

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 3, 2018, I have filed with the Clerk of the Pollution Control Board the attached Response to Motion to Quash Subpoena 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
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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 3, 2018, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of the attached Response to Motion to Quash Subpoena 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
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s/ Evan J. McGinley
Evan J. McGinley

witness at hearing to provide critical testimony about how the company incurred costs which it will then ask the Board to order IDOT to reimburse. No doubt, Johns Manville will also need to have Mr. Peterson authenticate documents that it will seek to have entered into evidence at hearing.

Given Mr. Peterson's role and his vital importance to Johns Manville's case, Johns Manville's conduct in seeking to thwart IDOT's efforts to take his deposition are simply unconscionable. Rather than meeting its obligations to engage in full and complete discovery, Johns Manville seeks to hide Mr. Peterson, out of reach of IDOT's ability to depose him. Their gamesmanship should not be countenanced by the Board and the Hearing Officer should either find that IDOT's subpoena to Mr. Peterson is valid and his deposition should go forth in on May 10, 2018, in Ohio, or, alternatively, the Hearing Officer should direct Johns Manville to facilitate the deposition of Mr. Peterson, with whom Johns Manville has a documented, long-standing relationship.

STATEMENT OF FACTS

Starting at some point in 2000, David M. Peterson became Johns Manville's Resident Site Engineer, overseeing a wide range of construction-related activities at the Johns Manville Superfund Site in Waukegan, Illinois. (See, Exhibit A, July 29, 2013 "Resident Site Engineering and Site Operations Proposal Former Waukegan Plant" (JM 038961-38971, at JM 038963).¹ Mr. Peterson continues to serve Johns Manville in this capacity. As recently as last week, i.e., the week of April 23, 2018, Mr. Peterson was overseeing operation and maintenance activities on some portion of the Johns Manville Site.²

¹ Mr. Peterson has apparently also served as Johns Manville's Resident Site Engineers at two other sites, the Johns Manville Marerro, Louisiana and Richmond, Indiana sites. (Ex. A., JM 038962.)

² On April 30, 2018, IDOT took the deposition of Kevin Zupec, an employee of Campanella & Sons, Inc., the construction company which was hired by Johns Manville to implement the remedial measures called for under Johns Manville's Remedial Action Work Plan for the Southwestern Sites, including Sites 3 and 6. During his deposition, for which IDOT has yet to receive the transcript, Mr. Zupec testified that he had met Mr. Peterson at the Johns Manville

As the Resident Site Engineer, Mr. Peterson supervised the work of Campanella & Sons, Inc., the primary construction contractor performing Site 3 and Site 6 removal and construction-related activities, on a daily basis, while work was taking place. Mr. Peterson was on site on a daily basis in order to “confirm work [was] being completed in accordance with the bid specifications.” (Exhibit B, July 1, 2014 “Resident Site Engineering and Site Operations Proposal Former Waukegan Plant” (JM 038936-38945, at JM 038938.)

Mr. Peterson also communicated daily with Scott Myers, Johns Manville’s Corporate Environmental Manager about progress on the project. (Ex. B, at JM 038965.) Additionally, Mr. Peterson was responsible for documenting the quantities of materials used by contractors “so that the proper amount is invoiced to JM from the contractor.” (Id.)

As Resident Engineer, Mr. Peterson was responsible for approving all of Campanella’s costs before Campanella could submit those costs to Johns Manville for reimbursement. According to testimony given by Suzanne Zupec, Campanella’s president, during her April 30, 2018 deposition in this matter, she and Kevin Zupec, Campanella’s on-site project manager, met with Mr. Peterson on a monthly basis, at Campanella’s offices in Wadsworth, Illinois, in order for Mr. Peterson to conduct his review and approval of Campanella’s costs.³

So demanding were Mr. Peterson’s duties that, at least for some of the time that he served as Johns Manville’s Resident Site Engineer, he apparently lived on-site in an RV, an arrangement which Johns Manville appears to have approved of. (Ex. A., at JM 038963.)

site during the week of April 23rd, as Mr. Peterson was present to supervise a controlled burn there as part of routine operation and maintenance activities at the site.

³ The transcript of Ms. Zupec’s deposition is in the process of being prepared, but was not yet ready as of the date of IDOT’s filing of this response.

ARGUMENT

I. Legal Standards Governing the Issuance of Subpoenas in Proceedings before the Board

Pursuant to Section 5(d) of the Environmental Protection Act (“Act”), 415 ILCS 5/5(d) (2016), the Board is authorized to conduct proceedings upon complaints charging violations of the Act. Section 5(e) authorizes the Board, in conjunction with proceedings under Section 5(d) of the Act, such as the present case, to “subpoena and compel the attendance of witnesses and the production of evidence reasonable necessary to resolution of the matter under consideration.” 415 ILCS 5/5(e). As the Board has noted, “it must issue a subpoena upon the request of any party to [an enforcement proceeding].” In the Matter of: Procedural Rules Revision 35 Ill. Adm. Code 101, 106 (Subpart G), and 107, R88-5(A), March 2, 1989, *12. Notably, Section 5(e) of the Act is silent on the question of whether the Board has the authority to subpoena someone who resides outside the State of Illinois. *See, generally*, 415 ILCS 5/5(e).

The standards articulated by the legislature for the issuance of a subpoena under Section 5(e) are present with respect to the David Peterson. As set forth under the Statement of Facts, he has direct and substantial knowledge that is necessary and relevant to the questions which the Board has directed the parties to address at hearing, including, among other things, the amount and reasonableness of the costs incurred by Johns Manville that may be attributable to IDOT. As such, it is entirely appropriate to seek to subpoena him for his deposition. He should be compelled to provide his testimony at deposition now, as his testimony is “reasonably necessary to [the] resolution of the matter under consideration”, i.e., Johns Manville’s future claims for monetary compensation from IDOT.

II. Johns Manville Has Misrepresented Key Facts in its Motion

Johns Manville asserts that “Peterson does not reside or work in Illinois”. (Mot., at 2.) Not only has Johns Manville failed to back up this assertion in their Motion, their assertion is directly

contradicted by documents which they have produced to IDOT during discovery. These documents clearly demonstrate that Mr. Peterson has worked in Waukegan for Johns Manville for the past 18 years as the company's sole Resident Site Engineer. (*See, e.g.*, Ex. A., at JM 038963 (“I have acted as the Resident Site Engineer for many years in Waukegan starting in 2000 . . .”) (Emphasis added); *See also*, Exhibit B, at JM 38938. Moreover, Mr. Peterson continues to oversee work at the Johns Manville Site and was most recently in Waukegan just last week, in order to supervise ongoing maintenance activities there.^{4,5}

III. IDOT Has Not Filed the Return of Service Yet for the Subpoena Because it Not Yet received the Return Receipt for the Subpoena

Johns Manville asserts that IDOT's subpoena should be quashed because it has failed to file the return of service on the subpoena. (Mot. at 3.) On April 17, 2018, IDOT sent the subpoena to Peterson by certified mail. The reason that IDOT has not yet filed the return of service is that it has not yet received it from Mr. Peterson.

IV. It is Likely That Mr. Peterson Has Documents Which Johns Manville Has Not Yet Produced to IDOT

Among the categories of documents which IDOT is requesting that Mr. Peterson produce are:

- 6) Copies of all drafts of your November 2017 Construction Completion Report.
- 7) Copies of all other documents related to your November 2017 Construction Completion Report.

It was only on April 18, 2018, that Johns Manville produced a copy of Mr. Peterson's November 2017 Construction Completion Report to IDOT and then only because it was included

⁴ *See*, Footnote 2, *supra*.

⁵ Prior to subpoenaing Mr. Peterson, IDOT's counsel contacted Johns Manville's counsel requesting counsel's assistance in arranging the deposition of Mr. Peterson. (Ex. C, April 18, 2018 email from Evan McGinley to Susan Brice.) Johns Manville's counsel did not offer any assistance and also did not bother to advise IDOT's counsel that Mr. Peterson would be in Waukegan the following week.

as an appendix to the 3,000 plus page March 20, 2018 Final Report prepared by AECOM, Johns Manville's environmental consultant. Clearly, documents pertaining to how Mr. Peterson prepared this report, where the report documents some of the work that Johns Manville, will, in turn, seek reimbursement for from IDOT, is relevant to any future proceedings in this matter. Moreover, there is no excuse for Johns Manville to have only just recently produced Mr. Peterson's report some six months after it was completed (to say nothing of the fact that Johns Manville failed to produce AECOM's Final Report for almost one month after it was sent to Johns Manville.)⁶

V. Mr. Peterson Has Unique Personal Knowledge of the Issues on Which the Parties Will be Going to Hearing

Johns Manville has essentially admitted that it will call Mr. Peterson as a witness at hearing, as he alone is able to provide critical testimony about the scope of the remedial work which Johns Manville had to perform at the Southwestern Sites, including Sites 3 and 6. Mr. Peterson's testimony would be elicited by Johns Manville in order to: 1) provide testimony regarding the costs Johns Manville has incurred for its work at Sites 3 and 6; and, 2) to provide the necessary testimony as a foundation for the admission of documents that would tend to support Johns Manville's monetary claims against IDOT.

As Johns Manville's Residential Site Engineer, he was Johns Manville's representative at the sites (indeed, for the entire Johns Manville NPL Site, which Sites 3 and 6 are only a part of). In this capacity, he developed the bid specifications and scope of work for the removal action at Sites 3 and 6. Mr. Peterson was also responsible for overseeing the work performed by Campanella, the construction company which was awarded the contract to perform this work. And, perhaps just as importantly, given the nature of the matters which the parties will return to hearing

⁶ Additionally, Johns Manville failed to also timely produce documents related to Mr. Peterson's role as the Resident Site Engineer until the middle of July 2017, such as Exhibit A and B. Given Johns Manville's pattern of untimely production of relevant material, Johns Manville's assertion that IDOT's subpoena should be quashed because it seeks documents which "JM has already produced" cannot be verified and thus is meaningless. (Mot. at 3.)

on, Mr. Peterson was responsible for approving all costs which Campanella sought to invoice Johns Manville for, before Campanella could submit those costs to Johns Manville for payment. Thus, Mr. Peterson's work Johns Manville goes beyond "mere involvement"; rather, he was inextricably involved and had complete responsibility for overseeing the construction work at the Sites. (See, e.g., Exhibit D, Excerpts of the June 29, 2017 Deposition of Scott Myers, Johns Manville's Director of Environmental Programs, at 85:14-23, 86:11-19, and 91:11-16.) Moreover, if Campanella had any issues concerning how the work was to be implemented or regarding payment for that work, they were instructed to deal with Mr. Peterson to resolve those issues.

VI. Assuming *Arguendo* That IDOT's Subpoena to Mr. Peterson is Ineffective, the Hearing Officer Should Nevertheless Require Johns Manville to Make Mr. Peterson Available for Deposition

The record before the Board on Johns Manville's Motion to Quash very clearly establishes that Johns Manville has a longstanding and ongoing relationship with Mr. Peterson. No mere contractor, Mr. Peterson essentially has functioned as Johns Manville's sole representative in Waukegan for some 18 years, overseeing all of the construction work at the Site that Johns Manville was required to perform, in satisfaction of its obligations under the Administrative Order on Consent, as well as other construction and demolition work there. Consistent with the Board's authority to compel the attendance of witnesses for hearing, and, in the interests of conducting full and complete discovery that will allow the parties to return to hearing on the three issues identified by the Board in its December 15, 2016 Interim order, the Board should require Johns Manville to make Mr. Peterson available to IDOT for deposition in Ohio.

WHEREFORE, Respondent, the Illinois Department of Transportation, respectfully requests that the Hearing Officer:

- 1) Deny Complainant Johns Manville's Motion to Quash; and,

- 2) Require Complainant to make arrangements with its long-standing Resident Site Engineer to be available for deposition on May 10, 2018 or such other mutually agreeable date for all parties concerned.

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 3, 2018, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of IDOT's Response to Johns Manville's Motion to Quash of the parties listed below:

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
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Chicago, Illinois 60601
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s/ Evan J. McGinley
Evan J. McGinley

DAVID M. PETERSON, PE, PC

A PROFESSIONAL ENGINEERING CORPORATION
SPECIALIZING IN ENVIRONMENTAL SOLUTIONS

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EMAIL: DMPETE@CONCENTRIC.NET

July 29, 2013

Sent via Email to Scott.Myers@jm.com

Mr. Scott Myers
Corporate Environmental Manager
Johns Manville
717 17th Street
Denver, CO 80802

**Subject: Resident Site Engineering and Site Operations Proposal
Former Waukegan Plant**

Dear Scott,

As requested, this proposal has been prepared to include services for various projects that are scheduled to occur between August 1, 2013 and June 30, 2014 at the former Waukegan Plant. These services are primarily related to resident site engineering (RSE) work and general site operations.

Resident Site Engineering

RSE activities will be performed for the following upcoming projects:

- First Amended Consent Decree
 - Settling Basin Storm Water Drainage System Installation and Capping
 - Outfall Structure and Berm Construction
 - On-Site Landfill
 - Operation and Maintenance including Discharge Crib Construction
- Site Remediation Program
 - Tank 3 former LUST Remediation
 - REC 2/16 TPH Remediation
 - Pumphouse Demolition
- Southwestern Sites
 - Site 3 Capping and Clean Utility Corridor Construction
 - Site 4/5 Capping and Clean Utility Corridor Construction
 - Site 6 Capping and Clean Utility Corridor Construction

RSE activities include those associated with:

- Site Preparation
- Bid Specification Preparation

EXHIBIT A

JM 038961

- Bidding Assistance
- Pre-Construction Assistance
- Construction Management as the Resident Site Engineer
- Post Construction Documentation

Site Preparation

Prior to commencing a particular project it may be necessary to prepare the work area to gain a better understanding of the subsurface conditions (i.e. test pitting), to provide access to the work area (i.e. road construction), to de-energize the work area (i.e. electrical work), and/or to pilot test the feasibility of a particular remediation or construction technology (i.e. underwater construction). Efforts to complete such work will likely include interfacing with contractors to determine what key variables need to be better defined so that the larger project can be completed most cost effectively. Smaller scopes of work may be developed for a particular contractor so that field trials can be completed. Supervision and evaluation of the field trials may also be completed.

Bid Specification Preparation

Bid Specifications will be prepared similar to those completed previously for Richmond, Marrero, and Waukegan. The Bid Specification will become an element of the Contract that JM Procurement can attach for bidding purposes. During the preparation of the bid documents perspective contractors may be contacted to discuss the logistics and feasibility of executing the project most efficiently. Elements of each Bid Specification will include:

- Scope of Work (narrative that describes the work to be completed)
- Drawings (drawings from an approved Work Plan may be used as a basis)
- Technical Specifications (CSI format, some specifications from an approved Work Plan may be utilized if they are sufficiently detailed)
- Site Photographs
- Health and Safety Program (JM's H&S Program requirements tailored for Waukegan)
- CERCLA Documentation to convey site-specific regulatory requirements to the Contractor.

In addition to the Bid Specification, an Invitation to Bid and Bid Form will be created for each project. The Bid Form will contain various cost elements, some of which may be lump sum and others that may be unit price based.

Bidding Assistance

For each project a minimum of at least three qualified bidders will be identified. This may include some local contractors, regional contractors, and/or larger national contractors. Bidders will be contacted to discuss the project in general, confirm their interest in bidding, and provide their contact information to JM Procurement for bid solicitation purposes.

After JM Procurement has distributed the bid documents to bidding contractors a Pre-Bid meeting will be held on-site with the bidders. Following that meeting bidding assistance will be provided by answering technical questions and issuing Bid Addenda as appropriate. Business, contract, and pricing questions will be handled by JM (as is customary).

A detailed bid summary and cost comparison will be made once the bids are received and shared by JM. In addition, competitive bidders will be interviewed and their bids will be evaluated to make a recommendation as to what bidder(s) may be most cost effective and have the best project understanding and approach.

Pre-Construction Assistance

After JM has awarded the project and issued a purchase order to the Contractor I will work with that Contractor to ensure that pre-project documents are complete. This includes the Contractor HASP, construction schedule, schedule of values for payment purposes, and any other specific elements related to the project. I will review and approve Contractor submittals for equipment, materials, and any work plans that are necessary as detailed within the Bid Specification. I will also host a Pre-Construction meeting on-site with the awarded Contractor.

Construction Management as the Resident Site Engineer

I will be on-site to manage the execution of the awarded contract. This will include:

- Daily supervision of the contractor to confirm work is being completed in accordance with the bid specifications.
- Daily communication (via email and/or telephone) with you to inform you of the project status and field conditions.
- Interfacing with any regulatory agency that performs a site inspection.
- Documenting the quantities of materials that are utilized so that the proper amount is invoiced to JM from the contractor.

I have acted as the Resident Site Engineer for many years in Waukegan starting in 2000 with the demolition of the buildings. The experience and site knowledge acquired in Waukegan over the past 13 years will serve me well as the Resident Site Engineer. Also, I intend to setup and stay in a RV trailer on-site for more continuous oversight. I will also contact independent third party subcontractors as necessary to verify that construction compaction and grading requirements are fulfilled. It is assumed that these independent contractors will contract directly with JM.

Post Construction Documentation

Upon completion of work I will prepare post construction documentation including a written report, updated as-built drawings, a chronological summary of work completed, a photo log, and engineering certification as necessary. It is anticipated that this report will be provided electronically and in written

form for the body of the report, tables, and figures with the appendices being attached electronically on a disk.

Site Operations

Activities related to site operations include:

- Weekly landfill inspections and documentation.
- Daily inspections for Blandings Turtles during construction activities from March through October.
- Changing the lighthouse batteries annually.
- Posting and retrieving No Trespassing signs on the beach each season.
- Routine vegetation maintenance including mowing and fence clearing.
- Maintenance of site equipment including the bush hog, track excavator, fork lift, water truck, mowers, weed eaters, generators, trash pumps, etc.
- Support for other site activities completed by others including, but not limited to, sampling the Industrial Canal and landfill gas monitoring.
- Maintenance of the perimeter fence and perimeter signs.

It is estimated that these activities will require two part-time workers who work 3 days per week during the growing season (April through October) and 2 days per week during the remainder of the year. Also, it is assumed that certain site equipment and site services will be provided by JM and remain active (see Table 5).

Cost Estimate

At this time some work plans are more complete than others. Costs have been prepared based upon an estimated amount of work. If project requirements change substantially then these costs will be adjusted based upon the actual time required to complete the work. Tables have been attached that summarize the cost estimates. The format for the tables matches the internal JM quarterly summary format so funds can be allocated appropriately.

- Table 1 – Total Cost Estimate Summary
 - Q3 2013 = \$68,126
 - Q4 2013 = \$193,357
 - Q1 2014 = \$85,106
 - Q2 2014 = \$178,252
 - Total August 1, 2013 – June 30, 2014 = \$524,840
- Table 2 – Detailed Cost Estimate for First Amended Consent Decree
- Table 3 – Detailed Cost Estimate for Site Remediation Program
- Table 4 – Detailed Cost Estimate for Southwestern Sites
- Table 5 – Detailed Cost Estimate for Site Operations

Mr. Scott Myers – Johns Manville
Resident Site Engineering and Site Operations Proposal – Former Waukegan Plant

Page 5 of 5
July 29, 2013

If you have any questions or comments about this proposal please do not hesitate to call me at (216) 554-0413 or email me at dmpete@concentric.net. If this proposal meets to your satisfaction then please indicate so by issuance of a purchase order.

Sincerely,



David M. Peterson, PE
President

Attachment: Tables 1-5

JM 038965

Table 1
Johns Manville - Waukegan Plant
Site O&M and Resident Site Engineering Related Activities Cost Estimate Summary
 Period between August 1, 2013 and June 30, 2014
 July 29, 2013

First Amended Consent Decree

	<u>Setting Basin</u> Stormwater Structure Construction, Grading, Topsoil Placement & Seeding	<u>Industrial Canal & Pumping Lagoon</u> Outfall Structure & Berm Construction	<u>On-Site Landfill</u> Reporting	<u>Operations & Maintenance</u> Discharge Crib Construction & Quarterly O&M
Q3 2013	\$13,360 Bid Spec / Bidding	\$0 95% Design Submittal	\$4,400 Assist with Certificate of Completion Report	\$17,320 Crib & O&M
Q4 2013	\$140,250 RSE	\$0 Regulatory Negotiations	\$0 Regulatory Meeting	\$4,400 Crib RSE, O&M & Post Construction Documentation
Q1 2014	\$4,400 Incidental	\$23,040 Bid Spec / Bidding	\$0 Monitoring Wells	\$0 Qtrly O&M
Q2 2014	\$24,100 Veg. Cover. RSE & Post Construction Documentation	\$38,250 RSE	\$0 No Work	\$0 Qtrly O&M
Total	\$182,110	\$61,290	\$4,400	\$21,720

Site Remediation Program

	<u>Tank 3</u> Former LUST Remediation	<u>REC 2/16</u> TPH Remediation	<u>SRP O&M</u> Pumphouse Demo
Q3 2013	\$0 Respond to IEPA	\$0 Regulatory Planning	\$4,400 Demolition Planning / Electrical Rerouting
Q4 2013	\$12,040 Bid Spec / Bidding	\$0 Regulatory Reporting	\$0 No Work
Q1 2014	\$29,020 RSE & Post Construction Documentation	\$0 Regulatory Mtgs	\$0 No Work
Q2 2014	\$0 Qtrly Monitoring	\$17,760 Bid Spec / Bidding	\$0 No Work
Total	\$41,060	\$17,760	\$4,400

Table 1
Johns Manville - Waukegan Plant
Site O&M and Resident Site Engineering Related Activities Cost Estimate Summary
Period between August 1, 2013 and June 30, 2014
 July 29, 2013

Southwestern Sites

	<u>Site 3</u> Capping & Clean Utility Corridor Construction	<u>Site 4/5</u> Capping & Clean Utility Corridor Construction	<u>Site 6</u> Capping & Clean Utility Corridor Construction
Q3 2013	\$0	\$0	\$0
	Finalize Design & RAWP	Finalize Design & RAWP	Finalize Design & RAWP
Q4 2013	\$0	\$0	\$0
	Regulatory Mtgs	Regulatory Mtgs	Regulatory Mtgs
Q1 2014	\$0	\$0	\$0
	RAWP Modifications	RAWP Modifications	RAWP Modifications
Q2 2014	\$15,560	\$23,480	\$15,560
	Design, Bid Spec & Bidding	Design, Bid Spec & Bidding	Design, Bid Spec & Bidding
Total	\$15,560	\$23,480	\$15,560

Site Operations

<u>Part-Time Crew</u>	<u>Summary of FACD, SRP, SW Sites, Site Ops</u>	
Q3 2013	\$28,646	Q3 2013
	O&M	\$68,126
Q4 2013	\$36,667	Q4 2013
	O&M	\$193,357
Q1 2014	\$28,646	Q1 2014
	O&M	\$85,106
Q2 2014	\$43,542	Q2 2014
	O&M	\$178,252
Total	\$137,500	Total
		\$524,840

Johns Manville - Waukegan Budget
First Amended Consent Decree Cost Estimate
 Period between August 1, 2013 and June 30, 2014
 July 29, 2013

Settling Basin Project

Bid Specification	40 hrs	\$110	\$4,400
Pre-Bid Site Visit	1 LS	\$2,500	\$2,500
Bidding	12 hrs	\$110	\$1,320
Evaluation / Award	12 hrs	\$110	\$1,320
Review Submittals / Project Planning	12 hrs	\$110	\$1,320
Pre-Construction Site Visit	1 LS	\$2,500	\$2,500
RSE	55 days	\$1,750	\$96,250
Support Crew	55 days	\$800	\$44,000
Site Surveying / Compaction	1 LS	\$15,000	Note 1
Incidental	40 hrs	\$110	\$4,400
Vegetative Cover RSE	10 days	\$1,750	\$17,500
As-Built Survey	1 LS	\$7,500	Note 1
Post Construction Documentation	60 hrs	\$110	\$6,600
		Subtotal	\$182,110

Industrial Canal & Pumping Lagoon Project

Bid Specification	120 hrs	\$110	\$13,200
Pre-Bid Site Visit	1 LS	\$2,500	\$2,500
Bidding	16 hrs	\$110	\$1,760
Evaluation / Award	16 hrs	\$110	\$1,760
Review Submittals / Project Planning	12 hrs	\$110	\$1,320
Pre-Construction Site Visit	1 LS	\$2,500	\$2,500
RSE	15 days	\$1,750	\$26,250
Support Crew	15 days	\$800	\$12,000
		Subtotal	\$61,290

On-Site Landfill

Certificate of Completion Report	40 hrs	\$110	\$4,400
		Subtotal	\$4,400

Discharge Crlb Construction Project

Site Preparation	24 hrs	\$110	\$2,640
ACOE Permitting Assistance	24 hrs	\$110	\$2,640
Bid Specification	40 hrs	\$110	\$4,400
Pre-Bid Site Visit	1 LS	\$2,500	\$2,500
Bidding	8 hrs	\$110	\$880
Evaluation / Award	8 hrs	\$110	\$880
Review Submittals / Project Planning	8 hrs	\$110	\$880
Pre-Construction Site Visit	1 LS	\$2,500	\$2,500
RSE	0 days	\$1,750	\$0
Support Crew	0 days	\$800	\$0
Note: It is assumed work will be completed at the same time as the Settling Basin .			
Post Construction Documentation	40 hrs	\$110	\$4,400
		Subtotal	\$21,720

Note 1: Work billed directly to JM.

Total **\$269,520****JM 038968**

**Johns Manville - Waukegan Budget
Site Remediation Program Cost Estimate
Period between August 1, 2013 and June 30, 2014
July 29, 2013**

Tank 3 Project			
Bid Specification	40 hrs	\$110	\$4,400
Pre-Bid Site Visit	1 LS	\$2,500	\$2,500
Bidding	8 hrs	\$110	\$880
Evaluation / Award	8 hrs	\$110	\$880
Review Submittals / Project Planning	8 hrs	\$110	\$880
Pre-Construction Site Visit	1 LS	\$2,500	\$2,500
RSE	10 days	\$1,750	\$17,500
Support Crew	10 days	\$800	\$8,000
Post Construction Documentation	32 hrs	\$110	\$3,520
		Subtotal	\$41,060
REC 2/16 Project			
Bid Specification	80 hrs	\$110	\$8,800
Pre-Bid Site Visit	1 LS	\$2,500	\$2,500
Bidding	12 hrs	\$110	\$1,320
Evaluation / Award	12 hrs	\$110	\$1,320
Review Submittals / Project Planning	12 hrs	\$110	\$1,320
Pre-Construction Site Visit	1 LS	\$2,500	\$2,500
		Subtotal	\$17,760
Pumphouse Demolition			
Site Preparation (Electrical)	40 hrs	\$110	\$4,400
Commonwealth Edison Estimate	1 LS	\$10,000	Note 1
Hucker Electric Estimate	1 LS	\$20,000	Note 1
		Subtotal	\$4,400
Note 1: Work billed directly to JM.		Total	\$63,220

Johns Manville - Waukegan Budget
Southwest Sites Cost Estimate
 Period between August 1, 2013 and June 30, 2014
 July 29, 2013

Site 3

Bid Specification	60 hrs	\$110	\$6,600
Pre-Bid Site Visit	1 LS	\$2,500	\$2,500
Bidding	12 hrs	\$110	\$1,320
Evaluation / Award	12 hrs	\$110	\$1,320
Review Submittals / Project Planning	12 hrs	\$110	\$1,320
Pre-Construction Site Visit	1 LS	\$2,500	\$2,500
		Subtotal	\$15,560

Sites 4 & 5

Bid Specification	120 hrs	\$110	\$13,200
Pre-Bid Site Visit	1 LS	\$2,500	\$2,500
Bidding	16 hrs	\$110	\$1,760
Evaluation / Award	16 hrs	\$110	\$1,760
Review Submittals / Project Planning	16 hrs	\$110	\$1,760
Pre-Construction Site Visit	1 LS	\$2,500	\$2,500
		Subtotal	\$23,480

Site 6

Bid Specification	60 hrs	\$110	\$6,600
Pre-Bid Site Visit	1 LS	\$2,500	\$2,500
Bidding	12 hrs	\$110	\$1,320
Evaluation / Award	12 hrs	\$110	\$1,320
Review Submittals / Project Planning	12 hrs	\$110	\$1,320
Pre-Construction Site Visit	1 LS	\$2,500	\$2,500
		Subtotal	\$15,560

Total

Total **\$54,600**

Table 5
Johns Manville Waukegan Budget
Operations & Maintenance Cost Estimate
Period between August 1, 2013 and June 30, 2014
 July 29, 2013

Activities

1. Weekly landfill inspections
2. Daily turtle walks during construction, monthly otherwise (Apr-Oct)
3. Changeout lighthouse batteries
4. Mowing
5. Clearing & Repairing Fence
6. Road Repair & Equipment Repair
7. Sign Maintenance
8. Equipment maintenance (heavy equipment, vehicles, generators, pumps, etc.)
9. Support for site activities completed by others.

<u>Month</u>	<u>Calendar Days</u>	<u>Work Days</u>	<u>Crew Days</u>	<u>Crew Hours</u>	<u>Estimated Budget</u>	<u>Quarterly Estimate</u>
Aug	31	12	24	192	\$13,750	
Sep	30	13	26	208	\$14,896	\$28,646
Oct	31	14	28	224	\$16,042	
Nov	30	8	16	128	\$9,167	
Dec	31	10	20	160	\$11,458	\$36,667
Jan	31	8	16	128	\$9,167	
Feb	28	8	16	128	\$9,167	
Mar	31	9	18	144	\$10,313	\$28,646
Apr	30	14	28	224	\$16,042	
May	31	12	24	192	\$13,750	
Jun	30	12	24	192	\$13,750	\$43,542
			Subtotal	1,920		
			Rate	\$50		
			Crew Total	\$96,000		
PM	150 hrs		\$110	\$16,500		
			Misc. equipment maintenance, site maintenance, equipment repair, etc.	\$25,000	Estimated	
			Total	\$137,500		

Assumptions:

1. Dodge Dakota and Jeep Cherokee remain as site vehicles.
2. Fork lift, tractor with bush hog, water truck, and track excavator remain.
3. Port-o-jon and wash sink services remain.
4. Dumpster service remains.
5. Bottled water service remains.
6. Lunchroom refrigerator and microwave remain.
7. Tools and machinery remains for servicing equipment.
8. Site radios (walkee-talkies) remain.
9. Substantial clearing of vegetation subcontracted as necessary.
10. Substantial fence construction or repair is subcontracted as necessary.
11. PM includes selling used equipment.
12. Electrical service remains to the maintenance building.

DAVID M. PETERSON, PE, PC

A PROFESSIONAL ENGINEERING CORPORATION
SPECIALIZING IN ENVIRONMENTAL SOLUTIONS

7000 BRIDLEWOOD DRIVE
CONCORD TWP., OH 44077
EMAIL: DMPETE@CONCENTRIC.NET

July 1, 2014

Sent via Email to Scott.Myers@jm.com

Mr. Scott Myers
Corporate Environmental Manager
Johns Manville
717 17th Street
Denver, CO 80802

**Subject: Resident Site Engineering and Site Operation and Maintenance Proposal
Former Waukegan Plant**

Dear Scott,

This proposal has been prepared to include services for various projects that are scheduled to occur between July 1, 2014 and December 31, 2014 at the former Waukegan Plant. These services are primarily related to resident site engineering (RSE) work during site remediation and general site operations and maintenance activities. Existing Purchase Orders 4900005654 and 4900005664 were issued in 2013 for these tasks, respectively

Resident Site Engineering

RSE activities will be performed for the following upcoming projects:

- First Amended Consent Decree
 - Settling Basin Vegetative Cover Work
 - Operation and Maintenance including Discharge Crib Construction
- Site Remediation Program
 - Tank 3 former LUST Remediation
 - REC 2/16 TPH Remediation
- Southwestern Sites
 - Site 3, Site 4/5, and Site 6 Bidding
 - Site 4/5 Capping and Clean Utility Corridor Construction

RSE activities include those associated with:

- Site Preparation
- Bid Specification Preparation
- Bidding Assistance
- Pre-Construction Assistance
- Construction Management as the Resident Site Engineer
- Post Construction Documentation

EXHIBIT B

JM 038936

Site Preparation

Prior to commencing a particular project it may be necessary to prepare the work area to gain a better understanding of the subsurface conditions (i.e. test pitting), to provide access to the work area (i.e. road construction), to de-energize the work area (i.e. electrical work), and/or to pilot test the feasibility of a particular remediation or construction technology (i.e. underwater construction). Efforts to complete such work will likely include interfacing with contractors to determine what key variables need to be better defined so that the larger project can be completed most cost effectively. Smaller scopes of work may be developed for a particular contractor so that field trials can be completed. Supervision and evaluation of the field trials may also be completed.

Bid Specification Preparation

Bid Specifications will be prepared similar to those completed previously for Richmond, Marrero, and Waukegan. The Bid Specification will become an element of the Contract that JM Procurement can attach for bidding purposes. During the preparation of the bid documents perspective contractors may be contacted to discuss the logistics and feasibility of executing the project most efficiently. Elements of each Bid Specification will include:

- Scope of Work (narrative that describes the work to be completed)
- Drawings (drawings from an approved Work Plan may be used as a basis)
- Technical Specifications (CSI format, some specifications from an approved Work Plan may be utilized if they are sufficiently detailed)
- Site Photographs
- Health and Safety Program (JM's H&S Program requirements tailored for Waukegan)
- CERCLA Documentation to convey site-specific regulatory requirements to the Contractor.

In addition to the Bid Specification, an Invitation to Bid and Bid Form will be created for each project. The Bid Form will contain various cost elements, some of which may be lump sum and others that may be unit price based.

Bidding Assistance

For each project a minimum of at least three qualified bidders will be identified. This may include some local contractors, regional contractors, and/or larger national contractors. Bidders will be contacted to discuss the project in general, confirm their interest in bidding, and provide their contact information to JM Procurement for bid solicitation purposes.

After JM Procurement has distributed the bid documents to bidding contractors a Pre-Bid meeting will be held on-site with the bidders. Following that meeting bidding assistance will be provided by answering technical questions and issuing Bid Addenda as appropriate. Business, contract, and pricing questions will be handled by JM (as is customary).

A detailed bid summary and cost comparison will be made once the bids are received and shared by JM. In addition, competitive bidders will be interviewed and their bids will be evaluated to make a

recommendation as to what bidder(s) may be most cost effective and have the best project understanding and approach.

Pre-Construction Assistance

After JM has awarded the project and issued a purchase order to the Contractor I will work with that Contractor to ensure that pre-project documents are complete. This includes the Contractor HASP, construction schedule, schedule of values for payment purposes, and any other specific elements related to the project. I will review and approve Contractor submittals for equipment, materials, and any work plans that are necessary as detailed within the Bid Specification. I will also host a Pre-Construction meeting on-site with the awarded Contractor.

Construction Management as the Resident Site Engineer

I will be on-site to manage the execution of the awarded contract. This will include:

- Daily supervision of the contractor to confirm work is being completed in accordance with the bid specifications.
- Daily communication (via email and/or telephone) with you to inform you of the project status and field conditions.
- Interfacing with any regulatory agency that performs a site inspection.
- Documenting the quantities of materials that are utilized so that the proper amount is invoiced to JM from the contractor.
- Managing a team of support individuals who assist by observing the contractors during their work.
- Managing the attendance of the guard house as required by USEPA.

I have acted as the Resident Site Engineer for many years in Waukegan starting in 2000 with the demolition of the buildings. The experience and site knowledge acquired in Waukegan over the past 13 years has served me well as I am currently the on-site Resident Site Engineer. I will also contact independent third party subcontractors as necessary to verify that construction compaction and grading requirements are fulfilled.

Post Construction Documentation

Upon completion of work I will prepare post construction documentation including a written report, updated as-built drawings, a chronological summary of work completed, a photo log, and engineering certification as necessary. It is anticipated that this report will be provided electronically and in written form for the body of the report, tables, and figures with the appendices being attached electronically on a disk. Reporting costs for this proposal have not been included as reports will be completed in 2015.

Site Operation and Maintenance

Activities related to site operations include:

- Weekly landfill inspections and documentation.
- Daily inspections for Blandings Turtles during construction activities from March through October.
- Changing the lighthouse batteries annually.
- Routine vegetation maintenance including mowing and fence clearing.
- Maintenance of site equipment including the bush hog, track excavator, fork lift, water truck, mowers, weed eaters, generators, water pumps, etc.
- Support for other site activities completed by other consultants and regulators.
- Maintenance of the perimeter fence and perimeter signs.

It is estimated that these activities will require two part-time workers who work two days per week during the growing season (April through October) and one person who visits the site two times a week for up to four hours per visit to check site security during the remainder of the year.

Cost Estimate

At this time some work plans are more complete than others. Costs have been prepared based upon an estimated amount of work. If project requirements change substantially then these costs will be adjusted based upon the actual time required to complete the work. Tables have been attached that summarize the cost estimates. The format for the tables matches the internal JM quarterly summary format so funds can be allocated appropriately.

- Table 1 – Total Cost Estimate Summary
 - Q3 2014 = \$279,350
 - Q4 2014 = \$391,900
 - Total July 1, 2014 – December 31, 2014 = \$671,250
- Table 2 – Detailed Cost Estimate for First Amended Consent Decree
- Table 3 – Detailed Cost Estimate for Site Remediation Program
- Table 4 – Detailed Cost Estimate for Southwestern Sites
- Table 5 – Detailed Cost Estimate for Site Operations
- Table 6 – INVEX Formatted Cost Estimate

If you have any questions or comments about this proposal please do not hesitate to call me at (216) 554-0413 or email me at dmpete@concentric.net. If this proposal meets to your satisfaction then please indicate so by issuance of a purchase order or a change order to the existing purchase orders.

Sincerely,



David M. Peterson, PE
President

Table 1
Johns Manville - Waukegan Plant
Site O&M and Resident Site Engineering Related Activities Cost Estimate Summary
Period between July 1, 2014 and December 31, 2014
 July 1, 2014

First Amended Consent Decree				
	<u>Setting Basin</u> Stormwater Struture Construction, Grading, Topsoil Placement & Seeding	<u>Industrial Canal & Pumping Lagoon</u> Outfall Structure & Berm Construction	<u>On-Site Landfill</u> Reporting	<u>Operations & Maintenance</u> Discharge Crib Construction & Quarterly O&M
Q3 2014	\$47,500	\$172,500	\$0	\$4,800
	RSE & Support	RSE & Support		Bidding & RSE
Q4 2014	\$0	\$0	\$0	\$0
Total	\$47,500	\$172,500	\$0	\$4,800

Site Remediation Program			
	<u>Tank 3</u> Former LUST Remediation	<u>REC 2/16</u> TPH Remediation	<u>SRP O&M</u> Manufacturing Area Capping
Q3 2014	\$0	\$0	\$0
Q4 2014	\$42,300	\$79,800	\$0
	RSE & Support	RSE & Support	
Total	\$42,300	\$79,800	\$0

Southwestern Sites			
	<u>Site 3</u> Capping & Clean Utility Corridor Construction	<u>Site 4/5</u> Capping & Clean Utility Corridor Construction	<u>Site 6</u> Capping & Clean Utility Corridor Construction
Q3 2014	\$4,800	\$14,400	\$4,800
	Bidding	Bidding	Bidding
Q4 2014	\$0	\$255,000	\$0
		RSE & Support	
Total	\$4,800	\$269,400	\$4,800

Site Operations		Summary of FACD, SRP, SW Sites, Site Ops	
	<u>Part-Time Crew</u>		
Q3 2014	\$30,550	Q3 2014	\$279,350
	O&M		
Q4 2014	\$14,800	Q4 2014	\$391,900
	O&M		
Total	\$45,350	Total	\$671,250

Table 2
Johns Manville - Waukegan Budget
First Amended Consent Decree Cost Estimate
 Period between July 1, 2014 and December 31, 2014
 July 1, 2014

Settling Basin Project				
	<u>PO Item#</u>			
RSE for Vegetative Cover	110	10 days	\$1,900	\$19,000
Support Crew	110	10 days	\$1,500	\$15,000
Guardhouse Attendance	110	10 days	\$350	\$3,500
Site Surveying / Compaction	100	1 LS	\$10,000	\$10,000
Subtotal				\$47,500
Industrial Canal & Pumping Lagoon Project				
	<u>PO Item#</u>			
RSE for IC/PL Filling	170	44 days	\$1,900	\$83,600
Support Crew	180	44 days	\$1,500	\$66,000
Guardhouse Attendance	180	44 days	\$350	\$15,400
As-Built Survey	180	1 LS	\$7,500	\$7,500
Subtotal				\$172,500
Discharge Crib Construction Project				
	<u>PO Item#</u>			
Bid Specification	220	40 hrs	\$120	\$4,800
RSE		0 days	\$1,900	\$0
Support Crew		0 days	\$1,500	\$0
Guardhouse Attendance		0 days	\$350	\$0
Note: It is assumed work will be completed at the same time as other work.				
Subtotal				\$4,800
Total			\$229,600	

PO# 4900005654

Table 3
Johns Manville - Waukegan Budget
Site Remediation Program Cost Estimate
 Period between July 1, 2014 and December 31, 2014
 July 1, 2014

Tank 3 Project				
	<u>PO Item#</u>			
Bid Specification	290	40 hrs	\$120	\$4,800
RSE	360	10 days	\$1,900	\$19,000
Support Crew	370	10 days	\$1,500	\$15,000
Guardhouse Attendance	370	10 days	\$350	\$3,500
			Subtotal	\$42,300
REC 2/16 & REC 5 Project				
	<u>PO Item#</u>			
Bid Specification	380	40 hrs	\$120	\$4,800
RSE	360	20 days	\$1,900	\$38,000
Support Crew	370	20 days	\$1,500	\$30,000
Guardhouse Attendance	370	20 days	\$350	\$7,000
			Subtotal	\$79,800
Manufacturing Area Capping				
			Subtotal	\$0
PO# 4900005654			Total	\$122,100

Table 4
Johns Manville - Waukegan Budget
Southwest Sites Cost Estimate
 Period between July 1, 2014 and December 31, 2014
 July 1, 2014

Site 3				
	<u>PO Item#</u>			
Bid Specification	450	40 hrs	\$120	\$4,800
Subtotal				\$4,800
Sites 4 & 5				
	<u>PO Item#</u>			
Bid Specification	510	120 hrs	\$120	\$14,400
RSE	540	66 days	\$1,900	\$125,400
Support Crew	540	66 days	\$1,500	\$99,000
Guardhouse Attendance	540	66 days	\$350	\$23,100
As-Built Survey	540	1 LS	\$7,500	\$7,500
Subtotal				\$269,400
Site 6				
	<u>PO Item#</u>			
Bid Specification	570	40 hrs	\$120	\$4,800
Subtotal				\$4,800
PO# 4900005654	Total			\$279,000

Table 5
Johns Manville Waukegan Budget
Operations & Maintenance Cost Estimate
Period between July 1, 2014 and December 31, 2014
July 1, 2014

Activities

1. Weekly landfill inspections
2. Daily turtle walks during construction, monthly otherwise
3. Changeout lighthouse batteries
4. Mowing
5. Clearing & Repairing Fence
6. Road Repair & Equipment Repair
7. Sign Maintenance
8. Equipment maintenance (heavy equipment, vehicles, generators, pumps, etc.)
9. Support for site activities completed by others.

				<u>PO Item#</u>
Experienced Labor	672 hrs	\$50	\$33,600	10
Project Management	52 hrs	\$120	\$6,240	10
Expenses (minor equipment, gasoline, equipment repair)			\$5,510	
		Total	\$45,350	

PO# 4900005664

Table 6
Johns Manville - Waukegan Plant
INVEX Formatted Site O&M and Resident Site Engineering Related Activities Cost Estimate Summary
 Period between July 1, 2014 and December 31, 2014
 July 1, 2014

Environmental Remediation - FACD		2014	2014	2014	2014	2014	2014	2014	2014
PO# 4900005654	Total	Q3	Q4	Jul	Aug	Sep	Oct	Nov	Dec
Settling Basin Closure									
FACD-Settling Basin	\$47,500	\$47,500	\$0	\$15,833	\$15,833	\$15,833	\$0	\$0	\$0
Item 100	\$10,000								
Item 110	\$37,500								
Industrial Canal & Pumping Lagoon Closure									
FACD-IC/PU/CB	\$172,500	\$172,500	\$0	\$57,500	\$57,500	\$57,500	\$0	\$0	\$0
Item 170	\$83,600								
Item 180	\$88,900								
Landfill Closure									
FACD-On-Site Landfill	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
O&M - Discharge Crib									
FACD O&M	\$4,800	\$4,800	\$0	\$2,400	\$2,400	\$0	\$0	\$0	\$0
Item 220	\$4,800								
TOTAL	\$224,800	\$224,800	\$0	\$75,733	\$75,733	\$73,333	\$0	\$0	\$0
Environmental Remediation - SRP		2014	2014	2014	2014	2014	2014	2014	2014
PO# 4900005654	Total	Q3	Q4	Jul	Aug	Sep	Oct	Nov	Dec
Tank 3									
Tank 3-Remedial Action	\$42,300	\$0	\$42,300	\$0	\$0	\$0	\$14,100	\$14,100	\$14,100
Item 290	\$4,800								
Item 360	\$19,000								
Item 370	\$18,500								
TPH - REC 2/16									
TPH-Remedial Action	\$79,800	\$0	\$79,800	\$0	\$0	\$0	\$26,600	\$26,600	\$26,600
Item 360	\$38,000								
Item 370	\$37,000								
Item 380	\$4,800								
REC 12									
REC 12-Engineering	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Soil Cover									
Soil Cover	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$122,100	\$0	\$122,100	\$0	\$0	\$0	\$40,700	\$40,700	\$40,700
Southwest Sites		2014	2014	2014	2014	2014	2014	2014	2014
PO# 4900005654	Total	Q3	Q4	Jul	Aug	Sep	Oct	Nov	Dec
Site 3									
Site 3-Remedial Action	\$4,800	\$4,800	\$0	\$1,600	\$1,600	\$1,600	\$0	\$0	\$0
Item 450	\$4,800								
Site 4/5									
Site 4/5-Remedial Action	\$269,400	\$14,400	\$255,000	\$4,800	\$4,800	\$4,800	\$85,000	\$85,000	\$85,000
Item 510	\$14,400								
Item 540	\$255,000								
Site 6									
Site 6-Remedial Action	\$4,800	\$4,800	\$0	\$1,600	\$1,600	\$1,600	\$0	\$0	\$0
Item 570	\$4,800								
TOTAL	\$279,000	\$24,000	\$255,000	\$8,000	\$8,000	\$8,000	\$85,000	\$85,000	\$85,000
Environmental Remediation - Other		2014	2014	2014	2014	2014	2014	2014	2014
PO# 4900005654	Total	Q3	Q4	Jul	Aug	Sep	Oct	Nov	Dec
Site Operations									
Site Operations	\$45,350	\$30,550	\$14,800	\$10,183	\$10,183	\$10,183	\$4,933	\$4,933	\$4,933
Item 10	\$45,350								
TOTAL	\$45,350	\$30,550	\$14,800	\$10,183	\$10,183	\$10,183	\$4,933	\$4,933	\$4,933
TOTAL	Total	2014	2014	2014	2014	2014	2014	2014	2014
		Q3	Q4	Jul	Aug	Sep	Oct	Nov	Dec
TOTAL	\$671,250	\$279,350	\$391,900	\$93,917	\$93,917	\$91,517	\$130,633	\$130,633	\$130,633

McGinley, Evan

From: Brice, Susan <susan.brice@bclplaw.com>
Sent: Wednesday, April 18, 2018 3:17 PM
To: McGinley, Evan; Caisman, Lauren; Brunner, Robert
Cc: O'Laughlin, Ellen; matthew.dougherty@illinois.gov
Subject: RE: Deposition of David Peterson

Evan: It's my understanding that he will be getting back to you.
Susan



SUSAN BRICE
Partner
susan.brice@bclplaw.com
T: +1 312 602 5124

From: McGinley, Evan [mailto:emcginley@atg.state.il.us]
Sent: Wednesday, April 18, 2018 10:00 AM
To: Brice, Susan; Caisman, Lauren; Brunner, Robert
Cc: O'Laughlin, Ellen; matthew.dougherty@illinois.gov
Subject: Deposition of David Peterson

Susan:

We have made a couple of attempts to contact David Peterson, Johns Manville's Resident Site Engineer about scheduling a deposition. Thus far, I have not heard back from him.

My hope was to either go out to the Cleveland area to take his deposition or to do it by video link up, as we did with Brent Tracy last year. I'd like to get the deposition scheduled as soon as possible. I'd appreciate any assistance you could provide in facilitating the scheduling of his deposition, given his long-standing work for Johns Manville.

Thank you in advance for your attention to this matter.

Evan J. McGinley
Assistant Attorney General
Environmental Bureau
69 West Washington Street, Suite 1800
Chicago, IL 60602
312.814.3153 (phone)
312.814.2347 (fax)
emcginley@atg.state.il.us

EXHIBIT C

This electronic message is from a law firm. It may contain confidential or privileged information. If you received this transmission in error, please reply to the sender to advise of the error and delete this transmission and any attachments

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHNS MANVILLE, A DELAWARE)
CORPORATION,)
Complainant,)
)
-vs-) PCB No. 14-3
) (Citizen Suit)
ILLINOIS DEPARTMENT OF)
TRANSPORTATION,)
Respondent.)

Deposition of SCOTT MYERS, taken before NANCY K. SPEARE, C.S.R. and Notary Public, pertaining to the taking of deposition pursuant to all applicable rules of the Illinois Pollution Control Board, taken at 161 North Clark Street, Suite 4300, Chicago, Illinois, commencing at 1:00 o'clock p.m. on the 29th day of June, A.D. 2017.

There were present at the taking of this deposition the following counsel:

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BRYAN CAVE, LLC by
MS. SUSAN E. BRICE
MS. LAUREN CAISMAN
161 North Clark Street
Suite 4300
Chicago, Illinois 60601-3315
(312) 602-5124
susan.brice@bryancave.com
lauren.caisman@bryancave.com,
on behalf of the Complainant;
MR. EVAN J. MCGINLEY and
MS. ELLEN O'LAUGHLIN,
Assistant Attorneys General
Environmental Bureau
69 West Washington Street
Suite 1800
Chicago, Illinois 60602
(312) 814-3153
emcginley@atg.state.il.us
eolaughlin@atg.state.il.us,

on behalf of the Respondent;

ALSO PRESENT: MS. DEMETRIA HAMILTON
(for a portion of deposition)

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DEPOSITION OF
SCOTT MYERS

Taken: June 29, 2017

EXAMINATION BY	PAGE
Mr. McGinley	4

EXHIBITS

	PAGE
Exhibit No. 1	31
Exhibit No. 2	38
Exhibit No. 3	71
Exhibit No. 4	100
Exhibit No. 5	105
Exhibit No. 6	119
Exhibit No. 7	131
Exhibit No. 8	139
Exhibit No. 9	151

1 **A** I think it's called -- I don't know what
2 her title is -- chief in charge of all the
3 lawyers.

4 **Q** Okay, that would be Brent's boss then,
5 right?

6 **A** Yeah.

7 **Q** Okay.

8 **A** Some part of her crew.

9 **Q** Okay. But you don't know where the
10 money's actually coming from, you're just telling
11 them how much it's going to cost and then
12 somebody else is actually allocating the money?

13 **A** I --

14 MS. BRICE: Objection, asked and answered.

15 MR. MCGINLEY: **Q** David Peterson, what's his
16 role at the site?

17 THE WITNESS: **A** He's my resident site
18 engineer.

19 **Q** And what is that, I mean what do the
20 duties of the resident site engineer entail?

21 **A** To oversee day-to-day execution by the
22 subcontractor or by the contractor that manages
23 all of the heavy equipment.

24 **Q** Okay. Is he also overseeing AECOM's work

1 as well?

2 **A No.**

3 Q Okay. So day-to-day work for the
4 construction work?

5 **A Yes.**

6 Q I've seen reference to a company called
7 Campanella. Is that -- and it sounds, from what
8 I understand in reading the bills, it looks like
9 Campanella is the one that's actually getting the
10 construction equipment out, the labor force out
11 there to do the work, right -- so David Peterson
12 would be the person who's overseeing Campanella's
13 work and the people --

14 **A Day-to-day.**

15 Q -- Campanella employs, right?

16 **A Um-hum.**

17 Q Okay --

18 THE COURT REPORTER: Yes?

19 THE WITNESS: Yes. Sorry.

20 MR. MCGINLEY: Q And just that
21 day-to-day --

22 THE WITNESS: Can't type "uh-hum", can you?

23 THE COURT REPORTER: I could, but not a nod.

24 MR. MCGINLEY: Q So that's what

1 Q Do you expect him to be out there next
2 week?

3 A I can't say because I don't know what
4 damage we received from the rain so --

5 Q How -- do you communicate with, I mean do
6 you make arrangements with Dave to be out there
7 to deal with damage after rainfall; or does he
8 just know that he needs to be out there?

9 A No, there's someone that comes by and
10 checks on the site for me a couple times a week.

11 Q Okay, and so they tell you that there's
12 problems and then you --

13 A They call Dave directly.

14 Q They call him directly?

15 A Right. And he'll let me know if
16 something needs to be done.

17 Q But it's fair to say that Mr. Peterson,
18 you expect Mr. Peterson to be out there at least
19 some point in time during the remainder of July,
20 during August?

21 A Yes, he'll be out probably quite a bit in
22 July, August, September.

23 Q Okay, which is kind of the time of year
24 that you want to be out there to get the