

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

To: ALL PERSONS ON THE ATTACHED CERTIFICATE OF SERVICE

Please take note that today, March 2, 2016, I filed Respondent, Illinois Department of Transportation's First Amended Exhibit and Witness List with the Clerk of the Pollution Control Board, a copy of which are hereby served upon you.

Respectfully Submitted,

By: s/Evan J. McGinley
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THIS FILING IS SUBMITTED ON RECYCLED PAPER

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CERTIFICATE OF SERVICE

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

I, EVAN J. MCGINLEY, do hereby certify that, today, February 18, 2016, I caused to be served on the individuals listed below, by first class mail and electronic mail, a true and correct copy of the attached Notice of Filing, as well Respondent, Illinois Department of Transportation's, Exhibit and Witness List.

John Therriault, Assistant Clerk Illinois Pollution Control Board James R. Thompson Center 100 West Randolph, Suite 11-500 Chicago, Illinois 60601 John.Therriault@illinois.gov	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
Susan Brice Lauren Caisman Bryan Cave LLP 161 North Clark Street, Suite 4300 Chicago, Illinois 60601 Susan.Brice@bryancave.com Lauren.Caisman@bryancave.com	Matthew J. Dougherty Assistant Chief Counsel Illinois Department of Transportation Office of the Chief Counsel, Room 313 2300 South Dirksen Parkway Springfield, Illinois 62764 Matthew.Dougherty@Illinois.gov

s/Evan J. McGinley
Evan J. McGinley

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JOHNS MANVILLE, a Delaware corporation,)	
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v.)	PCB No. 14-3
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ILLINOIS DEPARTMENT OF TRANSPORTATION,)	
)	
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ILLINOIS DEPARTMENT OF TRANSPORTATION’S FIRST AMENDED EXHIBIT AND WITNESS LIST

Respondent, Illinois Department of Transportation (“IDOT”) herewith provides its First Amended Exhibit and Witness list (“Exhibit List”), setting forth the exhibits and witnesses that IODT presently anticipates using at hearing, currently scheduled for March 15 through 17, 2016. IDOT expressly reserves its right to amend or otherwise modify this Exhibit and Witness List, as may be necessary to list such additional exhibits and/or witnesses which it may name or identify in response to new allegations and claims raised by Complainant, Johns Manville, in their February 16, 2016 Motion for Leave to File Second Amended Complaint.

A. EXHIBITS

1. All Pleadings Filed in Case
2. Expert Report of Douglas G. Dorgan, Jr. and the following documents listed in the bibliography thereto (March 17, 2015):
 - a. Removal Action Work Plan, Revision 2; Southwestern Site Area – Sites 3, 4/5, and 6, Johns Manville Site, Waukegan, Illinois dated March 31, 2014, prepared for United States Environmental Protection Agency (USEPA) Region 5 and prepared by AECOM Technical Services, Inc.
 - b. Engineering Evaluation/Cost Analysis (EE/CA) Southwestern Site Area Sites 3, 4/5, and 6; Revision 4 and Addendum dated April 4, 2011 and October 31, 2011, prepared for Johns Manville and Commonwealth Edison Company and prepared by ARCADIS U.S., Inc.

- c. Surface and Subsurface Characterization Site 2 and Site 3 Former Johns Manville Manufacturing Facility: Waukegan, Illinois dated December 10, 1999, prepared for Johns Manville and prepared by ELM Consulting, LLC
- d. Johns Manville Southwestern Site Area, Waukegan, Lake County, Illinois, Administrative Order on Consent V-W-07-C-870 dated February 1, 2012 (initial version dated June 11, 2007)
- e. Fourth Five-Year Review Report for Johns-Manville Site dated April 30, 2013, prepared for USEPA Region 5 and prepared by ESEPA Region 5
- f. Enforcement Action Memorandum dated November 30, 2012, prepared for Johns Manville and Commonwealth Edison Company and prepared by USEPA Region 5
- g. Results of Power Line Excavation; Greenwood Avenue Ramp adjacent to Southwestern Site Area, Waukegan Illinois dated July 8, 2008, prepared for Commonwealth Edison Company and Exelon Corporation and prepared by LFR Inc.
- h. Brad Bradley (USEPA) to Denny Clinton (Johns Manville) dated July 10, 1998, Exhibit C
- i. Second Five-Year Review Report for Johns-Manville Site dated May 2, 2003, prepared for USEPA Region 5 and prepared by USEPA Region 5
- j. Bruce D. Ray (Johns Manville) to Margaret Herring (USEPA Region 5) dated July 1, 1999, Response to CERCLA Section 104(e) Request
- k. Barnhardt, M.L., 2010, Surficial Geology of Waukegan Quadrangle, Lake County, Illinois; Illinois State Geological Society, USGS-STATEMAP contract report, 2 sheets, 1:24,000
- l. Respondents' Response Document to Engineering Evaluation/Cost Analysis (EE/CA), Revision 4, as Modified and Approved by USEPA; Southwestern Site Area, Waukegan, Illinois dated March 12, 2012, prepared for USEPA Region 5 and prepared by AECOM Technical Services, Inc.
- m. Cali, S., Scheff, P., and Sokas, R., 2006 Illinois Beach State Park (IBSP); Determination of Asbestos Contamination in Beach Nourishment Sand Final Report of Findings, Great Lakes Centers for Occupational and Environmental Safety and Health

- n. AECOM Johns Manville Site 3 and Site 6 Draft Cost Estimate_11Mar15 dated March 12, 2015, prepared for Weaver Consultants Group and prepared by AECOM Technical Services, Inc.
 - o. Modifications to the Engineering Evaluation/Cost Analysis dated February 2012, prepared for Johns Manville and prepared by USEPA Region 5
3. Transcript of May 16, 2016 Deposition of Douglas G. Dorgan, including all exhibits (May 16, 2015)
4. Expert Rebuttal Report of Steven L. Gobelman and the following documents listed in the bibliography thereto (May 29, 2015):
- a. Notice to Bidders, Specifications, Proposal, Contract and Contract Bond (IDOT 000721-781)
 - b. State of Illinois Department of Public Works and Buildings, Division of Highways, Plans for Proposed Federal Aid Highway, F.A. Route 42 – Section 8-HB & 8-VB, Lake County, Contract #28266 (JM 000586-1235)
 - c. Memo from Ziejewski, Sigmund C., regarding utility conflicts. October 13, 1971 (IDOT 000247-249)
 - d. Standard Specifications for Road and Bridge Construction, adopted January 2, 1971
 - e. Riddle, Paul F. Authorization of Contract Changes not Involving Section Length, document Authorization #14. November 14, 1973 (IDOT 000318-19)
 - f. Authorization of Contract Changes not Involving Section Length, Authorization #18 (Final). May 5, 1975 (IDOT 000329)
 - g. Resolution with the City of Waukegan. April 7, 1966 (IDOT 00024-32)
 - h. Resolution with Lake County. October 20, 1965 (IDOT 00068-74)
 - i. Illinois Department of Transportation's response to U.S. Environmental Protection Agency's Request for Information Regarding the Johns Manville Superfund Site in Waukegan, Illinois. November 27, 2000. (IDOT 000373-77)
 - j. Hagerman, T.E. Supervising Engineer's Report. October 23, 1972 (IDOT 000134)
5. Transcript of July 10, 2015 Deposition of Steven L. Gobelman, including all exhibits
6. Rebuttal Report of Douglas G. Dorgan (07/27/15)

7. Transcript of October 28, 2015 Deposition of Denny Clinton, including all exhibits
8. Transcript of October 29, 2015 Deposition Transcript of Douglas G. Dorgan, including all exhibits
9. IDOT Historical Aerial Photos of Vicinity of Site (Group Exhibit):
 - a. BW Photo 07/20/39
 - b. BW Photo 07/20/39
 - c. BW Photo 07/01/54
 - d. BW Photo 07/01/54
 - e. BW Photo 10/20/67
 - f. BW Photo 10/20/67
 - g. BW Photo 06/11/70
 - h. BW Photo 06/11/70
 - i. BW Photo 10/26/72
 - j. BW Photo 10/26/72
 - k. BW Photo 10/30/78
 - l. BW Photo 10/30/78
 - m. BW Photo 08/17/88
 - n. BW Photo 08/17/88
 - o. BW Photo 03/31/00
 - p. BW Photo 03/31/00
 - q. Color Photo 03/31/00
 - r. Color Photo 03/31/00
10. Historical Topographical Maps of Vicinity of Site
 - a. 1914 Topo Map
 - b. 1929 Topo Map
 - c. 1939 Topo Map
 - d. 1960 Topo Map
 - e. 1972 Topo Map
 - f. 1980 Topo Map
 - g. 1993 Topo Map
 - h. 2012 Topo Map
11. Aerial Photograph of Johns Manville Facility, c. 1960 (JM 001296)
12. Text of Environmental Protection Act (1970)
13. Pollution Control Board Solid Waste Regulations (July 19, 1973)
14. IDOT 1971 "Standard Specifications"
15. Johns Manville's Responses to IDOT's First Set of Interrogatories (12/12/14).

16. Johns Manville's Responses to IDOT's First Set of Requests for Production (12/12/14)
17. Johns Manville's Responses to IDOT's Second Set of Interrogatories (01/02/15).
18. Johns Manville's Responses to IDOT's Second Set of Requests for Production (01/02/15)
19. Johns Manville' 1999 104(e) response (JM000011-29)
20. USEPA Comments on EE/CA, Rev. 1 (February 3, 2010) (JM 001446-1451)
21. Comments on EE/CA, Rev. 2 (June 2, 2010 USEPA)(JM 001547-1549)
22. USEPA Comments on EE/CA, Rev. 3 (October 6, 2010)(JM 001646-1651)
23. EE/CA, Rev. 4 (April 4, 2011) (JM 001652-1549)
24. Response to February 1, 2012 USEPA comments (March 12, 2012) (JM 002400-2414)
25. Email from Bruce Ray to Ann Coyle (July 6, 2000) (JM 002415)
26. Email thread between Brent Tracy and Janet Carlson (February 15, 2007) (JM 002419)
27. Email from Brent Tracy to Janet Carlson (May 7, 2007)
28. USEPA, Enforcement Action Memorandum (November 30, 2012)
29. Letter from Susan Brice to Janet Carlson (December 20, 2012) (JM 002550-2566)
30. Letter from Susan Brice to USEPA Region V (May 16, 2013) (JM 002567-2576)
31. USEPA, Notice re: Dispute Resolution (June 5, 2013) (JM 002582-2583)
32. USEPA, Response to Notices of Dispute (September 19, 2013)(JM -002584-2589)
33. Remedial Action Work Plan (November 2013) (JM 002593-3724)
34. USEPA comments on RAWP (February 16, 2014) (JM 0043648-4654)
35. USEPA, Approval of RAWP (April 30, 2014) (JM 005774)

36. Letter from USEPA to Denny Clinton (July 10, 1998) (JM 005796-98)
37. Date Unknown – RAWP Scope of Work and Implementation Issues (JM 005814-5821)
38. April 30, 1998 Letter to Denny Clinton (JM 005841-5842)
39. Complainant's Revised Responses to [IDOT's] Interrogatories 1 and 2 (05/13/15)
40. IDOT's Subpoena to Johns Manville for Deposition of Douglas G. Dorgan, Jr
41. IDOT's Subpoena to Johns Manville for Deposition of William D. Clinton
42. Johns Manville's Response to IDOT's Subpoena of Deposition of Douglas G. Dorgan, Jr. (10/27/15)
43. Johns Manville's Response to IDOT's Subpoena of Deposition of William Dennis Clinton (10/27/15)
44. Photos taken of vicinity of Sites 3 and 6 by Steven Gobelman in May 2015 (IDOT 002664-002697)
45. Memo from S. Ziejewski (September 21, 1971) (IDOT 000962)
46. Undated Scope of Audit Report (IDOT 000143-144)
47. November 10, 1971 - Change Order for Special Excavation (IDOT 000221)
48. September 30, 1971 – Award letter (IDOT 000260)
49. 1971 Standard Specifications
50. IDOT's Production of Documents to Johns Manville (Bates # IDOT001064-001067).
51. IDOT's Third Production of Documents to Johns Manville (Bates # IDOT002664-0003354).
52. September 2015 - Contract for Legal Services between Illinois Department of Transportation and Andres Engineering, Inc.

B. POTENTIAL WITNESSES

IDOT may call some or all of the following persons as witnesses in the hearing no this matter:

1. Steven L. Gobelman (IDOT expert witness)
2. Keith W. Stoddard (IDOT fact witness)
3. Steven G. Warren (IDOT fact witness)
4. Douglas G. Dorgan, Jr. (Johns Manville expert witness)
5. Tat Ebihara (Johns Manville fact witness)
6. William D. Clinton (Johns Manville fact witness)
7. Bruce Ray (Johns Manville fact witness)
8. Brent Tracy (Johns Manville fact witness)

Respectfully Submitted,

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