

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, March 11, 2019, I have filed with the Clerk of the Pollution Control Board “Respondent’s Responses to Complainant’s Notice of Deposition to Mike Nguyen” (“Notice of Deposition”) and served on each person listed on the attached service list with a copy of the same. Additionally, I have, this same date, served Complainant’s counsel with documents that are responsive to the document requests set forth in the Notice of Deposition.

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, March 11, 2019, I caused to be served on each of the individuals listed below, by electronic mail, a true and correct copy of the attached Respondent's Responses to Complainant's Notice of Deposition to Mike Nguyenobelman ("Notice of Deposition"). Separately, I have caused to be served on Complainant's counsel via the Illinois government file transfer website (<https://filet.illinois.gov/filet/PIMupload.asp>) a zip file containing documents which are responsive to the document requests set forth in Complainant's Notice of Deposition.

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**RESPONDENT’S RESPONSES TO
COMPLAINANT’S NOTICE OF DEPOSITION TO MIKE NGUYEN**

Respondent, the ILLINOIS DEPARTMENT OF TRANSPORTATION, through its attorney, KWAME RAOUL, Attorney General of the State of Illinois, and on behalf of deponent, Mike Nguyen, herewith responds to Complainant’s Notice of Deposition to Mike Nguyen (“Deposition Notice”), as follows:

GENERAL OBJECTIONS

IDOT states these general objections and hereby incorporates them by reference as objections into each and every one of its responses to the document requests contained in the Deposition Notice (“Document Requests”).

1. IDOT objects to these Document Requests to the extent they seek information pertaining to issues unrelated to and beyond the scope of issues which the Board identified for subsequent hearing in its December 15, 2016 Interim Opinion and Order (hereinafter, “Interim Order”).

2. IDOT objects to these Document Requests to the extent that they are oppressive, unduly broad and burdensome, or seek information not in Mr. Nguyen’s possession, custody, or control.

3. IDOT objects to these Document Requests to the extent that they are vague or ambiguous and that any response to the same would be based on speculation as to the meaning or scope of a given Document Request.

4. IDOT objects to these Document Requests to the extent that they are duplicative of any document requests which Johns Manville has previously served on IDOT in this action, particularly those document requests set forth in Johns Manville's September 11, 2018 and January 23, 2019 Deposition Notices to Steven Gobelman.

5. IDOT objects to these Document Requests to the extent that they seek information previously available to Johns Manville or in Johns Manville's possession. The burden of obtaining the information necessary to respond to these Document Requests is the same for Johns Manville as it is for the IDOT or Mr. Gobelman.

6. IDOT objects to these Document Requests to the extent that they would require IDOT or Mr. Nguyen to produce documents to Johns Manville that Johns Manville previously produced to IDOT.

7. IDOT objects to these Document Requests to the extent they assume, imply, or require any legal conclusions.

8. IDOT does not concede the relevancy of any information sought or discovered in responding to these Document Requests.

9. IDOT objects to the instructions and definitions set forth in the Deposition Notice to the extent that they require IDOT to undertake or investigate or produce information in excess of what is required of it under the Board Regulations or the Illinois Code of Civil Procedure.

RESPONSES TO DOCUMENT REQUESTS

1. Any and all Documents and/or Communications in Your possession, custody, or control relating to this Matter, including relating to the Report, the Supplemental Report, the Dorgan Expert Report, and/or the Dorgan Expert Rebuttal Report received after December 14, 2016, which expressly includes any and all emails or other documents exchanged between you and Gobelman, IDOT, attorneys with the Illinois Attorney General's office, and/or others at Andrews relating to this Matter.

Response:

IDOT incorporates by reference Objections 1 – 9, as if fully set forth in this response. Further responding, IDOT directs Johns Manville to the documents which it is producing concurrently with these responses.

2. Any and all Documents and/or Communications which You reviewed, prepared, received or edited in the course of preparing, or in the course of assisting in the preparation of the Report (including any figures, appendices, or exhibits thereto), the Supplemental Report (including any figures, appendices, or exhibits thereto), and/or in the course of working on this Matter after December 14, 2016.

Response:

IDOT incorporates by reference Objections 1 – 9, as if fully set forth in this response. Further responding, IDOT states that Mr. Nguyen had no role in “preparing” either the Report or Supplemental Report, but instead, merely assisted Mr. Gobelman in the creation of the figures and exhibits that were contained in those documents. Further responding, IDOT directs Johns Manville to the documents which it is producing concurrently with these responses.

3. Any and all of Your notes relating to the Matter and any edits to or drafts of the Report or Supplemental Report and/or their figures, exhibits, or appendices.

Response:

IDOT incorporates by reference Objections 1 – 9, as if fully set forth in this response. Further responding, Mr. Nguyen did not take any notes “relating to the Matter or any edits to or drafts of the Report or Supplemental Report,” etc.

4. Any and all Communications between You and IDOT employees or attorneys, including persons in the Illinois Attorney General’s office relating to JM, this Matter, the Report, the Supplemental Report, the Dorgan Expert Report, and/or the Dorgan Expert Rebuttal Report after December 14, 2016.

Response:

IDOT incorporates by reference Objections 1 – 9, as if fully set forth in this response. Further responding, IDOT directs Johns Manville to the documents which it is producing concurrently with these responses.

5. Any and all Documents You received, sent, created, and/or reviewed relating to the “Base Maps” and other figures based upon such “Base Maps” contained in the Report or the Supplemental Report, including without limitation any previous versions of the “base maps,” figures, and/or appendices contained in the Report and/or the Supplemental Report.

Response:

IDOT incorporates by reference Objections 1 – 9, as if fully set forth in this response. Further responding, IDOT directs Johns Manville to the documents which it is producing concurrently with these responses.

6. Any and all documents used as a source or considered to be used as a source for the creation of the Base Maps contained in the Report or the Supplemental Report. Any treatises, books, on-line material or other source you relied upon in determining how to create the Base Maps and other figures contained in the Report or the Supplemental Report.

Response:

IDOT incorporates by reference Objections 1 – 9, as if fully set forth in this response. Further responding, Mr. Nguyen did not rely upon any “treatises,” “books . . . or other source[s]” in the course of his work assisting Mr. Gobelman in the creation of Mr. Gobelman’s Report or Supplemental Report. Further responding, IDOT directs Johns Manville to the documents which it is producing concurrently with these responses.

Respectfully Submitted,

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