

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, February 26, 2021, I have filed with the Clerk of the Pollution Control Board “Respondent’s Motion Regarding the Corrected Transcripts of October 28 and 29, 2020 Hearing Dates, and Response to Johns Manville’s Motion to Correct the Corrected Transcripts of October 28 and 29, 2020”, and served on each person listed on the attached service list with a copy of the same.

Respectfully Submitted,

By: s/ Ellen F. O’Laughlin
ELLEN F. O’LAUGHLIN
CHRISTOPHER J. GRANT
Assistant Attorneys General
Environmental Bureau
69 W. Washington, 18th Floor
Chicago, Illinois 60602
(312) 814-3094
eolaughlin@atg.state.il.us
cgrant@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, ELLEN F. O'LAUGHLIN, do hereby certify that, today, February 26, 2021, 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 Motion Regarding the Corrected Transcripts of October 28 and 29, 2020 Hearing Dates, and Response to Johns Manville's Motion to Correct the Corrected Transcripts of October 28 and 29, 2020.

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
Kristen L. Gale
NIJMAN FRANZETTI LLP
10 South LaSalle Street, Suite 3600
Chicago, IL 60603
sb@nijmanfranzetti.com
kg@nijmanfranzetti.com

s/ Ellen F. O'Laughlin
Ellen F. O'Laughlin

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**RESPONDENT’S MOTION REGARDING THE CORRECTED TRANSCRIPTS OF
OCTOBER 28 AND 29, 2020 HEARING DATES, AND RESPONSE TO JOHNS
MANVILLE’S MOTION TO CORRECT THE CORRECTED TRANSCRIPTS OF
OCTOBER 28 AND 29, 2020**

NOW COMES RESPONDENT, the Illinois Department of Transportation (“IDOT”), through its attorney KWAME RAOUL, Attorney General of the State of Illinois, and moves the Hearing Officer, and submits to the Hearing Office IDOT’s statements regarding the corrected transcripts of October 28 and 29, 2020 hearing dates.

1. On February 5, 2021, the Hearing Officer gave the parties the corrected transcript for the hearing dates of October 28 and 29, 2020.

2. The corrected transcript of October 29, 2020, still does not transcribe the end of the hearing on October 29, 2020, when IDOT’s counsel moved certain Exhibits into the record. The transcript is not complete, and it ends before the end of the hearing. Furthermore, there are errors in the transcription of the last hour of that day, and it would be appropriate for the court reporter to check and edit the transcription for the last hour and a half of the hearing.

3. IDOT counsel moved into evidence the following Exhibits at the end of the hearing: Exhibits 202, 205, 207 and 216, in addition to those Exhibits admitted in the first hearing phase

and those moved into evidence by JM) IDOT now again moves that these Exhibits be admitted into evidence.

4. On February 16, 2021, Johns Manville, filed its Motion to Correct the Corrected Transcripts, regarding substantive errors only, as the transcripts are also replete with non-substantive errors.

5. IDOT objects to some of John Manville's suggested corrections. These objections are listed on Exhibit 1 to this Motion. Given the quality of the video recording, and the difficulty handling and viewing it, IDOT cannot determine that these suggested corrections are correct, and IDOT further states, it does not believe those corrections are right.

6. IDOT further moves that corrections be made to the transcript, and these corrections are listed on Exhibit 2 to this Motion, including a whole time period when it appears the hearing was not transcribed.

7. IDOT concurs that the corrected transcripts of October 28 and 29, 2020 contain many errors.

8. IDOT reserves all rights, and in particular reserves the right to make any corrections or edits in further briefing of this matter, including any Appeals. Unfortunately, this is necessary given the many issues and errors in transcribing the hearing days of October 28 and 29, 2020, and IDOT should not be prejudiced when making citations to the transcript.

WHEREFORE, IDOT requests that the Hearing Officer issue an Order reserving the rights of the parties to make further objections or corrections to the transcripts of October 28 and 29, 2020, move the Respondent's requested Exhibits into evidence, make needed corrections to the transcript, and for such other relief as the hearing officer deems to be appropriate and just.

Respectfully Submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION

s/ Ellen F. O'Laughlin

ELLEN F. O'LAUGHLIN
CHRISTOPHER J. GRANT
Office of the Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
312.814.3094
312.814.5388
elaughlin@atg.state.il.us
cgrant@atg.state.il.us
mccaccio@atg.state.il.us

EXHIBIT 1

JM Corrections disputed by IDOT

October 28, line 95

October 28, page 159

October 29,

74, 15 should be soil, not some

85, already corrected, the JM's "NOW READS" is not correct

95, disagree with requested correction.

110, already corrected, the JM's "NOW READS" is not correct

129, lines 1 and 14, "NOW READS" is not correct

EXHIBIT 2

IDOT proposed corrections

45, line 22, strike second “creating”

53, line 7, doubling is wrong

58, line 17, change staggered to standard, 1:53

61, line 3 change “planned” to cleaneast. 1:58

61, line 23, change math to map 2:00

62, line 3, change calculation to boundary 2:00

65, line 1, change what to with 2:06

78, line 23, add “JM argued” before that IDOT

131, line 17, change O’Laughlin to Brice, 5:28

132, line 21, remove Ms. Brice, As we were discussing prior to the objection. 5:29

134, line 14, change to Gobelman’s report and his

135, line 23, change that to if 5:34

137, line 22, change me to AECOM 5:39

138, line 1, change double to very

138, line 2, change double to several

138, line 4, change find to cite 5:40

139, 15 add: the 10,000 photographs that were produced in this matter?

139, lines 7 to 13 is missing large chunks of testimony, 5:37 to 5:43.

139, line 14, missing: are pertinent to this proceeding are Site 3 and Site 6, there are other Sites that required work, but 5:43

139, line 21 change 8 meters to clean corridors

140, line 17, area of liability

140, line 24, change report to work

141, line 20, change disseminated to direct testimony, and transcription is missing questions 5:48

144, line 10 change no to none, 5:53

Then add, Does this figure show that a cut was needed? No 5:54

144, remove lines 21 to 3

148, after line 9, questions are missing. 6:08

148, line 19, add, change to, prepared by Weaver consultants

150, line 13, add by Ms. Brice, 6:11