Electronic Filing: Received, Clerk's Office 08/18/2021

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHNS MANVILLE, a Delaware corporation,) Complainant,) v.) ILLINOIS DEPARTMENT OF) TRANSPORTATION,) Respondent.)

PCB No. 14-3 (Citizen Suit)

NOTICE OF FILING AND SERVICE

To: ALL PERSONS ON THE ATTACHED CERTIFICATE OF SERVICE

Please take note that today, August 18, 2021, I have filed with the Clerk of the Pollution Control Board Respondent's Motion to Extend the Date Respondent's Brief is to be filed, and have served each person listed on the attached service list with a copy of the same.

Respectfully Submitted,

By: <u>s/ Ellen F. O'Laughlin</u> ELLEN F. O'LAUGHLIN CHRISTOPHER J. GRANT Assistant Attorneys General Environmental Bureau 69 W. Washington, 18th Floor Chicago, Illinois 60602 (312) 814-3153 <u>ellen.olaughlin@ilag.gov</u> <u>maria.cacaccio@ilag.gov</u>

> MATTHEW J. DOUGHERTY Assistant Chief Counsel Illinois Department of Transportation Office of the Chief Counsel, Room 313 2300 South Dirksen Parkway Springfield, Illinois 62764 (217) 785-7524 matthew.dougherty@Illinois.gov

CERTIFICATE OF SERVICE

Johns Manville v. Illinois Department of Transportation, PCB 14-3 (Citizens)

I, ELLEN F. O'LAUGHLIN, do hereby certify that, today, August 18, 2021, caused to be

served on the individuals listed below, by electronic mail, a true and correct copy of "Respondent's

Motion to Extend the Date Respondent's Brief is to be Filed" on each of the parties listed below:

Bradley Halloran Hearing Officer Illinois Pollution Control Board James R. Thompson Center 100 West Randolph, Suite 11-500 Chicago, Illinois 60601 Brad.Halloran@illinois.gov

Don Brown Clerk of the Pollution Control Board James R. Thompson Center 100 West Randolph, Suite 11-500 Chicago, Illinois 60601 Don.Brown@illinois.gov

Susan Brice Kristen L. Gale NIJMAN FRANZETTI LLP 10 South LaSalle street, Suite 3600 Chicago, Illinois 60603 <u>sb@nijmanfranzetti.com</u> kg@nijmanfranzetti.com

> <u>s/ Ellen F. O'Laughlin</u> Ellen F. O'Laughlin

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHNS MANVILLE, a Delaware corporation,) Complainant,) v.) PCI V.) PCI (Cir ILLINOIS DEPARTMENT OF) TRANSPORTATION,) Respondent.)

PCB No. 14-3 (Citizen Suit)

RESPONDENT'S MOTION TO EXTEND THE DATE RESPONDENT'S BRIEF IS TO BE FILED

NOW COMPES RESPONDENT, the Illinois Department of Transportation ("IDOT"), through its attorney KWAME RAOUL, Attorney General of the State of Illinois, and moves the Hearing Officer to extend the time that Respondent's brief is due to be filed. IDOT states the following in support of this motion.

1. From October 26, 2020 through October 29, 2020, a second hearing was held in this matter.

2. Following a status call between the parties, on July 7, 2021, the Hearing Officer issued an Order that included a briefing schedule, which said the Respondent's opening brief was due on or before September 7, 2021.

3. The final Corrected Transcript for the October 29, 2020 hearing date was filed on July 19, 2021.

4. On July 22, 2021, Johns Manville filed its Post-Hearing Brief.

5. Given the current situation, due to work schedules, work load, issues regarding the Illinois Attorney General's Office's network, and leaves from office, the Respondent will not be able to file its opening brief by September 7, 2021.

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6. Respondent requests an additional thirty days to file its response brief.

7. Respondent sought Johns Manville's agreement, and Johns Manville would only agree to fourteen more days.

8. It is worth noting that given all the issues and challenges with the hearing and transcript, that Respondent had effectively nine months following the hearing to prepare its Brief.

9. This matter is complex and requires significant time to include the needed facts and law in Respondent's brief.

10. There is minimal to no prejudice to Johns Manville, who seeks the payment of money only and no injunctive relief, if IDOT is given an additional thirty days to file its opening brief,

WHEREFORE, Respondent, IDOT, respectfully requests that the hearing officer grant an order requiring that Respondent's opening brief be filed on or before October 7, 2021, and that Complainant's reply brief be due on or before November 4, 2021, and for such other relief as the hearing officer deems to be appropriate and just.

Respectfully Submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION

s/ Ellen F. O'Laughlin

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