

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, December 5, 2019, I have filed with the Clerk of the Pollution Control Board the attached Motion for Extension of Time 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, 18th Floor
Chicago, Illinois 60602
(312) 814-3153
emcginley@atg.state.il.us
eolaughlin@atg.state.il.us
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

CERTIFICATE OF SERVICE

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

I, EVAN J. MCGINLEY, do hereby certify that, today, December 5, 2019, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of the attached Motion for Extension of Time 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
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
Don.Brown@illinois.gov

Susan Brice
Lauren Caisman
Bryan Cave LLP
161 North Clark Street, Suite 4300
Chicago, Illinois 60601
Susan.Brice@bryancave.com
Lauren.Caisman@bryancave.com

s/ Evan J. McGinley
Evan J. McGinley

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RESPONDENT’S MOTION FOR EXTENSION OF TIME

NOW COMES RESPONDENT, the Illinois Department of Transportation (“IDOT”), through its attorney KWAME RAOUL, Attorney General of the State of Illinois, which herewith moves the Hearing Officer, pursuant to Board Rule 101.502, 35 Ill. Adm. Code 101.502, for an additional two days in which to file its response to Johns Manville’s “Motion For Interlocutory Appeal and Interlocutory Appeal Of Hearing Officer’s Order Denying Complainant’s Motion to Exclude Base Maps and Related Figures and Testimony at Hearing” (“Motion for Interlocutory Appeal”). IDOT states the following in support of this motion:

1. On November 14, 2019, Johns Manville filed its Motion for Interlocutory Appeal.
2. Pursuant to a Hearing Officer order issued the previous day (i.e., November 13, 2019), IDOT was given until Friday, December 6, 2019 to file its response to the Motion for Interlocutory Appeal.
3. On December 4, 2019, IDOT’s counsel emailed Johns Manville’s counsel requesting an extension of two business days in which to file its response to the Motion for Interlocutory Appeal (i.e., until Tuesday, December 10th), citing pressing demands in another case which had impeded counsel’s ability to work on IDOT’s response.

4. Between December 4th and the filing of this motion, the parties' counsel exchanged a series of emails, in an effort to reach an agreement on an extension. Johns Manville's counsel indicated that Johns Manville wanted to ensure that an extension would not delay the Board in issuing a ruling on the Motion for Interlocutory Appeal.

5. On December 5th, Johns Manville's counsel indicated that they were willing to grant a one day extension to IDOT for filing its response (i.e., until December 9th).

6. IDOT's counsel asked Johns Manville's counsel to reconsider their position and further advised Johns Manville's counsel that on December 4, 2019, he had been advised by Steven Gobelman, IDOT's expert witness, that he would not be able to attend the next round of hearings scheduled to begin the week of February 4, 2020, as he was recovering from recent surgery for his ankle and had been advised to restrict his activities through mid-February 2020.¹

7. Johns Manville will not be materially prejudiced if IDOT has two additional days to respond to its Motion for Interlocutory Appeal and the granting of IDOT's motion seems unlikely to pose any impediment to the Board issuing a ruling on the Motion for Interlocutory Appeal well in advance of the next round of hearings in this matter.

WHEREFORE, Respondent, IDOT, respectfully requests that the Hearing Officer issue an order:

- 1) Granting Respondent IDOT two additional business days to file its response to Johns Manville's Motion for Interlocutory Appeal (i.e., until December 10, 2019); and,

¹ Mr. Gobelman's injury, and its impact on his ability to participate in the next round of hearings, is the subject of a separate motion.

- 2) Granting such other relief as the Hearing Officer deems to be appropriate and just.

Respectfully Submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION

s/ Evan J. McGinley

EVAN J. McGINLEY

ELLEN O'LAUGHLIN

Office of the Illinois Attorney General

69 West Washington Street, Suite 1800

Chicago, Illinois 60602

312.814.3153

312.814.3094

emcginley@atg.state.il.us

eolaughlin@atg.state.il.us

mccaccio@atg.state.il.us