MORGAN, Sr. Assistant Attorney General of the State of Illinois, hereby enters his 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:   
JAMES L. MORGAN  
Environmental Bureau  
Sr. Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: July 28, 2009



4. Respondent, Thermogas Company, Inc. d/b/a McLeansboro Thermogas (hereafter “Thermogas”), is a foreign corporation.

5. Until the spring of 1996, Thermogas, doing business as McLeansboro Thermogas, owned and/or operated a liquid agricultural-chemical facility (“facility”) near McLeansboro, Hamilton County, Illinois.

6. The facility is located approximately two miles south of McLeansboro adjacent to Illinois Route 42.

7. Materials handled at the facility included alachlor and ammonium-nitrate.

8. As a result of activities and/or actions conducted by Thermogas, alachlor and ammonium-nitrate was discharged, spilled, leaked, or dumped onto the ground at the facility where it then infiltrated into the groundwater below and around the facility property.

9. Section 12 of the Act, 415 ILCS 5/12 (2008) provides, in pertinent part, as follows:

No person shall:

a. Cause, 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 so as to create a water pollution hazard.

10. Section 3.55 of the Act, 415 ILCS 5/3.55 (2008), defines “water pollution” as follows:

‘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.

11. Section 3.56 of the Act, 415 ILCS 5/3.56 (2008), defines “waters” as follows:

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

12. 35 Ill. Adm. Code 620.420 (2008) provides that:

a. Inorganic Chemical Constituents

- 1) Except due to natural causes or as provided in Section 620.450 or subsection (a)(3) or (d), concentrations of the following chemical constituents [sic] must not be exceeded in Class II groundwater:

<u>CONSTITUENT</u>	<u>STANDARD</u> <u>(mg/L)</u>
*** Nitrate as N ***	100

b. Organic Chemical Constituents

<u>CONSTITUENT</u>	<u>STANDARD</u> <u>(mg/L)</u>
Alachlor* ***	.010

\*Denotes a carcinogen.

13. For a period of time better known only to Thermogas and continuing through the date of filing of this Complaint, the concentrations of nitrate as N and Alachlor in the groundwater at and adjacent to the facility have exceeded 100 mg/l and 0.10 mg/l, respectively.

14. In April of 1997, Thermogas had removed some soil contaminated with nitrates and Alachlor from the facility but extensive contamination remained.

15. By failing to control the agrichemicals handled at the facility, Thermogas has caused or threatened water pollution in violation of Sections 12(a) and (d) of the Act, 415 ILCS 5/12(a) and (d) (2008).



16. By failing to control the agrichemicals handled at the facility, Thermogas has caused or allowed violations of 35 Ill. Adm. Code 620.420 (2008) and Section 12(a) of the Act, 415 ILCS 5/12(a) (2008).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Thermogas Company, Inc., d/b/a Mc Leansboro Thermogas:

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;

E. Awarding to Complainant its costs and reasonable attorney's fees; and

F. Granting such other relief as the Board deems appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,  
Attorney General  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: 

Thomas Davis, Chief  
Assistant Attorney General  
Environmental Bureau

Of Counsel

JAMES L. MORGAN

Senior Assistant Attorney General

500 South Second Street

Springfield, Illinois 62706

217/524-7506

Dated: 7/28/09

thermogas/bd