

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 29, 2018, I have filed with the Clerk of the Pollution Control Board the attached Notice of Expert Deposition of Douglas G. Dorgan, and have served each person listed on the attached service list with a copy of the same.

Respectfully Submitted,

By: *s/ Ellen O'Laughlin*
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
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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

CERTIFICATE OF SERVICE

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

I, ELLEN O'LAUGHLIN, do hereby certify that is 29th day of June, 2018, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of the attached Notice of Expert Deposition of Douglas G. Dorgan to 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
Robert W. Brunner
Bryan Cave Leighton Paisner LLP
161 North Clark Street, Suite 4300
Chicago, Illinois 60601
Susan.Brice@bryancave.com
Lauren.Caisman@bryancave.com
Robert.Brunner@bclplaw.com

s/ Evan J. McGinley
Evan J. McGinley

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Complainant,)	
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v.)	PCB No. 14-3 (Citizen Suit)
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ILLINOIS DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Respondent.)	

NOTICE OF EXPERT DEPOSITION

TO: Susan Brice
Robert Brunner
Lauren Caisman
Bryan Cave LLP
161 North Clark Street
Suite 4300
Chicago, Illinois 60601

YOU ARE HEREBY NOTIFIED that on a date and time in July of 2018 that is to be determined, we will take the deposition of Complainant’s expert witness, Douglas G. Dorgan, Jr., before a notary public or any other duly authorized officer to administer oaths, at the Office of the Attorney General, 69 West Washington Street, 18th Floor, Chicago, Illinois

You are hereby further notified that pursuant to this notice deponent shall also produce to the undersigned counsel, by the close of business on July 12, 2018, the documents set forth in the attached Exhibit A to the extent not already provided.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

BY: /s/ Ellen O’Laughlin
EVAN J. McGINLEY
ELLEN O’LAUGHLIN
Assistant Attorneys General
Environmental Bureau

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EXHIBIT A

I. DEFINITIONS AND INSTRUCTIONS

1. “Deponent”, “You” or “Your” shall mean and refer to Douglas Dorgan, Jr.

2. “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.

3. “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.

4. “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.

5. “Johns Manville” or “JM” 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.

6. “Or” shall mean and/or wherever appropriate.

7. “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.

8. 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.

9. ““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 Weaver or under the direction or control of Weaver or its attorneys or agents.

10. “Report” shall mean the Expert Report of Douglas G. Dorgan, Jr. on Damages Attributable to IDOT, dated June 13, 2018.

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

12. “Interim Order” shall refer to the Pollution Control Board’s December 15, 2016 Interim Opinion and Order in this matter.

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

14. “Relied upon” shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.

15. 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

You are hereby directed to produce the following documents to IDOT's attorneys on or before the close of business on July 12, 2018, only to the extent not previously produced by Johns Manville:

1. Copies of all documents related to any interviews of Dr. Ebihara referenced in Your Report or upon which You relied in preparing Your Report
2. Copies of all documents related to any interviews of David Peterson referenced in Your Report or upon which you relied in preparing Your Report.
3. All documents related to an internal JM audit that You refer to in Your Report.
4. Copies of all documents related to any conversations You had with Dr. Ebihara referenced in Your Report or upon which You relied in preparing Your Report.
5. Copies of all documents related to any conversations with David Peterson referenced in Your Report or upon which You relied in preparing Your Report.
6. Copies of all documents related to any conversations with Scott Meyers referenced in Your Report or upon which You relied in preparing Your Report.
7. All documents related to the financial Reserve established by JM referenced in Your Report or upon which You relied in preparing Your Report.
8. Any and all documents You created in the course of Your work on the Report, including without limitation notes, drafts and edits.
9. To the extent not already provided to IDOT in this matter, obtained by IDOT in this matter, or contained in Your Report, any and all documents You received from Johns Manville, its attorneys or its consultants following the Interim Order.

CERTIFICATE OF SERVICE

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

I, ELLEN O'LAUGHLIN, do hereby certify that, today, June 29, 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 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
susan.brice@bcplaw.com
robert.brunner@bcplaw.com
lauren.caisman@bcplaw.com

/s/ Ellen O'Laughlin
Ellen O'Laughlin