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DEC 14 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
)	PCB 96-98
)	
v.)	Enforcement
)	
)	
SKOKIE VALLEY ASPHALT, CO., INC.,)	
EDWIN L. FREDERICK, JR., individually and as)	
owner and President of Skokie Valley Asphalt)	
Co., Inc., and RICHARD J. FREDERICK,)	
individually and as owner and Vice President of)	
Skokie Valley Asphalt Co., Inc.,)	
Respondent.)	

NOTICE OF FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the RESPONDENTS' MOTION TO QUASH COMPLAINANT'S DEPOSITION NOTICES TO RESPONDENTS REGARDING COMPLAINANT'S FEE PETITION, a copy of which is hereby served upon you.


David S. O'Neill

December 14, 2005

David S. O'Neill, Attorney at Law
5487 N. Milwaukee Avenue
Chicago, IL 60630-1249
(773) 792-1333

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RESPONDENTS' MOTION TO QUASH
COMPLAINANT'S DEPOSITION NOTICES TO RESPONDENTS
REGARDING COMPLAINANT'S FEE PETITION

The Respondents, SKOKIE VALLEY ASPHALT, CO., INC., EDWIN L. FREDERICK, JR., individually and as owner and President of Skokie Valley Asphalt Co., Inc., and RICHARD J. FREDERICK, individually and as owner and Vice President of Skokie Valley Asphalt Co., Inc., by and through its attorney, David S. O'Neill, herein move this Board to quash the Complainant's Deposition Notice to Respondents Regarding Complainant's Fee Petition that was filed with the Board on April 25, 2005 and in support thereof states as follows:

PROCEDURAL BACKGROUND

1. On April 7, 2005, the Board issued an Order in the above-captioned matter. In this Order, the Board granted the Respondents' motion for extension of time to allow for limited discovery.
2. The Order specifically states that "the Board will grant the respondents additional time in order to conduct discovery...". Order of April 7, 2005 at 3. In the Conclusion of the

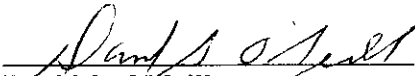
Order, the Board “grants respondents’ motion for extension of time and authorizes respondents to conduct discovery on the attorney fees issue”. Id at 4.

3. On April 25, 2005, the Complainants filed with the Board and served upon the Complainants’ attorney a “Complainant’s Interrogatories, Document Requests and Deposition Notice to Respondents Regarding Complainant’s Fee Petition” in which the Complainant demanded to take the depositions of the Respondents’ attorneys.
4. In its order of November 17, 2005, the Board stated that it “did not implicitly rule that People are prohibited from conducting discovery with respect to the issues relating to the request for attorney fees and costs. After considering the arguments put forth by the parties, the Board finds that in order to prevent prejudice to the People and in the effort to build a complete record, the People must be allowed to conduct discovery on the reasonableness of the attorney fees and costs”. Order of November 17, 2005 at 3
5. In the Order of November 17, 2005, the Respondents were directed to respond to the People’s discovery request within thirty days of the date of the Order. Id.

MOTION TO QUASH

6. The Respondents have not placed their attorneys’ fees at issue in this matter.
7. The Respondents have not placed their expenses at issue in this matter.
8. The Complainant’s deposition of Respondents’ attorneys will not allow for the discovery of information calculated to be admissible evidence at the time of the hearing on the issue of the reasonableness of the Complainant’s attorneys’ fees and costs.
9. The Complainant’s deposition of Respondents’ attorneys will violate the attorney-client privilege between the Respondents and the Respondents’ attorneys.
10. Allowing the Complainant to take the deposition of Respondents’ attorneys is inconsistent with the Board’s Order of April 7, 2005 which called for limited discovery on the subject of the reasonableness of attorneys’ fees and costs. Order of April 7, 2005 at 3.

Wherefore, the Respondents respectfully request that the Board quash the Complainant's Deposition Notices to Respondent Regarding Complainant's Fee Petition.



David S. O'Neill

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5487 N. Milwaukee Avenue
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(773) 792-1333

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached RESPONDENTS' MOTION TO QUASH COMPLAINANT'S DEPOSITION NOTICES TO RESPONDENTS REGARDING COMPLAINANT'S FEE PETITION by hand delivery on December 14, 2005, upon the following party:

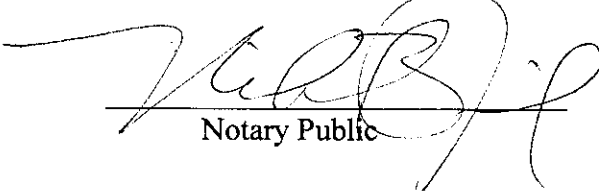
Mitchell Cohen
Environmental Bureau
Assistant Attorney General
Illinois Attorney General's Office
188 W. Randolph, 20th Floor
Chicago, IL 60601


David S. O'Neill

NOTARY SEAL

SUBSCRIBED AND SWORN TO ME this 12TH

day of December, 20 05


Notary Public

