

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

AUG 29 2013

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:

JOHNS MANVILLE, a Delaware
Corporation,

Complainant,

v.

ILLINOIS DEPARTMENT OF
TRANSPORTATION,

Respondent.

No. 14-3



ORIGINAL

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on August 26, 2013, I caused to be filed with the Clerk of the Pollution Control Board of the State of Illinois, an ENTRY OF APPEARANCE and a MOTION FOR EXTENSION OF TIME, copies of which are attached hereto and herewith served upon you.

Dated: August 26, 2013.

Respectfully submitted,

ILLINOIS DEPARTMENT OF TRANSPORTION,
Respondent,

By: *Phillip McQuillan*
Phillip McQuillan
Special Assistant Attorney General

Phillip McQuillan, #3122873
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 313
Springfield, IL 62764
Phone: 217-782-3215
Fax: 217-524-0823
E-mail: Phillip.McQuillan@illinois.gov

Illinois Pollution Control Board, No. 14-3

SERVICE LIST

Susan Brice
Attorney at Law
Bryan Cave LLP
161 North Clark St., Suite 4300
Chicago, IL 60601

Kathrine Hanna
Attorney at Law
Bryan Cave LLP
161 North Clark St., Suite 4300
Chicago, IL 60601

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

Illinois Pollution Control Board
John Therriault, Clerk of the Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
AUG 29 2013
STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
JOHNS MANVILLE, a Delaware)
Corporation,)
)
Complainant,)
)
v.)
)
ILLINOIS DEPARTMENT OF)
TRANSPORTATION,)
)
Respondent.)

No. 14-3

 ORIGINAL

ENTRY OF APPEARANCE

On behalf of Respondent, the Illinois Department of Transportation, a Department of State government (20 ILCS 5/5-15), Phillip McQuillan, as a Special Assistant Attorney General, enters his appearance as one of the attorneys of record for Respondent.

Respectfully submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION,
Respondent,

By: 
Phillip McQuillan
Special Assistant Attorney General

Phillip McQuillan, #3122873
Special Assistant Attorney General
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 313
Springfield, IL 62764
Phone: 217-782-3215
Fax: 217-524-0823
E-mail: Phillip.McQuillan@illinois.gov

Illinois Pollution Control Board, No. 14-3

RECEIVED
CLERK'S OFFICE

AUG 29 2013

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

I, Phillip McQuillan, herein certify that I have served a copy of the foregoing, Entry of Appearance, upon:

Susan Brice
Attorney at Law
Bryan Cave LLP
161 North Clark St., Suite 4300
Chicago, IL 60601

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

Kathrine Hanna
Attorney at Law
Bryan Cave LLP
161 North Clark St., Suite 4300
Chicago, IL 60601

Illinois Pollution Control Board
John Therriault, Clerk of the Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601

By causing to be mailed a true copy thereof at the address referred to above in an envelope, properly addressed, bearing proper first class postage and deposited in the United States mail at Springfield, Illinois on August 26, 2013.

By:



Phillip McQuillan
Special Assistant Attorney General

Phillip McQuillan, #3122873
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 313
Springfield, IL 62764
Phone: 217-782-3215
Fax: 217-524-0823
E-mail: Phillip.McQuillan@illinois.gov

RECEIVED
CLERK'S OFFICE

AUG 29 2013

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
 JOHNS MANVILLE, a Delaware)
 Corporation)
)
 Complainant,)
)
 v.)
)
 ILLINOIS DEPARTMENT OF)
 TRANSPORTATION,)
)
 Respondent.)

No. 14-3



ORIGINAL

MOTION FOR EXTENSION OF TIME

On behalf of Respondent, Illinois Department of Transportation, Phillip McQuillan, Special Assistant Attorney General, moves pursuant to title 35 of the Illinois Administrative Code, Section 101.522, for an extension of time, and states as follows:


1. Respondent received Complainant's complaint on or about July 22, 2013.
2. Complainant's Notice of Filing stated that Respondent had sixty days to file an answer to the Complaint.
3. On August 22, 2013, Lance T. Jones, Deputy Chief Counsel, Illinois Department of Transportation received notice that he and Assistant Chief Counsel Phillip McQuillan, the undersigned, were both appointed Special Assistant Attorneys General in this matter before the Illinois Pollution Control Board (the "Board").
4. A review of the law indicates that there is a serious jurisdictional issue regarding the sovereign immunity of the State of Illinois Department of Transportation in this matter.
5. A review of the law indicates that there is a question as to whether this matter should be addressed in the on-going federal enforcement action wherein Johns Manville is litigating these same issues in the United States District Court—Northern District, Eastern Division No. 88 C 630.

6. A review of the law indicates that there is an issue as to whether Complainant's cause of action is properly a Section 31(d) action, 415 ILCS 5/31(d).
7. A review of the law indicates that the complaint also has issues as to whether it states a cause of action.
8. Respondent submits that the interests of justice will be served by an extension of time that would allow the parties to deal with these serious issues before time and resources are expended on other matters.
9. Respondent request that it be granted an extension of time to file a motion or motions challenging this cause of action—motion to dismiss and/or motion to strike pleadings—up to and including September 27, 2013, to allow Respondent sufficient time to address these matters.

Wherefore, Respondent requests that it be granted an extension of time to file a motion or motions challenging this cause of action—motion to dismiss and/or motion to strike pleadings—up to and including September 27, 2013, to allow Respondent sufficient time to address these matters.

Respectfully submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION,
Respondent,

By: 
Phillip McQuillan
Special Assistant Attorney General

Phillip McQuillan, #3122873
Special Assistant Attorney General
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 313
Springfield, IL 62764
Phone: 217-782-3215
Fax: 217-524-0823
E-mail: Phillip.McQuillan@illinois.gov

Illinois Pollution Control Board, No. 14-3

 ORIGINAL

CERTIFICATE OF SERVICE

I, Phillip McQuillan, herein certify that I have served a copy of the foregoing, Motion for Extension of Time, upon:

Susan Brice
Attorney at Law
Bryan Cave LLP
161 North Clark St., Suite 4300
Chicago, IL 60601

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

Kathrine Hanna
Attorney at Law
Bryan Cave LLP
161 North Clark St., Suite 4300
Chicago, IL 60601

Illinois Pollution Control Board
John Therriault, Clerk of the Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, IL 60601

By causing to be mailed a true copy thereof at the address referred to above in an envelope, properly addressed, bearing proper first class postage and deposited in the United States mail at Springfield, Illinois on August 26, 2013.

By: 
Phillip McQuillan
Special Assistant Attorney General

Phillip McQuillan, #3122873
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 313
Springfield, IL 62764
Phone: 217-782-3215
Fax: 217-524-0823
E-mail: Phillip.McQuillan@illinois.gov