

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, April 20, 2018, I have filed with the Clerk of the Pollution Control Board the attached Notice of Deposition of Dr. Tatsuji Ebihara, Ph.D., 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
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MATTHEW J. DOUGHERTY
Assistant Chief Counsel
Illinois Department of Transportation
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Springfield, Illinois 62764
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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, yesterday, April 19, 2018, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of the attached Notice of Deposition of Dr. Tatsuji Ebihara, Ph.D., 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
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s/ Evan J. McGinley
Evan J. McGinley

Pursuant to this Notice of Deposition, you are required to have Deponent, Dr. Tatsuji Ebihara, Ph.D., present at the date, time, and place stated for oral examination, pursuant to Section 101.622 of the Board's Procedural Rules, 35 Ill. Adm. Code 101.622. In addition, the Deponent is required to produce the documents identified in the Rider to this deposition notice at the time of deposition.

Respectfully Submitted,

By: /s/ Evan J. McGinley
EVAN J. MCGINLEY
ELLEN O'LAUGHLIN
Assistant Attorneys General
Environmental Bureau
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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. "Operate" or "operation" shall mean use, exercise control over, supervise or having responsibility for the daily performance of.
13. "Or" shall mean and/or wherever appropriate.
14. "Own" or "ownership" shall mean having good legal title to, hold as property or possess.
15. "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.
16. "Present" shall mean the date on which Complainant serve its Response to this Interrogatory on IDOT's attorneys.
17. "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.
18. "Relied upon" shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.
19. "Site 3" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.

20. "Site 6" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.

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

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

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

24. "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").

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

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

27. 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 documents in your possession, custody, or control which pertain any work you performed at Sites 3 or 6 as an employee of LFR, Arcadis, or AECOM, related to Sites 3 and/or 6, or any portion thereof, which you relied upon or otherwise utilized in billing Johns Manville for work performed on those sites, to the extent not already produced by Johns Manville to IDOT.

2) Copies of any and all documents in your possession, custody, or control which relate to any costs or fees for which AECOM has billed Johns Manville pertaining to AECOM's work at Sites 3 and/or Site 6, to the extent not already produced by Johns Manville to IDOT.

3) Copies of all contracts for services which AECOM has provided to Johns Manville, related to Sites 3 and/or 6, to the extent not already produced by Johns Manville to IDOT, to the extent not already produced by Johns Manville to IDOT.

4) Copies of any documents in your possession, custody, or control which relate to the "summary report of the removal action" which is referenced in Paragraph VIII.15.i of the AOC, to the extent not already produced by Johns Manville to IDOT.

5) 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, to the extent not already produced by Johns Manville to IDOT.

6) Copies of all documents in your possession, custody, or control which relate to Purchase Order # 49000011082 that document costs which AECOM billed Johns Manville for, pursuant to the aforementioned purchase order, to the extent not already produced by Johns Manville to IDOT.

7) Copies of all documents in your possession, custody, or control which relate to Change Order No. 1, dated December 16, 2016, to Purchase Order # 49000011082.

CERTIFICATE OF SERVICE

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

I, EVAN J. MCGINLEY, do hereby certify that, today, April 19, 2018, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of IDOT's Notice of Deposition to on each of the parties listed below:

Susan Brice
Robert Brunner
Lauren Caisman
Bryan Cave LLP
161 North Clark Street, Suite 4300
Chicago, Illinois 60601
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Lauren.Caisman@bryancave.com

/s/ Evan J. McGinley
Evan J. McGinley