

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 SERVICE OF AMENDED NOTICE OF DEPOSITION

The undersigned hereby certifies that a true and correct copy of the following document, Complainant's Amended Notice of Deposition, was served upon Respondent by e-mail to counsel for Respondent on April 18, 2016.

April 18, 2016

Respectfully submitted,

BRYAN CAVE LLP

Attorneys for Complainant Johns Manville

By: /s/ Lauren J. Caisman
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CERTIFICATE OF SERVICE

I, the undersigned, certify that on April 18, 2016, I caused to be served a true and correct copy of *Complainant's Notice of Service of Amended Notice of Deposition* 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. Paper hardcopies of this filing will be made available upon request.

/s/ Lauren J. Caisman
Lauren J. Caisman

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

RULE 206(a)(1) AMENDED NOTICE OF DEPOSITION TO RESPONDENT ILLINOIS DEPARTMENT OF TRANSPORTATION

TO: Attached Certificate of Service

PLEASE TAKE NOTICE that Complainant Johns Manville, by and through its attorneys, pursuant to Illinois Supreme Court Rule 206, 35 Ill. Admin. Code § 101.616, 35 Ill. Admin. Code § 101.622, and 735 ILCS 5/2-1003, shall take the deposition of **Illinois Department of Transportation** (“IDOT”), by its designated representative, who is most knowledgeable to testify with respect to the subject matters identified in **Schedule A**, attached hereto.

This deposition shall take place before a court reporter, videographer, notary public, and/or other official authorized to administer oaths, at the offices of Illinois Department of Transportation, 201 West Center Court, Schaumburg, Illinois 60196. The deposition shall be recorded stenographically and by video and shall commence on **Monday, April 25, 2016 at 10:00 a.m.**, and continue from day to day thereafter until completed.

April 18, 2016

Respectfully submitted,

BRYAN CAVE LLP

Attorneys for Complainant Johns Manville

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on April 18, 2016, I caused to be served a true and correct copy of *Rule 206(a)(1) Amended Notice of Deposition to Respondent Illinois Department of Transportation* 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. Paper hardcopies of this filing will be made available upon request.

/s/ Lauren J. Caisman

Lauren J. Caisman

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**SCHEDULE A TO RULE 206(a)(1) NOTICE OF DEPOSITION
TO RESPONDENT ILLINOIS DEPARTMENT OF TRANSPORTATION**

Definitions

The following definitions are applicable throughout this Schedule:

A. “IDOT” shall refer to the Illinois Department of Transportation (“IDOT”) and all predecessor entities of IDOT as well as all divisions, representatives, employees, agents, attorneys, or other persons acting for or on behalf of IDOT or a predecessor entity.

B. “Communication” means any oral or written utterance or statement of any nature whatsoever, including, but not limited to, letters, facsimiles, emails, conversations, discussions and agreements between or among two or more persons, and any notations, memoranda or other documents memorializing all of part of any of the foregoing.

C. “Person” shall mean any natural person, firm, partnership, association, joint venture, corporation, governmental agency or other organization, or legal or business entity, including, without limitation, any party to this action.

D. “Relating to” means in any way comprising, describing, reflecting, embodying, contained in, referring to, connected with or pertaining or relating to, in whole or in part.

E. “Site 3” shall refer to the area known as Site 3 as defined in the AOC and located south of the Greenwood Avenue right-of-way and east of North Pershing Road in Waukegan, Illinois, including the land and subsurface that is part of this area.

F. “Site 6” shall refer to the area known as Site 6 as defined in the AOC and located on both sides of Greenwood Avenue in Waukegan, Illinois, including the land and subsurface that is part of this area.

G. "Jurisdictional Guidelines" shall mean IDOT's Highway Jurisdictional Guidelines posted at <http://www.idot.illinois.gov/assets/uploads/files/transportation-system/manuals-guides-&-handbooks/highways/local-roads-and-streets/highway%20jurisdiction%20guidelines%20booklet.pdf> on the Internet, and any more recent versions thereof.

H. "The Manual" shall mean "A Manual for Conducting Preliminary Site Assessments for Illinois Department of Transportation Projects" posted at <https://www.ideals.illinois.edu/bitstream/handle/2142/50258/ofs2012-01.pdf?sequence=2> on the Internet, and any more recent versions thereof.

I. "Parcel No. 0393" shall mean the parcel labeled as 0393 and described at IDOT 002800.

J. "Rights of Way" shall have the meaning given to it in the Illinois Highway Code, 605 ILCS 5/2-217 and in IDOT's Highway Jurisdiction Guidelines: "[t]he land, or interest therein, acquired for or devoted to a highway."

K. "Environmental Liability" shall mean liability under CERCLA, RCRA, the Clean Water Act, the Clean Air Act, the Illinois Environmental Protection Act, the regulations adopted under each aforementioned statutes and tort law. As to tort law, the term only relates to tort law associated with the presence of contamination or the disposal of contamination.

L. "Contamination" shall mean any asbestos containing material, any Hazardous Substance under CERCLA, any Hazardous Waste or Solid Waste under RCRA, any pollutant under the Clean Water Act, any Waste under the Illinois Environmental Protection Act or applicable regulations, any pollutant under the Clean Air Act.

M. “Interest” shall mean a legal share, or rights and privileges to do something with respect to property.

N. “Right” shall mean the interest, claim, or ownership that one has in property.

O. “Transfer” shall mean to convey from one person to another, or to change over the possession, ownership, or control.

P. “Vacate” or “Abandon” shall mean to nullify, cancel, invalidate, surrender, or relinquish occupancy, possession, control, or ownership.

Subject Matter of Examination

1. Any and all Rights or Interests IDOT has ever held and/or currently holds with respect to Parcel No. 0393, and the nature and scope of those Rights and that Interest.
2. Any and all Rights or Interests that are Transferred to IDOT regarding property in Illinois with a grant of “the right to use for highway purposes only” and the ways in which IDOT divests, Transfers, or loses those Rights and/or Interests. Similarly, any and all responsibilities, duties or obligations that accompany a grant to IDOT regarding property in Illinois of “the right to use for highway purposes only” and they ways in which IDOT divests, Transfers or no longer has those responsibilities, duties and/or obligations.
3. The location of Parcel No. 0393 with respect to Sites 3 and 6 and the Amstutz Project.
4. Since September 29, 2000, all steps taken by IDOT or anyone doing work for IDOT (including, but not limited to, Steven Gobelman, Keith Stoddard, Steven Warren, and/or any third party consultant, contractor, or agent) to determine whether and to what extent IDOT holds or held an Interest in or Rights with respect to Parcel No. 0393.
5. Any work IDOT or an agent of IDOT has performed relating to Parcel No. 0393 since 1976, including surveys, soil borings and/or maintenance work.

6. The “project” referred to in IDOT 003303, including how and to what extent that project was ever contemplated to involve Parcel No. 0393, Site 3, and/or Site 6, including how IDOT viewed and/or characterized its interest in Parcel No. 0393 in conjunction with the project.
7. Since 1971, the entity, person, and/or agency with jurisdictional responsibility and/or maintenance responsibility (as described on page 2 of the Jurisdictional Guidelines) for Greenwood Avenue immediately north of Parcel No. 0393; Sand Street immediately west of Parcel No. 0393; Parcel No. 0393; and improvements made by IDOT, including the embankment, on Parcel No. 0393.
8. How IDOT keeps track of and/or determines whether it has jurisdiction over a particular parcel, has a Right of Way or an easement associated with a particular parcel and/or has done maintenance work on a particular parcel, including the resources available for IDOT to make these determinations, including, but not limited to, databases, maps, the Illinois Roadway Information System (“IRIS”) (as discussed in Chapter 2-10 on page 11 and in Chapter 7 on page 31 of the Jurisdictional Guidelines), Illinois State Geological Survey (“ISGS”) Extranet (as discussed on pages 4, 6, 8, 28, and 31-33 of the Manual), and Geographic Information Systems (“GIS”) resources (as discussed on pages 4, 6, 8, 9, 11-15, 28, 30, 31, and 33 of the Manual), and how Parcel No. 0393 is treated and/or characterized in these resources.