

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHNS MANVILLE, a Delaware corporation,)	
)	
Complainant,)	
)	
v.)	PCB No. 14-3
)	(Citizen Suit)
ILLINOIS DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Respondent.)	

NOTICE OF FILING AND SERVICE

To: ALL PERSONS ON THE ATTACHED CERTIFICATE OF SERVICE

Please take note that today, May 31, 2017, I have filed with the Clerk of the Pollution Control Board “Respondent’s Proposed Revised Discovery and Hearing Schedule” and have served each person listed on the attached service list with a copy of the same.

Respectfully Submitted,

By: s/ Evan J. McGinley
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CERTIFICATE OF SERVICE

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

I, EVAN J. MCGINLEY, do hereby certify that, today, May 31, 2017, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of “Respondent’s Proposed Revised Discovery and Hearing Schedule” on each of the parties listed below:

Bradley Halloran
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s/Evan J. McGinley
Evan J. McGinley

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**RESPONDENT'S PROPOSED REVISED
DISCOVERY AND HEARING SCHEDULE**

Respondent, Illinois Department of Transportation (“IDOT”) herewith proposes the following revised schedule for conducting discovery and for setting a hearing date in this matter.

IDOT’s revised schedule maintains the same discovery and pre-hearing milestones as those contained in the Hearing Officer’s March 1, 2017 order. However, given the complexity of this case, as well as Johns Manville’s present inability to provide IDOT with any actual idea of the costs which it seeks to obtain from IDOT, IDOT believes it is necessary to move back almost all of the milestone dates that were set forth in the Hearing Officers’ March 1st order. Accordingly, IDOT’s position is that both written and oral fact discovery should remain open until July 14, 2017, in order to conduct additional written discovery from third parties, as well as to take what at this time appears to be between five to ten depositions. At least a few of these depositions, in turn, will likely need to be taken out of state in Colorado and, possibly, other states as well.

However, IDOT does not believe that there is any need to move back the June 19, 2017 deadline for Johns Manville to provide the reports for any expert witnesses which it will use in this matter. Johns Manville has already had almost six months’ time from the date that the Board

issued its December 15, 2016 Interim Opinion and Order, in which to allow their expert(s) to prepare their report/reports. Moreover, by adhering to the original June 19, 2017 deadline for Johns Manville to produce the report(s) of any experts which it will call, IDOT will be able to better assess the factual bases for the cost claims that Johns Manville will ultimately be pursuing against IDOT at hearing in this matter. Johns Manville needs no discovery from IDOT in order to prepare its expert report and can produce it at any time. By requiring Johns Manville to issue its expert report by June 19, 2017, this matter will progress more efficiently and allow the parties to sooner understand the issues in the upcoming hearing.

In light of the foregoing considerations and issues, IDOT proposes the following schedule:

- Deadline for completing all fact discovery (oral and written) – July 14, 2017
- Deadline for JM to submit expert report(s) – June 19, 2017
- Deadline for IDOT to depose JM's expert – July 28, 2017
- Deadline for IDOT to submit its expert report – August 25, 2017
- Deadline for JM to depose IDOT's expert – September 22, 2017
- Deadline for JM to submit any rebuttal report(s) – October 13, 2017
- Deadline for deposing JM's rebuttal expert – October 27, 2017
- Deadline for filing prehearing motions, including motions *in limine* – November 10, 2017
- Deadline for filing responses to prehearing motions – November 15, 2017
- Hearing to be scheduled for week of either December 4th or 11, 2017.

Respectfully Submitted,

By: s/ Evan J. McGinley

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