



**Illinois Pollution Control Board, No. 14-3**

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**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**

**RESPONDENT'S MOTION FOR EXTENSION OF TIME AND**  
**MOTION FOR A REVISED DISCOVERY SCHEDULE**

On behalf of Respondent, Illinois Department of Transportation, Special Assistant Attorney General Phillip McQuillan, counsel for the Illinois Department of Transportation ("IDOT"), moves pursuant to title 35 of the Illinois Administrative Code, Section 101.522, for an extension of time to file written discovery requests and for a revised discovery Schedule. In support thereof Respondent states as follows:

1. Hearing Officer Bradley P. Halloran issued a scheduling order on February 19, 2014, which sets the deadline for the parties to issue written discovery on or before March 17, 2014.
2. On March 12, 2014, at approximately 4:00 PM, the undersigned opened an email from Kathrine Hanna, one of Johns Manville's (JM's) attorneys and attached to the email were two items:
  - a. Complainant's Motion for Leave to File Its First Amended Complaint, and
  - b. Amended Complaint for Order Compelling Equitable Relief.
3. The First Amended Complaint essentially adds a second count—adding a new site, Site 6, to the original Complaint.

4. The cause of action as to both Site 3 and Site 6 occurred between the years 1971 and 1976.
5. The undersigned has been experiencing difficulty in finding information about Site 3 and now must find information about Site 6—these activities occurred between 42 (forty-two) and 37 (thirty-seven) years ago.
6. JM has been dealing with the aspects of asbestos containing material (ACM) contamination at Site 3 and at Site 6, at minimum period of time, since February 11, 2004, because both Site 3 and Site 6 are designated on a map/diagram which is a part of the First Amended Consent Decree which was lodged with the United States District Court, Northern District of Illinois, Eastern Division, on February 11, 2004.
7. The “Administrative Settlement Agreement and Order on Consent for Removal Action” with Region 5 of the United States Environmental Protection Agency (“USEPA”) was signed by JM on May 23, 2007—in regard to Site 3.
8. The undersigned is performing the environmental legal sufficiency review and follow-up on the Circle Interchange Improvement Project (Interstates 90/94 and 290/Congress Parkway) in Chicago, the Chicago Region Environmental and Transportation Efficiency (“CREATE”) Program for the 75<sup>th</sup> Street Railway Corridor Improvement Project, CREATE Program for the Grand Crossing Railway Project (my work is due on March 14, 2014 on this project), and numerous other rail and highway projects—all of which have timetables and deadlines that were established before I began work on the projects due to the planning stages, environmental studies, design and engineering work, targeted reviews and public meetings, and targeted letting dates, and the involvement of the US Department of Transportation Federal Highway Administration (FHWA) and numerous other agencies.
9. The granting of this motion for extension of time will not prejudice the Complainant, as stated by Complainant in paragraph 5 of Complainant’s Motion for Leave to File Its First Amended Complaint: “ \* \* \* Complainant is willing to extend the discovery

period by up to thirty (30) additional days to accommodate the filing of a supplemental Answer.”

10. Due to a regular heavy workload, additional unexpected environmental issues on various road and railway projects all over the state that must be resolved expeditiously, the legal sufficiency review on the CREATE Program for the Grand Crossing Railway Project in Chicago which is due on March 14, 2014 (I did not receive the project materials until February 26, 2014), the difficulty in finding information on this JM case because of the huge passage of time, and now an Amended Complaint which will require more searching for information, and trying to get all this done before I leave for the State of Washington on March 17, 2014, to visit my future step-son who is in the US Navy—a trip that has been planned since he returned from deployment in the Middle-East, the undersigned respectfully requests an extension of time of at least 30 days for all of the discovery and other deadlines established in the Hearing Officer Order filed on February 19, 2014.
11. The granting of this motion will serve the ends of justice and avoid hardship and prejudice to Respondent.

WHEREFORE, Respondent respectfully requests an extension of time of at least 30 days for all of the discovery and other deadlines established in the Hearing Officer Order filed on February 19, 2014.

Respectfully submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION,  
Respondent,

By:   
\_\_\_\_\_  
Phillip McQuillan  
Special Assistant Attorney General

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**CERTIFICATE OF SERVICE**

I, Phillip McQuillan, herein certify that I have served a copy of the foregoing, Respondent's Motion for Extension of Time and Motion for a Revised Discovery Schedule, upon:

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by means of electronic transmission through Email, to the Email addresses listed above and the same Email addresses listed on the Service List. The Emails were sent from my office computer in Springfield, Illinois on March 13, 2014.

By:   
Phillip McQuillan  
Special Assistant Attorney General

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