

**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, October 6, 2016, Respondent, Illinois Department of Transportation, has filed and served "Respondent's Motion to Extend Deadline for Submission of Post-Hearing Brief" with the Clerk of the Pollution Control Board, a copy of which are hereby served upon you.

Respectfully Submitted,

By: s/ Evan J. McGinley  
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)  
[colaughlin@atg.state.il.us](mailto:colaughlin@atg.state.il.us)  
[mccaccio@atg.state.il.us](mailto: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](mailto:Matthew.Dougherty@Illinois.gov)

**CERTIFICATE OF SERVICE**

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

I, EVAN J. MCGINLEY, do hereby certify that, today, October 6, 2016, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of “Respondent’s Motion to Extend Deadline for Submission of Post-Hearing Brief” 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](mailto:Brad.Halloran@illinois.gov)

John Therriault  
Clerk of the Pollution Control Board  
James R. Thompson Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
[john.therriault@illinois.gov](mailto:john.therriault@illinois.gov)

Susan Brice  
Lauren Caisman  
Bryan Cave LLP  
161 North Clark Street, Suite 4300  
Chicago, Illinois 60601  
[Susan.Brice@bryancave.com](mailto:Susan.Brice@bryancave.com)  
[Lauren.Caisman@bryancave.com](mailto:Lauren.Caisman@bryancave.com)

s/ Evan J. McGinley  
Evan J. McGinley

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**RESPONDENT’S MOTION TO EXTEND DEADLINE FOR SUBMISSION OF POST-HEARING BRIEF**

NOW COMES RESPONDENT, the Illinois Department of Transportation (“IDOT”), through its attorney LISA MADIGAN, Attorney General of the State of Illinois, which herewith moves the Hearing Officer, pursuant to Board Rule 101.502, 35 Ill. Adm. Code 101.502, for an additional one week in which to file its post-hearing brief. In support of this motion, Respondent states as follows:

1. On June 24, 2016, the Pollution Control Board concluded the fifth and final day of hearing in this matter. At the conclusion of the June 24<sup>th</sup> proceedings, the Hearing Officer, in conjunction with the parties, established the following briefing schedule in this matter:

- Johns Manville’s brief due August 12, 2016;
- IDOT’s brief due September 16, 2016; and,
- Johns Manville’s reply to respondent's brief due by October 7, 2016

2. Johns Manville filed their brief on August 12, 2016, along with a motion for leave to conform pleadings to proof, and to file their Third Amended Complaint (“Motion for Leave”).

3. On August 25, 2016, Johns Manville filed a response to Complainant’s Motion for Leave.

4. On September 8, 2016, the Board granted Johns Manville's Motion for Leave and amended the previously set briefing schedule, such that IDOT's post-hearing brief would be due on October 14, 2016, and Johns Manville's reply brief would due on November 4, 2016.

5. On October 4, 2016, IDOT filed its Answer and Affirmative Defenses to Johns Manville's Third Amended Complaint. The process of answering the allegations in the Third Amended Due was unusual, due to the fact that the now-operative complaint was filed after five days of hearing and the receipt into evidence of over 100 exhibits. In answering Johns Manville's Third Amended Complaint, IDOT had to review numerous exhibits and portions of testimony presented at hearing, in order to ensure the accuracy of its Answer. The process of answering Johns Manville's complaint ended up using valuable time and resources.

6. On October 6, 2016, IDOT's counsel emailed Johns Manville's counsel to inquire as to whether Johns Manville would be amenable to a one week extension for filing its post-hearing brief. Johns Manville's counsel responded that they would consult with their client. IDOT filed this motion before receiving word back from Johns Manville.

7. Given the length of the hearing in this matter and the length of time that this case has been pending before the Board, a one week delay will not materially prejudice Johns Manville or the ultimate resolution of this case.

WHEREFORE, Respondent, IDOT, respectfully requests that the hearing officer issue an order:

- 1) Granting Respondent IDOT one additional week (until October 21, 2016), to file its post-hearing brief in this matter; and,
- 2) Granting such other relief as the Hearing Officer deems to be appropriate and just.

Respectfully Submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION

s/ Evan J. McGinley

EVAN J. McGINLEY

ELLEN O'LAUGHLIN

Office of the Illinois Attorney General

69 West Washington Street, Suite 1800

Chicago, Illinois 60602

312.814.3153

312.814.3094

[emcginley@atg.state.il.us](mailto:emcginley@atg.state.il.us)

[colaughlin@atg.state.il.us](mailto:colaughlin@atg.state.il.us)

[mccaccio@atg.state.il.us](mailto:mccaccio@atg.state.il.us)