

**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 24, 2019, I have filed with the Clerk of the Pollution Control Board the attached Notice of Expert Deposition 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)  
[eolaughlin@atg.state.il.us](mailto:eolaughlin@atg.state.il.us)  
[mccaccio@atg.state.il.us](mailto:mccaccio@atg.state.il.us)

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, today, May 24, 2019, 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 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](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  
Bryan Cave LLP  
161 North Clark Street, Suite 4300  
Chicago, Illinois 60601  
[Susan.Brice@bryancave.com](mailto:Susan.Brice@bryancave.com)  
[Lauren.Caisman@bryancave.com](mailto:Lauren.Caisman@bryancave.com)

s/ Evan J. McGinley  
Evan J. McGinley

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JOHNS MANVILLE, a Delaware corporation,	)	
	)	
Complainant,	)	
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v.	)	PCB No. 14-3
	)	(Citizen Suit)
ILLINOIS DEPARTMENT OF	)	
TRANSPORTATION,	)	
	)	
Respondent.	)	

**NOTICE OF EXPERT DEPOSITION**

**TO:** Susan Brice  
Lauren Caisman  
Bryan Cave, LLC  
161 North Clark Street  
Suite 4300  
Chicago, Illinois 60601-3315  
[susan.brice@bclplaw.com](mailto:susan.brice@bclplaw.com)  
[lauren.caisman@bclplaw.com](mailto:lauren.caisman@bclplaw.com)

YOU ARE HEREBY NOTIFIED that the undersigned will take the following expert deposition before a Notary Public or other authorized official, as follows:

**DEPONENT:** Douglas G. Dorgan, Jr.  
**DATE:** June 12, 2019  
**TIME:** 10:00 a.m.  
**PLACE:** Office of the Attorney General  
Environmental Bureau  
69 West Washington Street  
Suite 1800  
Chicago, Illinois 60602  
**PURPOSE:** Expert Discovery

You are hereby further notified that pursuant to this notice, deponent shall produce to the undersigned counsel, by the close of business on June 5, 2019, all of the documents specified in the attached Exhibit A, to the extent such documents have not already been produced.

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  
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MATTHEW J. DOUGHERTY  
Assistant Chief Counsel  
Illinois Department of Transportation  
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2300 South Dirksen Parkway  
Springfield, Illinois 62764  
(217) 785-7524  
[Matthew.Dougherty@Illinois.gov](mailto:Matthew.Dougherty@Illinois.gov)

**EXHIBIT A**

**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. "Computer-Assisted Design" or "CAD" shall refer to any form of computer system, software or combination of computer system and software that has been used to create, among other things, maps, schematics, sort of visual representation of Site 3 or Site 6.

4. "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.

5. "Current" or "Present" shall mean the date on which Complainant serves its Response to these Interrogatories on IDOT's attorneys.

6. "Describe" shall mean to depict in written words or give an account of.

7. "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; CAD files or CAD-related files, 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; text message or any other form of instant message; 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.

8. "Governmental agency" means any government agency, including federal, municipal, county, or state, or any subdivisions thereof.

9. "IDOT" means the Respondent, Illinois Department of Transportation.y.
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. "Matter" shall mean the case entitled *Johns Manville v. Illinois Department of Transportation*, PCB 14-3 (Enforcement).
13. "Operate" or "operation" shall mean use, exercise control over, supervise or having responsibility for the daily performance of.
14. "Or" shall mean and/or wherever appropriate.
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. "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.
17. "Relied upon" shall mean being or having been depended upon or referred to or being or having been arguably appropriate for such reliance.
18. "Site 3" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.
19. "Site 6" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.
20. "Southwestern Sites" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.
21. "You" and "your" shall refer to the deponent, Douglas Dorgan.
22. "Weaver" shall refer to Weaver Consultants Group, its employees, officers, or contractors.

23. "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").

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

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

26. "April 30<sup>th</sup> Dorgan Report" shall refer to the "Expert Rebuttal Supplemental Report of Douglas G. Dorgan Jr. On Damages Attributable to IDOT" dated April 30, 2019.

27. "June 13<sup>th</sup> Dorgan Report" shall refer to the "Expert Report of Douglas G. Dorgan Jr. On Damages Attributable to IDOT" dated June 13, 2018.

28. "October 25<sup>th</sup> Dorgan Report" shall refer to the "Expert Rebuttal Supplemental Report of Douglas G. Dorgan Jr. On Damages Attributable to IDOT" dated October 25, 2018.

29. "August 21<sup>st</sup> Gobelman Report" shall refer to the "Expert Rebuttal Report of Steven Gobelman on Damages Attributable to IDOT Based on IPCB Order of December 16, 2016," dated August 21, 2018.

30. "November 7<sup>th</sup> Gobelman Report" shall refer to the "Expert Rebuttal Report of Steven Gobelman on Damages Attributable to IDOT Based on IPCB Order of December 16, 2016," dated November 7, 2018.

31. 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 documents related to any work you performed on the April 30<sup>th</sup> Dorgan Report or October 25<sup>th</sup> Dorgan Report.

2) Copies of any documents related to any work that Weaver performed on the April 30<sup>th</sup> Dorgan Report or October 25<sup>th</sup> Dorgan Report.

3) Copies of any documents you created or caused to be created which are related to either the August 21<sup>st</sup> or November 7<sup>th</sup> Gobelman Report.

- 4) Copies of any documents that Weaver created or caused to be created which are related to either the August 21<sup>st</sup> or November 7<sup>th</sup> Gobelman Report.
- 5) Copies of all documents you reviewed in the course of preparing either the October 25<sup>th</sup> or April 30<sup>th</sup> Dorgan Reports.
- 6) Copies of all publications that you have authored or co-authored, to the extent not already produced to IDOT in this matter.
- 7) Copies of all presentations you have given, to the extent not already produced to IDOT in this matter.
- 8) Copies of all expert reports you have authored, to the extent not already produced to IDOT in this matter.
- 9) Copies of all billing statements or invoices for all work performed by either you or Weaver on the matter from August 21, 2018 to the current day.

**CERTIFICATE OF SERVICE**

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

I, EVAN J. MCGINLEY, do hereby certify that, today, May 24, 2019, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of IDOT's Notice of Expert Deposition to on each of the parties listed below, prior to the hour of 5:00 p.m.:

Susan Brice  
Lauren Caisman  
Bryan Cave LLP  
161 North Clark Street, Suite 4300  
Chicago, Illinois 60601  
[Susan.Brice@bryancave.com](mailto:Susan.Brice@bryancave.com)  
[Lauren.Caisman@bryancave.com](mailto:Lauren.Caisman@bryancave.com)

/s/ Evan J. McGinley  
Evan J. McGinley