

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

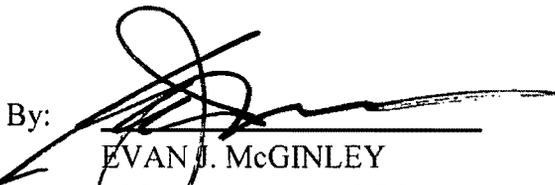
JOHNS MANVILLE, a Delaware corporation,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 14-3
	)	(Citizen Suit)
ILLINOIS DEPARTMENT OF	)	
TRANSPORTATION,	)	
	)	
Respondent.	)	

**NOTICE OF FILING AND SERVICE**

To: ALL PERSONS ON THE ATTACHED CERTIFICATE OF SERVICE

Please take note that today, May 2, 2016, Respondent, Illinois Department of Transportation, filed and served its Notice of Expert Deposition with the Clerk of the Pollution Control Board, a copy of which are hereby served upon you.

Respectfully Submitted,

By: 

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)  
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MATTHEW J. DOUGHERTY  
Assistant Chief Counsel  
Illinois Department of Transportation  
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[Matthew.Dougherty@Illinois.gov](mailto:Matthew.Dougherty@Illinois.gov)

**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 EXPERT DEPOSITION**

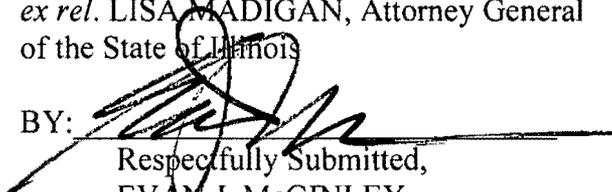
TO: Susan Brice  
Lauren Caisman  
Bryan Cave LLP  
161 North Clark Street  
Suite 4300  
Chicago, Illinois 60601

YOU ARE HEREBY NOTIFIED that on May 9, 2016, commencing at 1:00 p.m., we will take the deposition of Complainant's as yet to be identified expert witness, before a notary public or any other duly authorized officer to administer oaths, at the Office of the Attorney General, 69 West Washington Street, 18<sup>th</sup> Floor, Chicago, Illinois

You are hereby further notified that pursuant to this notice, deponent shall, produce to the undersigned counsel, on or before the close of business on Wednesday, May 4, 2016, the documents set forth in the attached Exhibit A.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* LISA MADIGAN, Attorney General  
of the State of Illinois

BY: 

Respectfully Submitted,  
EVAN J. MCGINLEY  
ELLEN O'LAUGHLIN  
Assistant Attorneys General  
Environmental Bureau  
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**EXHIBIT A**

**I. DEFINITIONS AND INSTRUCTIONS**

1. "Johns Manville" means Johns Manville and any of its officers, directors, managers, members, agents, representatives, consultants, attorneys, employees or any person or agency acting on behalf of Johns Manville or under the direction or control of Johns Manville or its attorneys or agents.

2. "Commonwealth Edison" shall mean Commonwealth Edison and any of its officers, directors, managers, members, agents, representatives, consultants, attorneys, employees or any person or agency acting on behalf of Commonwealth Edison or under the direction or control of Commonwealth Edison or its attorneys or agents. Additionally, where used to refer to a geographic location, "Commonwealth Edison" shall refer to and mean the former Commonwealth Edison power plant that was located in Waukegan, Lake County, Illinois.

3. "Site" shall mean the Areas 3 and 6 of the Johns Manville Superfund Site, in Waukegan, Lake County, Illinois

4. "Document" shall have a broad meaning 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, of any agreement; bank record or statement; bill of lading; book of account, including any ledger, sub-ledger, journal, or sub-journal; brochure; calendar; chart; check; circular; Communication; contract; copy; correspondence; delivery record or receipt; diary; draft; document; electronic communication, including e-mail; electronic data; facsimile; graph; index; instruction; instruction manual or sheet; invoice; job requisition; letter; license; manifest; manual; memorandum; minutes; newspaper or other clipping; note; notebook; opinion; pamphlet; paper; periodical or other publication; permit; photograph; print; purchase order;

receipt; record; recording; report; result; routing slip; social media information (including from Facebook, Twitter or otherwise); spreadsheet; statement; study; summary, including any memorandum, minute or note record, summary of any (a) telephone, videophone or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference; survey; telegram; telephone log; ticket; travel or expense record; videotape; voucher; worksheet or working paper; writing; and 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 300 West.

5. "The 1971 Grant for Public Highway" shall mean the Grant for Public Highway executed by Commonwealth Edison Company as Grantor, and for which the State of Illinois, Department of Public Works and Buildings was the Grantee, which was recorded as Document Number 1517501 with the Lake County Recorder of Deeds on August 12, 1971.

6. The 1974 Grant for Public Highway" shall mean the Grant for Public Highway executed by Commonwealth Edison Company as Grantor, and for which the State of Illinois, Department of Public Works and Buildings was the Grantee, which was recorded as Document Number 1649408 with the Lake County Recorder of Deeds on January 16, 1974.

7. The 1984 Grant for Public Highway" shall mean the Grant for Public Highway executed by Commonwealth Edison Company as Grantor, and for which the State of Illinois, Department of Public Works and Buildings was the Grantee, which was recorded as Document Number 2288725 with the Lake County Recorder of Deeds on June 8, 1984.

8. "Right of Way" shall refer to Parcel 0393, as referenced within the 1971, 1974, or 1984 Grant for Public Highway.

9. "Property Insight Report" shall refer to the report produced Property Insight for Johns Manville with an effective date of December 30, 2015, which is attached hereto as Exhibit 1.

10. "Opinions" shall mean any opinions that you either have prepared or intend to prepare regarding any interest which IDOT may hold, relative to Parcel 0393, as the result of the 1971, 1974, or 1984 Grant for Public Highway, the use of the term "for highway purposes" contained in the 1971, 1974, or 1984 Grant for Public Highway, or any other opinions that you have prepared or intend to prepare with regard to this Matter.

11. "Chicago Title" shall refer to Chicago Title Insurance Company, its officers, directors, employees and any other related entity thereto.

12. "IDOT" shall mean the Illinois Department of Transportation, and any of its officers, directors, managers, members, agents, representatives, consultants, attorneys, employees or any person or agency acting on behalf of IDOT or under the direction or control of IDOT or its attorneys or agents.

13. "Related to" or "relating 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.

14. "You" shall mean Johns Manville's as yet to be named expert witness.

15. "Report" shall mean the Expert Report of Johns Manville's as yet to be named expert witness.

16. "Matter" shall mean the action currently pending before the Pollution Control Board, entitled *Johns Manville v. Illinois Department of Transportation*, PCB 14-3.

17. To the extent a term used herein is not defined above, it shall be deemed to have its commonly recognized meaning.

18. Wherever appropriate herein, the singular form of a word should be interpreted to include the plural, and vice versa.

19. If You object to the production of any of the documents requested herein, please state the nature and basis for the objection, privilege and/or protection asserted.

## **II. DOCUMENTS TO BE PRODUCED**

You are hereby directed to produce the following documents to IDOT's attorneys on or before the close of business on May 3, 2016, only to the extent not previously produced by Johns Manville:

1. All documents in your possession, custody or control related to your Report or your Opinions.

2. All documents which you or anyone working with you or otherwise assisting you reviewed or relied upon in the course of preparing your Report, your Opinions, or related to any work regarding this Matter..

3. All documents in your possession, custody or control related to any work which Chicago Title may have done relative to Parcel 0393.

4. All documents in your possession, custody or control regarding the Site.

5. Any and all Documents relating to communications between You and Johns Manville, regarding this Matter or Parcel 0393.

6. Any and all Documents relating to communications between You and other third persons, relating to the Site or Parcel 0393, at any time, including but not limited to USEPA, IEPA, the City of Waukegan or other governmental entities.

7. Any and all Documents You created in the course of your work on the Report, including, without limitation, any drafts, notes, etc.

8. Any and all Documents You have received from Johns Manville during the course of your work on this Matter or the preparation of your Report and/or your Opinions

9. A list of all matters for which You have provided expert opinion and all Documents related thereto.

10. All presentations made, contributed to, or prepared by You.

**CERTIFICATE OF SERVICE**

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

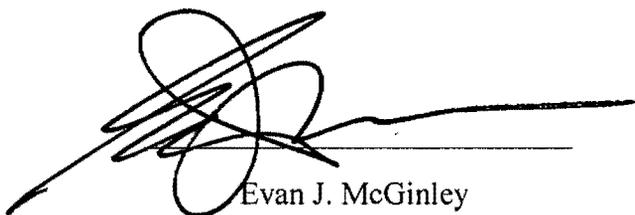
I, EVAN J. MCGINLEY, do hereby certify that, today, May 2, 2016, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of IDOT's

Notice of Expert Deposition 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

John Therriault  
Clerk of the Pollution Control Board  
James R. Thompson Center  
100 West Randolph, Suite 11-500  
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Evan J. McGinley