

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**JOHNS MANVILLE, a Delaware corporation,** )

**Complainant,** )

**v.** )

**ILLINOIS DEPARTMENT OF TRANSPORTATION,** )

**Respondent.** )

**PCB No. 14-3  
(Citizen Suit)**

**MOTION TO EXTEND THE FACT DISCOVERY DEADLINE  
FOR A LIMITED PURPOSE**

Johns Manville ("JM"), respectfully requests that the Board extend the time to complete fact discovery until April 6, 2015 for the limited purpose detailed below. In support of this Motion, JM states as follows:

1. JM filed this action on July 9, 2013. On September 25, 2014, the Board entered an order stating that fact discovery closes on February 6, 2015. The Board subsequently issued an order extending the close of fact discovery to February 20, 2015 by agreement of the parties.

2. Since October 7, 2014, the parties issued and responded to written discovery requests for documents and interrogatories.

3. Following its production of documents in response to JM's discovery requests, the Illinois Department of Transportation ("IDOT") learned that it has responsive archived emails in its possession. As early as February 11, 2015, IDOT's counsel represented that such documents would be reviewed and produced shortly thereafter.

4. As of today, IDOT has not yet produced the archived emails. With the close of discovery approaching, JM does not want to be prejudiced by IDOT's delay in producing the archived emails. Following JM's receipt of the archived emails, JM may need to take depositions or issue follow-up discovery.

5. JM seeks an extension of time until April 6, 2015 to extend fact discovery, provided IDOT produces the archived emails, in order to permit JM to take any discovery, including depositions if necessary, related to the archived emails that IDOT has committed to produce (and to date have not been produced).

6. This motion is not brought for the purpose of delay, and IDOT will not be prejudiced by the extension of time sought.

WHEREFORE, Johns Manville respectfully requests that the Hearing Officer:

- A. Issue an Order requiring IDOT to produce the archived emails by no later than March 6, 2015 and extending the fact discovery deadline up to and including April 6, 2015 for the limited purpose that JM may take any necessary discovery related to the archived emails that IDOT has committed to produce.
- B. Such other and further relief as the Hearing Officer deems just and necessary.

Dated: February 18, 2015

Respectfully submitted,

BRYAN CAVE LLP  
Attorneys for Complainant Johns Manville

By:   
Susan Brice  
ARDC No. 6228903  
Kathrine Hanna

ARDC No. 6289375  
161 North Clark Street, Suite 4300  
Chicago, Illinois 60601  
(312) 602-5124  
Email: [susan.brice@bryancave.com](mailto:susan.brice@bryancave.com)

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on February 18, 2015 I caused to be served a true and correct copy of Complainant's Motion for Extension of Time upon all parties listed on the Service List addressed to each person's e-mail address. Paper hardcopies of this filing will be made available upon request.



Kathrine Hanna

**SERVICE LIST**

Evan J. McGinley  
Office of the Illinois Attorney General  
69 West Washington Street, Suite 1800  
Chicago, IL 60602  
E-mail: emcginley@atg.state.il.us

Matthew D. Dougherty  
Assistant Chief Counsel  
Illinois Department of Transportation  
Office of the Chief Counsel, Room 313  
2300 South Dirksen Parkway  
Springfield, IL 62764  
E-mail: Matthew.Dougherty@illinois.gov

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

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