

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, June 23, 2017, I have filed Respondent, Illinois Department of Transportation Subpoena Duces Tecum directed on Dr. Tatsuji Ebihara along with proof of service upon Dr. Tatsuji Ebihara on June 16, 2017, with the Clerk of the Pollution Control Board, and have served each person listed on the attached service list with a copy of the same.

Respectfully Submitted,

By: s/ Evan J. McGinley
EVAN J. MCGINLEY
ELLEN O'LAUGHLIN
Assistant Attorneys General
Environmental Bureau
69 W. Washington, 18th Floor
Chicago, Illinois 60602
(312) 814-3153
emcginley@atg.state.il.us
eolaughlin@atg.state.il.us
mccaccio@atg.state.il.us

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, EVAN J. MCGINLEY, do hereby certify that, today, June 23, 2017, I caused to be served on the individuals below, by electronic mail, a true and correct copy of Respondent, Illinois Department of Transportation Notice of Filing and Service of Subpoena Duces Tecum directed on Dr. Tatsuji Ebihara along with proof of service upon Dr. Tatsuji Ebihara on June 16, 2017, 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
Lauren Caisman
Bryan Cave LLP
161 North Clark Street, Suite 4300
Chicago, Illinois 60601
Susan.Brice@bryancave.com
Lauren.Caisman@bryancave.com

s/Evan J. McGinley
Evan J. McGinley

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ILLINOIS DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Respondent.)	

SUBPOENA DUCES TECUM

TO: Dr. Tatsuji Ebihara
150 West Windsor Avenue
Lombard, IL 60148-2225

Pursuant to Section 101.622 of the Illinois Pollution Control Board's Rules, 35 Ill. Adm. Code 101.622, you are hereby ordered to present yourself for a deposition on **July 6, 2017, at 9:30 a.m.**, at the offices of Illinois Attorney General, 69 West Washington Street, Suite 1800, Chicago, Illinois 60602. You are further directed to produce copies of all documents identified in the attached rider to this subpoena.

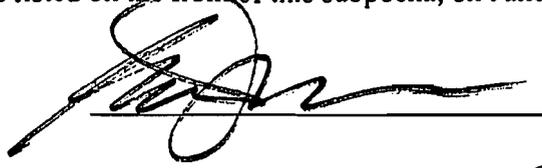
ENTER:



Don A. Brown, Assistant Clerk
Pollution Control Board

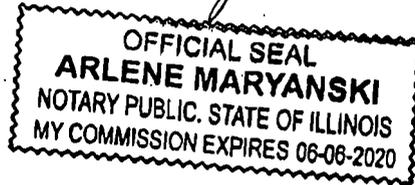
Date: June 16, 2017

I, Evan J. McGinley, Assistant Attorney General, and counsel for Respondent, hereby swear that I served this subpoena *duces tecum* by sending a copy of the same, along with a check for the statutory witness fee and mileage, by certified mail, to the deponent, at the address listed on the front of this subpoena, on June 16, 2017.



Subscribed and sworn to before me this 16th day of June,
2017.


Notary Public



RIDER

DEFINITIONS

1. "Communication" shall mean, without limitation, any and all forms of transferring information, including discussions, conversations, meetings, conferences, interviews, negotiations, agreements, understandings, inquiries, correspondence, documents, or other transfers of information whether written or oral or by any other means, including electronic and includes any document which abstracts, digests, transcribes or records any communication.

2. "Complainant" shall mean Johns Manville and any of Complainant's employees, agents, representatives, successors or assigns, or any other person acting or believed by Complainant to have acted on its behalf.

3. "Consultant" shall mean any type of environmental professional, including, but not limited to, any type of engineer, geologist, hydrologist, chemist, retained for the purpose of conducting environmental studies of the Site or Facility.

4. "Current" or "Present" shall mean the date on which Complainant serves its Response to these Interrogatories on IDOT's attorneys.

5. "Describe" shall mean to depict in written words or give an account of.

6. "Document" or "documents" shall be construed in its customary broad sense and shall include, but is not limited to, the original and any non-identical copy, whether different from the original because of notes made on said copy or otherwise, or any agreement, bank record or statement; book of account, including any ledger, sub-ledger, journal, or sub-journal; brochure; calendar; chart; check; circular; communication (intra- or inter-company or governmental entity or agency or agencies); contract; copy; correspondence; diary; draft of any document; electronic mail (e-mail); facsimile (fax); graph; index; instruction; instruction manual or sheet; invoice; job requisition; letter; log; license; manifest; manual; memorandum; minutes; newspaper or other clipping; note; note book; opinion; pamphlet; paper; periodical or other publication; photograph; print; receipt; record; recording; report; statement; study; summary including any memorandum, minutes, note record, or summary of any (a) telephone, videophone or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference; telegram; telephone log; ticket; travel or expense record; trip ticket; voucher; worksheet or working paper; writing; any other handwritten, printed, reproduced, recorded, typewritten, or otherwise produced graphic material from which the information inquired of may be obtained, or any other documentary material of any nature, in the possession, custody or control of the Respondent.

7. "Governmental agency" means any government agency, including federal, municipal, county, or state, or any subdivisions thereof.

8. "IDOT" means the Respondent, Illinois Department of Transportation.
9. "USEPA" or means the United States Environmental Protection Agency.
10. "Knowledge" means first-hand information and/or information derived from any other source, including hearsay.
11. "Johns Manville" shall mean Johns Manville and any of its officers, directors, employees, agents, representatives, successors or assigns, or any other person acting on behalf of Johns Manville.
12. "Commonwealth Edison" shall refer to Johns Manville's joint potentially responsible party, any of its officers, directors, employees, agents, representatives, successors or assigns, or any other person acting on behalf of Commonwealth Edison.
13. "Operate" or "operation" shall mean use, exercise control over, supervise or having responsibility for the daily performance of.
14. "Or" shall mean and/or wherever appropriate.
15. "Own" or "ownership" shall mean having good legal title to, hold as property or possess.
16. "Person" shall include, but is not limited to, any natural person; business or corporation, whether for profit or not, whether currently dissolved, or not; firm, partnership, or other non-corporate business organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent, or representative of any of the foregoing.
17. "Present" shall mean the date on which Complainant serve its Response to this Interrogatory on IDOT's attorneys.
18. "Related to" or "relating to" or "in relation to" shall mean anything which, directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in the preparation of, is appended to, is legally, logically or factually connected with, proves, disproves, or tends to prove or disprove.
19. "Relied upon" shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.
20. "Site 3" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.
21. "Site 6" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.

22. "Southwestern Sites" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.

23. "AOC" shall mean the 2007 Administrative Settlement Agreement and Order on Consent for Removal Action, USEPA Region, CERCLA Docket No. VW '07-C-870.

24. "You" and "your" shall refer to the deponent, Tatsuji Ebihara.

25. "Removal action" shall refer to the removal action which Johns Manville and Commonwealth Edison were required to undertake, pursuant to USEPA's November 30, 2012 Enforcement Action Memorandum ("EAM").

26. "Selected Remedy" shall refer to the remedy for the Southwestern Sites which was selected by the USEPA.

27. "Contractor" shall refer to any third party retained by you to perform or conduct any site investigation or removal work at the Sites.

28. "Interim Order" shall refer to the Pollution Control Board's December 15, 2016 Interim Opinion and Order in this matter.

29. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated under the Act, in which case the appropriate or regulatory definitions shall apply.

DOCUMENTS TO BE PRODUCED AT YOUR DEPOSITION

- 1) Copies of any and all notes, notebooks, or log books in your possession, custody, or control which pertain to your work at the Southwestern Sites, or any portion thereof.
- 2) Copies of any and all documents books in your possession, custody, or control which pertain to any costs or fees for which AECOM has billed Johns Manville pertaining to AECOM's work at the Southwestern Sites, to the extent not already produced by Johns Manville to IDOT.

- 3) Copies of all contracts for services books in your possession, custody, or control which AECOM has provided to Johns Manville related to the Southwestern Sites, to the extent not already produced by Johns Manville to IDOT.
- 4) Copies of any documents in your possession, custody, or control which pertain to the “summary report of the removal action” which is referenced in Paragraph VIII.15.i of the AOC.
- 5) Copies of any documents in your possession, custody, or control which pertain to the any issues associated with attempts to locate the City of Waukegan’s water main on or in the vicinity of Site 3.
- 6) Copies of any documents which you either received from or sent to USEPA from February 1, 2016 up to and including the date of your deposition.

OFFICE OF RECEIVER GENERAL
SPECIAL ADVANCE FUND
100 WEST RANDOLPH STREET
CHICAGO, IL 60601

1938
70-2189/719
768

June 16, 2017
Date

Pay to the Order of

Dr. Tatsuji Ebihara

\$ 28.40

Twenty Eight Dollars

Dollars

PNC BANK

PNC Bank, N.A. 071

For 1245 Environmental

Wesley

⑆07192189⑆ 480485338 1938

Marked Clerk

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE
CERTIFIED MAIL



7016 2070 0000 2623 0651
7590 6392 0000 0202 9T02

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$
- Return Receipt (electronic) \$
- Certified Mail Restricted Delivery \$
- Adult Signature Required \$
- Adult Signature Restricted Delivery \$

Postmark Here

Postage

\$

Total Postage

\$

Sent To

Street and

City, State,

Dr. Tatsuji Ebihara
150 West Windsor Avenue
Lombard, IL 60148-2225

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dr. Tatsuji Ebihara
150 West Windsor Avenue
Lombard, IL 60148-2225



9590 9402 2163 6193 4661 04

2. Article Number (Transfer from service label)

7016 2070 0000 2623 0651

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dr. Tatsuji Ebihara
 150 West Windsor Avenue
 Lombard, IL 60148-2225



9590 9402 2163 6193 4661 04

2. Article Number (Transfer from service label)

7016 2070 0000 2623 0651

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

6/23/2017

A. Signature

X *Joanne L. Ebihara*

Agent

Addressee

B. Received by (Printed Name)

Joanne L. Ebihara

C. Date of Delivery

6/20/17

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes

No

3. Service Type

Adult Signature

Priority Mail Express®

Registered Mail™

Adult Signature Restricted Delivery

Registered Mail Restricted Delivery

Certified Mail®

Return Receipt for Merchandise

Certified Mail Restricted Delivery

Signature Confirmation™

Collect on Delivery

Signature Confirmation Restricted Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Insured Mail Restricted Delivery (over \$500)

Domestic Return Receipt