

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)	
)	
JOHNS MANVILLE, a Delaware corporation,)	
)	
Complainant,)	PCB No. 14-3
)	
v.)	
)	
ILLINOIS DEPARTMENT OF TRANSPORTATION,)	
)	
Respondent.)	

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on October 4, 2019, I caused to be filed with the Clerk of the Pollution Control Board of the State of Illinois, *Complainant's Exhibit and Witness Lists*, a copy of which is attached hereto and herewith served upon you via e-mail. Paper hardcopies of this filing will be made available upon request.

Dated: October 4, 2019

Respectfully submitted,

BRYAN CAVE LEIGHTON PAISNER LLP

By: /s/ Lauren J. Caisman
Susan Brice (ARDC #6228903)
Lauren J. Caisman (ARDC #6312465)
161 North Clark Street, Suite 4300
Chicago, Illinois 60601
(312) 602-5079
Susan.brice@bclplaw.com
lauren.caisman@bclplaw.com
Attorneys for Complainant Johns Manville

SERVICE LIST

Evan J. McGinley
Office of the Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, IL 60602
E-mail: emcginley@atg.state.il.us

Matthew D. Dougherty
Assistant Chief Counsel
Illinois Department of Transportation
Office of the Chief Counsel, Room 313
2300 South Dirksen Parkway
Springfield, IL 62764
E-mail: Matthew.Dougherty@illinois.gov

Ellen O'Laughlin
Office of Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, IL 60602
E-mail: eolaughlin@atg.state.il.us

Illinois Pollution Control Board
Brad Halloran, Hearing Officer
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601
E-mail: Brad.Halloran@illinois.gov

Illinois Pollution Control Board
Don Brown, Clerk of the Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601
E-mail: Don.Brown@illinois.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)
)
JOHNS MANVILLE, a Delaware)
corporation,)
)
Complainant,) **PCB No. 14-3**
)
v.)
)
ILLINOIS DEPARTMENT OF)
TRANSPORTATION,)
)
Respondent.)

COMPLAINANT’S EXHIBIT AND WITNESS LISTS

Complainant JOHNS MANVILLE (“JM”) hereby submits the following Exhibit and Witness Lists for the hearing scheduled for November 19-22, 2019.

Exhibits

- 6.¹ Douglas Dorgan, Jr. Expert Report, including figures and exhibits, dated March 16, 2015
7. Affidavit of Douglas G. Dorgan dated February 15, 2016 attached to JM’s Responses to IDOT’s Motions *in Limine*
8. Steven Gobelman Expert Rebuttal Report, including figures and exhibits, dated May 29, 2016
16. Douglas Dorgan, Jr. Expert Report, including figures and exhibits, dated July 27, 2015
- 21A. As-Built IDPW Plans for Proposed Federal Aid Highway F. A. Route 437 – Section 8
41. Grant for Public Highway dated August 3, 1971
57. ELM Subsurface Characterization Report December 1999
62. Administrative Order on Consent dated June 11, 2007
63. EE/CA Revision IV dated April 4, 2011 and all attachments

¹ JM’s exhibit numbering herein utilizes the same numbering for the exhibits that were introduced at the first hearing in this case.

64. USEPA Correspondence dated February 1, 2012 (JM 002372-JM002399)²
65. Enforcement Action Memorandum dated November 30, 2012
66. Cover Letter and Removal Action Work Plan Revision II dated March 31, 2014
67. Cover Letter and Removal Action Work Plan Revisions IV dated February 2016
74. Letter to John Van Vranken from JLFR dated July 8, 2008, with attachments
79. Correspondence dated December 20, 2012 from Bryan Cave to USEPA Re: Notice of Dispute Concerning Enforcement Action Memorandum (JM002550-JM002566)³
84. Soil Boring Cross Sections Figures (JM0007191-JM007192)
90. Sidwell Maps
120. USEPA Comments on EE/CA Report Revision dated February 3, 2019
202. IDOT Demonstrative Exhibit prepared by S. Gobelman
203. Illinois Pollution Control Board December 15, 2016 Interim Opinion and Order
204. Douglas Dorgan, Jr. Expert Report on Damages Attributable to IDOT, including figures and exhibits, dated June 13, 2018
205. Steven Gobelman Expert Rebuttal Report On Damages Attributable to IDOT Based on IPCB Order of December 15, 2016, including figures and exhibits dated August 22, 2018
206. Douglas Dorgan, Jr. Expert Rebuttal Report, including figures and exhibits, dated June October 25, 2018
207. Steven Gobelman Expert Rebuttal Supplemental Report, including figures and exhibits dated November 7, 2018
208. Douglas Dorgan, Jr. Expert Rebuttal Report on Gobelman Supplemental Report, including figures and exhibits, dated April 30, 2019.
209. Affidavit of Douglas G. Dorgan, Jr. dated August 29, 2019 attached to JM's Motion to Exclude Base Maps and Related Figures and Testimony at Hearing (filed September 13, 2019)
210. Affidavit of Dr. Tatsuji Ebihara dated August 27, 2019 attached to JM's Motion to Exclude Base Maps and Related Figures and Testimony at Hearing (filed September 13, 2019)

² This exhibit was not admitted at the first hearing but was marked as Exhibit 64 on JM's exhibit list.

³ This exhibit was not admitted at the first hearing but was marked as Exhibit 79 on JM's exhibit list.

211. Attachment to Grant for Public Highway (IDOT 002845)
212. Correspondence dated May 16, 2013 from Bryan Cave to USEPA (JM002567-JM002576)
213. Correspondence dated September 18, 2013 from USEPA to Johns Manville and Bryan Cave (JM002584-JM002588)
214. Final Report: Southwestern Sites Area dated March 20, 2018, including all figures, exhibits, appendices, and attachments (JM0039069-0042159)
215. All Photos related to remedial work (including JM 0022096-0037498)
216. S. Gobelman Figures (SG3750-SG3823)
217. Affidavit of S. Gobelman (SG004003-004)
218. S. Gobelman Figures (SG004201-4219)
219. S. Gobelman Notes (SG004250-4254)
220. S. Gobelman Notes (SG003839-3841)
221. Email from E. McGinley to S. Gobelman dated January 18, 2017 (SG000815)
222. April 2018 Gobelman Figure 1 (SG003644)
223. Andrews Engineering Contract (SG00001-15)
224. AutoCad DWG and PDF of DWG from AECOM (sent without Bates numbers because electronic)
225. Campanella Contract with Exhibits (Campanella-0000131-0000154, JM 0014497-0014854 (Exhibit A), JM 0014481 (Exhibit B), JM 0014482-0014485 (Exhibit C), JM 0014488-14489 (Exhibit D), JM 0014491 (Exhibit D-1), JM 0014496 (Exhibit D-2), JM 0014856 (Exhibit E), JM 0014866 (Exhibit G))
226. Final Contractor Receipt, Release and Hold Harmless Agreement (JM 039008-039009)
227. Campanella Combination Lump Sum and Unit Cost Bid Form (JM 0037952-0037961, JM 0038030-0038036)
228. Stipulations dated August 13, 2019
- 229A. Deposition of Douglas Dorgan, Jr. taken on July 31, 2018 along with exhibits
- 229B. Deposition of Steven Gobelman taken on October 2, 2018 along with exhibits
- 229C. Deposition of Douglas Dorgan, Jr. taken on June 12, 2019 along with exhibits

- 229D. Deposition of Steven Gobelman taken on February 7, 2019 along with exhibits
- 229E. Deposition of Michael Nguyen taken on March 20, 2019 along with exhibits
- 229F. Deposition of Riah Dunton taken on July 24, 2019 along with exhibits and errata sheet
- 229G. Deposition of Dr. Tatsuji Ebihara taken on May 4, 2018 along with exhibits and errata sheet
- 229H. Deposition of David Peterson taken on May 16, 2018 along with exhibits and errata sheet
- 229I. Deposition of Brent Tracy taken on July 10, 2017 along with exhibits
- 229J. Deposition of Kevin and Suzanne Zupec taken on April 30, 2018 along with exhibits and errata sheets
- 229K. Deposition of Scott Myers taken on June 29, 2017 along with exhibits
- 229L. Deposition of Donald Manikas taken on July 7, 2017 along with exhibits
- 230. IDOT's Responses to JM's 4th Set of Interrogatories dated March 30, 2017
- 231. IDOT's Supplemental Responses to JM's 4th Set of Interrogatories dated June 15, 2017
- 232. IDOT's Responses to JM's 3rd Set of Requests for Production dated March 30, 2017
- 233. IDOT's Supplemental Responses to JM's 3rd Set of Requests for Production dated June 15, 2017
- 234. The Illinois Environmental Protection Act and Board regulations
- 235. Demonstrative Exhibits
- 236. Final Report Rev. 1 with Appendices (JM 42160-45761)⁴
- 237. Transcripts of May 23-25 and June 23-24, 2016 Hearing
- 238. Any documents for rebuttal and/or impeachment, if necessary
- 239. Any documents identified on IDOT's exhibit list⁵

Witnesses

1. Douglas G. Dorgan, Jr. – Expert

⁴ JM would not plan to introduce this document as an exhibit subject to IDOT's agreement not to challenge the admissibility of the Final Report (JM Exhibit 214) because of the existence of this document. JM's counsel is still waiting to hear from IDOT's counsel in this regard.

⁵ JM does not, however, agree to the admissibility of any documents included thereon.

2. Tat Ebihara – AECOM
3. David Peterson – David M. Peterson, PE, PC
4. Michael Nguyen – Andrews Engineering
5. Riah Dunton – Weaver Consultants Group

Potential Witnesses

1. Steven Gobelman – IDOT expert
2. Suzanne Zupec and/or Kevin Zupec – Campanella & Sons, Inc.
3. Donald J. Manikas, Polsinelli
4. Brent Tracy – JM
5. Any witnesses for rebuttal and/or impeachment, if necessary, and/or for the admissibility/genuineness of certain records if a stipulation cannot be reached between the parties)
6. Any witnesses identified on IDOT's witness list⁶

JM submits its exhibit and witness lists, based on the information known to it at this time. JM reserves the right to supplement the exhibit list up to and including the date of hearing if necessary.

Dated: October 4, 2019

Respectfully submitted,

BRYAN CAVE LEIGHTON PAISNER LLP

Attorneys for Complainant Johns Manville

By: /s/ Lauren J. Caisman

⁶ JM does not, however, agree to the admissibility of testimony of these individuals.

Susan Brice, ARDC No. 6228903
Lauren J. Caisman, ARDC No. 6312465
161 North Clark Street, Suite 4300
Chicago, Illinois 60601
(312) 602-5079
Email: susan.brice@bclplaw.com
Lauren.caisman@bclplaw.com

CERTIFICATE OF SERVICE

I, the undersigned, certify that on October 4, 2019, I caused to be served a true and correct copy of *Complainant's Exhibit and Witness Lists* upon all parties listed on the Service List by sending the documents via e-mail to all persons listed on the Service List, addressed to each person's e-mail address.

/s/ *Lauren Caisman*

Lauren Caisman

SERVICE LIST

Evan J. McGinley
Office of the Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, IL 60602
E-mail: emcginley@atg.state.il.us

Matthew D. Dougherty
Assistant Chief Counsel
Illinois Department of Transportation
Office of the Chief Counsel, Room 313
2300 South Dirksen Parkway
Springfield, IL 62764
E-mail: Matthew.Dougherty@illinois.gov

Ellen O'Laughlin
Office of Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, IL 60602
E-mail: eolaughlin@atg.state.il.us

Illinois Pollution Control Board
Brad Halloran, Hearing Officer
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601
E-mail: Brad.Halloran@illinois.gov

Illinois Pollution Control Board
Don Brown, Clerk of the Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601
E-mail: Don.Brown@illinois.gov