

**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 25, 2018, I have filed with the Clerk of the Pollution Control Board the attached Notice of Deposition of Campanella & Sons Person Most Knowledgeable, 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, 18<sup>th</sup> Floor  
Chicago, Illinois 60602  
(312) 814-3153  
[emcginley@atg.state.il.us](mailto:emcginley@atg.state.il.us)  
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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](mailto: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, yesterday, April 24, 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 Campanella & Sons Person Most Knowledgeable, 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](mailto: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](mailto:Don.Brown@illinois.gov)

Susan Brice  
Lauren Caisman  
Robert W. Brunner  
Bryan Cave Leighton Paisner LLP  
161 North Clark Street, Suite 4300  
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[Lauren.Caisman@bryancave.com](mailto:Lauren.Caisman@bryancave.com)  
[Robert.Brunner@bclplaw.com](mailto:Robert.Brunner@bclplaw.com)

*s/ Evan J. McGinley*  
Evan J. McGinley



Pursuant to this Notice of Deposition, you are required to have a representative from Campanella & Sons, Inc. 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. This deposition will take place upon the topics identified herein under Exhibit A to this notice. In addition, the Deponent is required to produce the documents identified in the Rider to this deposition notice on or before April 26, 2018. IDOT notes that this date represents an extension to the deponent from the original April 24, 2018 production deadline that was set forth in IDOT's subpoena for deposition to Campanella, which was served on Campanella & Sons on April 13, 2018.

Respectfully Submitted,

By: /s/ Evan J. McGinley  
EVAN J. MCGINLEY  
ELLEN O'LAUGHLIN  
Assistant Attorneys General  
Environmental Bureau  
69 W. Washington, 18<sup>th</sup> Floor  
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MATTHEW J. DOUGHERTY  
Assistant Chief Counsel  
Illinois Department of Transportation  
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[Matthew.Dougherty@Illinois.gov](mailto:Matthew.Dougherty@Illinois.gov)

**EXHIBIT A**

**SUBJECTS FOR CAMPANELLA & SONS INC. CORPORATE REPRESENTATIVE DEPOSITION**

You are herewith notified that the deposition of the person or persons appearing in response to this subpoena will be deposed regarding their knowledge of the following subjects:

- 1) Johns Manville Contract for Construction/Remediation Services, Contract #4900010523 (“Contract”).
- 2) Knowledge of all “Payment Applications” which were submitted by Campanella & Sons, Inc. (“Campanella”) to Johns Manville, pursuant to the terms and conditions of the Contract.
- 3) Knowledge of all communications between Johns Manville and Campanella, regarding any issues related to any Payment Application, Schedule of Values, or Periodic Lien Release.
- 4) Knowledge of any and all change orders which were made to the scope of work specified in the Contract, as those change orders may have related to “Site 3” and/or “Site 6” at the “Southwest Sites”, as those terms are used in the Contract.
- 5) Knowledge of procedures employed by Campanella to document the cost of the work which it performed pursuant to the Contract.
- 6) Knowledge of all work performed by Campanella at Sites 3 and 6.
- 7) Knowledge of all costs incurred by Campanella which stem from or which otherwise relate to the work it performed for Johns Manville under the Contract.
- 8) Knowledge of all billing or requests for payment made by Campanella to Johns Manville for Campanella’s work performed under the Contract.

**EXHIBIT B**

**DOCUMENTS TO BE PRODUCED BY CAMPANELLA & SONS INC. IN ADVANCE OF APRIL 26, 2018 CORPORATE REPRESENTATIVE DEPOSITION**

You are herewith directed to produce copies of all of the following documents in your possession, custody, or control to the Office of the Attorney General, Environmental Bureau (“OAG”), 69 West Washington Street, Suite 1800, Chicago, Illinois 60602, on or before the close of business on **April 26, 2018**.

The documents specified herein should be produced to the OAG as they are kept in the ordinary course of Campanella & Sons, Inc.’s business, and are requested to be produced in electronic format, to the extent possible. In lieu of mailing hard copies of the documents requested herein, Campanella may produce the requested documents to the OAG by electronic mail, to Assistant Attorney General Evan J. McGinley, at [emcginley@atg.state.il.us](mailto:emcginley@atg.state.il.us) or through a cloud-based, file transfer website.

**I. DEFINITIONS AND INSTRUCTIONS**

1. “Johns Manville” means Johns Manville and any of its officers, directors, managers, members, agents, representatives, consultants, attorneys, employees or any person or agent acting on behalf of Johns Manville or under the direction or control of Johns Manville or its attorneys or agents.

2. “Campanella” or “You” shall refer to Campanella & Sons, Inc., and any of its officers, directors, managers, members, agents, representatives, consultants, attorneys, employees or any person or agency acting on behalf of Campanella or under the direction or control of Campanella, its attorneys or agents

3. “Southwestern Site”, “Site 3” and “Site 6” refer to the corresponding portions of the Johns Manville Superfund Site, in Waukegan, Lake County, Illinois

4. “Document” shall have a broad meaning 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, of any agreement; bank record or statement; bill of lading; book of account, including any ledger, sub-ledger, journal, or sub-journal; brochure; calendar; chart; check; circular; Communication; contract; copy; correspondence; delivery record or receipt; diary; draft; document; electronic communication, including e-mail; electronic data; facsimile; graph; index; instruction; instruction manual or sheet; invoice; job requisition; letter; license; manifest; manual; memorandum; minutes; newspaper or other clipping; note; notebook; opinion; pamphlet; paper; periodical or other publication; permit; photograph; print; purchase order; receipt; record; recording; report; result; routing slip; social media information (including from Facebook, Twitter or otherwise); spreadsheet; statement; study; summary, including any memorandum, minute or note record, summary of any (a) telephone, videophone or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference; survey; telegram; telephone log; ticket; travel or expense record; videotape; voucher; worksheet or working paper; writing; and 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 Campanella.

5. “Contract” shall mean “Johns Manville Contract for Construction/Remediation Services, Contract #4900010523”, dated August 12, 2015, between Johns Manville and Campanella.

6. "IDOT" shall mean the Illinois Department of Transportation, and any of its officers, directors, managers, members, agents, representatives, consultants, attorneys, employees or any person or agency acting on behalf of IDOT or under the direction or control of IDOT or its attorneys or agents.

7. "Related to" or "relating 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.

8. "Matter" shall mean the action currently pending before the Pollution Control Board, entitled *Johns Manville v. Illinois Department of Transportation*, PCB 14-3.

9. To the extent a term used herein is not defined above, it shall be deemed to have its commonly recognized meaning.

10. Wherever appropriate herein, the singular form of a word should be interpreted to include the plural, and vice versa.

11. If you object to the production of any of the documents requested herein, please state the nature and basis for the objection, privilege and/or protection asserted.

## **II. DOCUMENTS TO BE PRODUCED BY CAMPANELLA**

- 1) All non-identical copies of the Contract.
- 2) Copies of all documents relating to the Contract and the work performed by Campanella thereunder.
- 3) Copies of all documents pertaining to all "Payment Applications" which were submitted by Campanella to Johns Manville, pursuant to the terms and conditions of the Contract.

- 4) Copies of all documents pertaining to any communications between Johns Manville and Campanella, regarding any issues related to any Payment Application, Schedule of Values or Periodic Lien Release.
- 5) Copies of all documents relating to any change orders which were made to the scope of work specified in the Contract, as those change orders may have related to “Site 3” and/or “Site 6”, as those terms are used in the Contract.
- 6) Copies of all documents specifying the procedures to be used by Campanella to document the cost of the work which it performed pursuant to the Contract.
- 7) Copies of all documents, not otherwise already specified herein that relate to or which document costs incurred by Campanella for the work it performed for Johns Manville under the Contract.
- 8) Copies of all documents, to the extent not otherwise specified herein, that relate to Campanella’s billing of costs to Johns Manville for the work that it performed under the Contract.
- 9) Copies of all other documents not already specified herein that relate to the work performed by Campanella at Sites 3 and 6.

**CERTIFICATE OF SERVICE**

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

I, EVAN J. MCGINLEY, do hereby certify that, today, April 24, 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@bclplaw.com](mailto:lauren.caisman@bclplaw.com)

/s/ Evan J. McGinley  
Evan J. McGinley