

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 FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on August 23, 2021, I caused to be filed with the Clerk of the Pollution Control Board of the State of Illinois, Complainant Johns Manville's Response to Respondent's Motion to Extend Date, a copy of which is attached hereto and herewith served upon you via e-mail.

JOHNS MANVILLE

By: /s/ Susan E. Brice

Dated: August 23, 2021

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Complainant Johns Manville's Response to Respondent's Motion to Extend Date was filed on August 23, 2021 with the following:

Don Brown, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

and that true copies were emailed on August 23, 2021 to the parties listed on the foregoing Service List.

/s/ Susan E. Brice

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COMPLAINANT JOHNS MANVILLE’S RESPONSE TO RESPONDENT’S MOTION TO EXTEND DATE

Complainant JOHNS MANVILLE (“JM”) hereby submits its response in opposition in part to Respondent ILLINOIS DEPARTMENT OF TRANSPORTATION (“IDOT”)’s Motion to Extend the Date Respondent’s Brief to be Filed (the “Motion”) as follows:

ARGUMENT

1. JM does not object to IDOT’s motion for an extension to submit its post-hearing brief, but objects to IDOT’s request for an additional thirty days.

2. IDOT’s basis for its request for extension to almost double the time granted to it by the Hearing Officer is insufficient. Instead of providing any specific reasons, IDOT merely states generalities of work schedules and work load, none of which appear to be an emergency or insurmountable.

3. IDOT is also wrong to claim that JM had nine months to prepare a brief. JM reported as early as January 2020 that it had prepared its brief. However, due to the challenges with the transcripts, which were no fault of either party, the brief could not be finalized until the transcripts were corrected.

4. In any case, in response to IDOT's request and in good faith, JM offered an additional fourteen days, which is a total of eight weeks from the date JM filed its brief. Eight weeks is more than sufficient time to provide a response to JM's response.

5. JM has already been prejudiced by the numerous delays and extensions throughout this proceeding. On December 15, 2016, the Board held that IDOT was liable for its disposal of asbestos containing material, and JM deserves reimbursement for the costs it incurred for the cleanup at the Site. JM is entitled for reimbursement of those costs and a significant extensions delays JM's receipt of what it is due.

CONCLUSION

Accordingly, Complainant Johns Manville does not object to IDOT's motion for an extension, but respectfully requests that the Hearing Officer deny IDOT's request to extend the date to respond by thirty days, and instead grant IDOT fourteen days.

Dated: August 23, 2021

Respectfully submitted,

Nijman Franzetti, LLP
Attorneys for Complainant Johns Manville

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