

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
Complainant,)

PCB 96-98

v.)

Enforcement

SKOKIE VALLEY ASPHALT, CO., INC.,)
EDWIN L. FREDERICK, JR., individually and as)
owner and President of Skokie Valley Asphalt)
Co., Inc., and RICHARD J. FREDERICK,)
individually and as owner and Vice President of)
Skokie Valley Asphalt Co., Inc.,)
Respondents)

**RESPONDENTS' FIRST SET OF INTERROGATORIES
REGARDING ATTORNEYS' FEES, COSTS AND EXPENSES**

The Respondents, SKOKIE VALLEY ASPHALT, CO., INC., EDWIN L. FREDERICK, JR., individually and as owner and President of Skokie Valley Asphalt Co., Inc., and RICHARD J. FREDERICK, individually and as owner and Vice President of Skokie Valley Asphalt Co., Inc., by and through their attorney, David S. O'Neill, pursuant to Illinois Supreme Court Rule 213, herein respectfully, serve upon Complainant the following interrogatories, the responses to which are to be delivered by May 25, 2005, to the offices of David S. O'Neill, 5487 N. Milwaukee Avenue, Chicago, Illinois 60630-1249.

INSTRUCTIONS

1. These interrogatories call for information (including information contained in any Document) that is known or available to Complainant.
2. If Complainant can not answer any interrogatory fully and completely after exercising due diligence to secure the information necessary to do so, please so state and answer each interrogatory to the fullest extent possible, specifying the portion of such interrogatory that the Complainant believes it is unable to answer fully and completely.

3. If subsequent to the date of these answers, Complainant discovers or receives additional information that is responsive to these interrogatories, please promptly supplement these responses to reflect such additional information to the full extent required by the Illinois Supreme Court Rules.

DEFINITIONS

The following definitions are to be used in interpreting and responding to this request regardless of whether the definition occurs before or after the use of the term defined:

Each request herein must be interpreted and responded to in light of the following definitions regardless of whether the definition occurs before or after the use of the term:

- A. "Respondents" means the parties identified as Respondents in the title of this request.
- B. "State" means the Plaintiff, People of the State of Illinois and includes each of its departments, agencies, agents, servants, employees and experts.
- C. "Identify" means fully state and enumerate:
 - 1. As to person: state the full name, title, relation to the person to which this request is directed and the business address of such person;
 - 2. As to document: state the particular document (e.g. study, letter, map, etc. as detailed below), its date, title, author, addressee, publisher and any other basis for identification of such record. Also, state the person or body having charge of the document, the address and room number where such is physically located, the particular file containing such document and any other information which would facilitate a search for such record; and
 - 3. As to action or reason: state each action taken, the name of the person taking such action and/or making the determination, the date, time and location of said action and/or determination and the detailed nature of that act and identify all witnesses thereto and Related Documents.
- D. "In the possession of" means in the physical possession of, or under or subject to the control of or available to as a matter of right, the person or body named or any person or body subject to the control or direction of such person or body in regard to the record or item named.
- E. "Related to, Relating to, Concerning, Pertaining to, Relevant to, or Regarding" means consist of, refer to, reflect or be in any way logically, factually or conceptually connected with the matter discussed directly or indirectly.
- F. "Document" means all copies of all written or graphic matter of every kind and description, however produced or reproduced, whether relating to facts, opinion,

event, recollection or intention, whether draft or a final, original or a reproduction including, but not limited to: canceled checks, ledgers, audits, diaries, calendars, photographs, notes, outlines, requisitions, reports, summaries, invoices, witness statements, bills of lading, orders, receipts, bank records, laboratory analysis, computations, models (whether computer generated or otherwise), letters, statements, correspondence, memoranda of telephone or personal conversations or other communications, memoranda of intra or inter office communications, bulletins, electronically stored information including, without limitation, such information which constitutes a complete file, a portion of file and without exception, any other computer or retrievable data (whether encoded, taped, or coded electrostatically, electromagnetically or otherwise); and any other Documents functionally similar to the foregoing, however described in the possession, custody or control of the Party to which this request is directed.

- G. If a request relates to reports, studies or like Documents, the request shall include all drafts, outlines, computations, notes, work paper and other information utilized or necessary to prepare the report, study or like document.
- H. "Communication" means all inquiries, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, letters, notes, telegrams, and all other forms of oral or written intercourse.
- I. "And, or, and/or" means and, as well as or, shall be construed either disjunctively or conjunctively, as necessary to bring within the scope of this requested information and/or Documents which might otherwise be construed to be outside its scope.
- J. "Plural/Gender" as used herein, means any use of the singular shall include the plural and the singular. As used herein, any word connoting the masculine or feminine gender shall include the masculine, feminine and the non-gender, and the use of the non-gender shall include both the masculine and the feminine.
- K. "Non-Disclosure" means with respect to information which is withheld or not disclosed as requested pursuant hereto, due to a claim of privilege or non-disclosure, a statement shall be provided by counsel setting forth as to each such withholding or non-disclosure:
 - 1. A brief description of the nature and subject matter and the reason for withholding or non-disclosure of the information; and
 - 2. The statute, rule, decision or other basis which is claimed to give rise to the privilege, or any other justification for the non-disclosure or withholding of the requested information.
- L. "Subject Matter of this Case" means in any manner conceptually Related to questions of fact or law in this case regardless of the point in time and whether they are Related to a motion, complaint, answer, counterclaim, cross claim, affirmative defenses or other pleadings whether in original or amended form.
- M. "Knowledge" means information either favorable or unfavorable to the position of the Person at whom this request is directed.

- N. "Person" ("People") includes natural persons, partnerships and governmental and private entities whether incorporated or otherwise but does not include the Respondents, its agents, employees or experts.
- O. "Facility" means any land or structures at any time used to conduct any operation of the Respondents which is Related to the Subject Matter of this Case and includes, but is not limited to, any former and/or current plant as necessary to broaden the request and the scope of the required response.
- P. "Board" shall mean the Illinois Pollution Control Board and includes each of its departments, agencies, agents, servants, employees and experts..
- Q. "Illinois Attorney General's Office" shall mean the Office of the Illinois Attorney General and includes each of its departments, agencies, agents, servants, employees and experts..
- R. "Attorneys Claiming Fees" shall include all employees of the State that are claiming fees and cost matter and will include, but is not necessarily limited to Bernard Murphy and Mitchell Cohen.

INTERROGATORIES

1. Identify the person(s) answering these interrogatories and identify any and all persons who were consulted in formulating answers to these interrogatories.
2. Identify any persons with knowledge related to the subject matter of the claims for Attorneys Fees and Costs and describe in detail the subjects of which he has knowledge.
3. Identify any and all witnesses you may or will call at the evidentiary hearing on this matter. For each witness, state the following:
 - a. The name address and employer of each witness;
 - b. A summary of the relevant facts within the knowledge of which said witness will testify;
 - c. A list of all documents or photographs which any such witness relied on, will use or which Complainant may introduce into evidence in connection with the testimony of said witness.
4. Identify any and all opinion witnesses that the Complainant interviewed or expects to call at hearing:
 - a. The subject matter on which the opinion witness is expected to testify as well as to conclusions, opinions and/or expected testimony of any such witness;
 - b. The qualification, including but not limited to, the opinion witness's educational background, practical experience in the area in which he is


expected to testify, any articles or paper he has written, any and all seminars and post graduate training he has received, his experience as a teacher or lecturer and his professional appointments and associations.;

- c. The identity of each document examined, considered or relied on by him to form his opinion;
 - d. All proceedings in which each opinion witness has previously testified as an opinion witness;
 - e. Any and all reports of the opinion witness;
5. Identify any and all attorneys that the Complainants have retained or consulted or expects to retain or consult in the preparation and conduct of this hearing:
- a. The name of the attorney;
 - b. The year the attorney was admitted to the Illinois bar
 - c. The attorney's present place of employment
 - d. The attorney's former employer
 - e. The portions of the case preparation and litigation for which the attorney will be responsible.
6. Describe any and all guidelines and policies that existed at the Illinois Attorney General's Office during the period in which hours were billed under the request for attorneys' fees, costs and expenses that addressed the topic of billing for attorneys' fees, costs and expenses and any changes to those policies or the guidelines during the same period.
7. Describe any and all review procedures that exist for reviewing and authorizing billed hours and expenses at the Illinois Attorney General's Office.
8. Give detailed information on any time and materials that were committed to or exerted for the prosecution of this case but were not billed and included in the request for reimbursement of fees, cost and expenses and the reason that thee items were not included.
9. Identify any and all hours and expenses that were assigned to this case by the attorneys but were not billed because they were contested by a supervisor reviewing time sheets and expense statements and you were instructed not to bill these items.
10. Identify any and all hours and expenses in any matter involving your employment at the Illinois time sheets and expense statements.
11. Identify both your personal policy and the policy and procedures of the Illinois Attorney General's Office regarding the assignment of work to staff/non-attorney personnel or to less experienced attorney personnel.

12. Identify any and all work in this matter that was assigned to staff or lower billing-rate attorney personnel.
13. Identify all attorneys' fees that were submitted for cost recovery in this matter that involved work to renew, redraft, correct errors, review the work of other attorneys, review files, perform legal research, request extension of time for filing, correct a document that was not filed correctly or in a timely manner or respond to motions by opposing counsel that were filed because the attorneys for the Illinois Attorney General's office had filed a document in error or after a deadline.
14. Identify all hours billed or expenses incurred in reviewing the work of Attorney Joel Sternstein or to respond to motions of opposing counsel contesting Mr. Sternstein's, your and the Attorney General's Office ethical lapses and compliance with the Board's procedural rules in practicing before the Board in this matter.
15. For all expenses related to copying, identify all pages of documents that were actually used in the presentation of the case at hearing and specifically referenced at the hearing and entered into evidence at the hearing.
16. Identify any and all attorney's fees ever paid to any of the attorneys requesting attorneys' fees including the time period of the work, the method of maintaining records of the hours worked and charged, the determination of the hourly rate, the hourly rate charged, the number of hours, the client, the nature of the work, the total amount bill and the total amount collected.
17. Identify on the methodology used to determine the hourly rate to be used to bill the attorneys' hours in this matter and the name of the supervisory personnel who were consulted and/or approved of the hourly rate to be charged.
18. Identify the Illinois Attorney General's Office policy on travel, hotel stays, hotel selection, and other expenses incurred by the attorneys during the period of the hearing before the Board.
19. Identify any progress billings, periodic billing or intermediate billing that was prepared for this case.
20. Identify information pertaining to any review, approval and payment of any progress bills, periodic bills or intermediate bills submitted for approval and/or payment.
21. Identify any budget prepared for attorneys' fees, costs and expenses related to this case and any information pertaining to the tracking and compliance to the budget and any adjustments made to the budget.
22. Identify concerning the review and approval of any budget prepared for this case, the review of any reports tracking compliance with the budget and the approval of any adjustments made to the budget.
23. For any case in which the Illinois Attorney General's Office has previously or is presently seeking attorneys' fees, costs and expenses under the same legal authority it is seeking attorneys' fees costs and expenses in this matter, please supply the following information:

- a. The parties involved in the litigation;
 - b. The court and jurisdiction in which the claim was filed;
 - c. The file number of the case;
 - d. The subject matter of the case;
 - e. The violations alleged in the case;
 - f. The final judgment against the Respondents in the case;
 - g. The names of the attorneys from the Illinois Attorney General's Office requesting fees;
 - f. The number of hours requested in fees by each attorney;
 - h. The hourly rate for fees requested by each attorney;
 - i. The annual salary paid to each attorney by the Illinois Attorney General's Office during the years in which the attorney claimed attorneys' fees;
 - j. The actual attorneys' fees costs and expenses awarded in each case;
 - k. The basis for awarding attorneys' fees, cost and expenses different than the amount requested in each case where the amounts were different.
24. Supply information for the period during which attorneys' fees, cost and expenses are being requested on the Illinois Attorney Generals' Office for preparing, reviewing and executing affidavits and any changes to this policy during the same period.
25. Supply information for the period during which attorneys' fees, cost and expenses are being requested on the Illinois Attorney Generals' Office for reprimanding or disciplining employees that prepare and execute false affidavits.

David S. O'Neill


On behalf of the Respondents

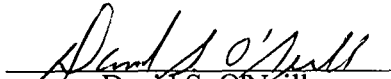
April 25, 2005

David S. O'Neill, Attorney at Law
5487 N. Milwaukee Avenue
Chicago, Illinois 60630-1249
(773) 792-1333

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached RESPONDENTS' FIRST SET OF INTERROGATORIES REGARDING ATTORNEYS' FEES, COSTS AND EXPENSES by hand delivery on April 25, 2005, upon the following party:

Mitchell Cohen
Environmental Bureau
Assistant Attorney General
Illinois Attorney General's Office
188 W. Randolph, 20th Floor
Chicago, IL 60601


David S. O'Neill

NOTARY SEAL

SUBSCRIBED AND SWORN TO ME this 23

day of APRIL, 20 05


Notary Public

