

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUL 9 2003

PEOPLE OF THE STATE OF ILLINOIS

Complainant,

v.

SKOKIE VALLEY ASPHALT, CO., INC.,
an Illinois corporation,
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.,

No. PCB 96 - 98

Respondents.

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on July 9, 2003, we filed with the Illinois Pollution Control Board "COMPLAINANT'S FIRST MOTION TO COMPEL RESPONDENTS, SKOKIE VALLEY ASPHALT, CO., INC., EDWIN L. FREDERICK, JR. AND RICHARD J. FREDERICK, TO RESPOND TO DISCOVERY REQUESTS", a true and correct copy of which is attached and hereby served upon you.

Respectfully submitted,

JAMES E. RYAN
Attorney General
State of Illinois

BY:



MITCHELL L. COHEN
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
(312) 814-5282

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SERVICE LIST

Mr. David O'Neill
Attorney at Law
5487 North Milwaukee
Chicago, Illinois 60630

Ms. Carol Sudman
Hearing Officer
Illinois Pollution Control Board
600 S. Second Street, Suite 402
Springfield, Illinois 62704

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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.,)

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STATE OF ILLINOIS
Pollution Control Board

No. PCB 96-98

**COMPLAINANT'S FIRST MOTION TO COMPEL
RESPONDENTS, SKOKIE VALLEY ASPHALT, CO., INC.,
EDWIN L. FREDERICK, JR. AND RICHARD J. FREDERICK,
TO RESPOND TO DISCOVERY REQUESTS**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA
MADIGAN, Attorney General of the State of Illinois, pursuant to
Sections 101.100(b), 101.616, 101.618, 101.620, and 101.800 of
the Board's Procedural Rules, 35 Ill. Adm. Code 101.100(b),
101.616, 101.618, and 101.620, Supreme Court Rules 201, 213, 214,
216, and 219, and Hearing Officer Orders dated March 28, 2003 and
June 30, 2003, states in support of Complainant's First Motion To
Compel Respondents, Skokie Valley Asphalt, Co., Inc., Edwin L.
Frederick, Jr. And Richard J. Frederick, To Respond To Discovery
Requests as follows:

INTRODUCTION

1. In accordance with the Hearing Officer Order dated March 28, 2003, Complainants mailed to Respondents' Counsel on May 7, 2003, Interrogatories, Requests to Produce Documents, and Requests for Admissions for all three Respondents. See copy of letter attached as Exhibit A.¹

2. The March 28th Order required all written discovery to be completed by June 20, 2003.

3. Respondents' answers and responses to the discovery mailed on May 7th was due no later than June 9, 2003.

4. On June 9th, Respondents' filed a Motion for Extension of Time which asked in essence that they have until July 3, 2003, to answer and respond to Complainant's discovery requests.

5. Complainant agreed to extend the time to answer and respond to discovery until July 3rd.

6. Hearing Officer Sudman issued a new discovery schedule with July 3rd as the date all written discovery was to be completed.²

¹ Part of the letter was a Sup. Ct. Rule 201(k) letter in relation to earlier discovery that was either incomplete or not supplemented.

² Also in accordance with the Hearing Officer Orders, depositions are to be completed by August 20, 2003. Complainants already noticed four depositions beginning July 22, 2003.

RESPONDENTS' FAIL TO RESPOND TO DISCOVERY REQUESTS

7. Respondents' Counsel, David O'Neill, did not contact Complainant's Counsel on or before July 3rd regarding the discovery responses.

8. Respondents failed to serve any answers or responses to Complainant's discovery requests on July 3rd, or any time since.

9. In accordance with Sup. Ct. Rule 201(k), Complainant's Counsel tried to resolve discovery differences and sent Respondent's Counsel a 201(k) letter, a copy of which is attached as Exhibit B.


10. Respondents' Counsel has not provided any discovery answers or responses, responded to the 201(k) letter, or called to discuss the situation.

WHEREFORE, Complainant requests, pursuant to the Board's Procedural Rules and the Supreme Court Rules, the following:

1. A finding that Respondents violated the Board's Procedural Rules and the Supreme Court Rules;
2. An Order compelling Respondents to answer and respond to discovery no later than July 14, 2003;
3. An Order requiring Respondents to pay all attorney fees and costs associated with this First Motion to Compel; and

4. Such other sanctions that the Board believes to be appropriate.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General of the
State of Illinois,

By: 
MITCHELL L. COHEN
JOEL J. STERNSTEIN
Assistant Attorney General
Environmental Bureau
188 W. Randolph St. - 20th Fl.
Chicago, IL 60601
(312) 814-5282/(312) 814-6986



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 7, 2003

David S. O'Neill
Attorney at Law
5487 N. Milwaukee Ave.
Chicago, IL 60630-1249

RE: People v. Skokie Valley Asphalt, Inc., PCB #96-98
Discovery and Sup. Ct. R. 201(k)

Dear David:

Enclosed please find Interrogatories, Requests to Produce Documents, and Requests for Admissions for all three Respondents.

As we were preparing these pursuant to the Hearing Officer's Order, we noticed that at least some of Skokie Valley Asphalt, Inc. tax returns were not included in the Response to the First Document Request. We did not receive the most recent ones: 1997, 1998 and if there is another after dissolution, we request that as well. Please supplement that specific response and any others you are aware of in accordance with Sup. Ct. Rules 213(i) and 214 and Pollution Control Board Reg. 101.616(h). Thank you.

This is a Sup. Ct. R. 201(k) letter.

Sincerely,

Mitchell L. Cohen
Assistant Attorney General
Environmental Bureau
188 West Randolph, Suite 2001
Chicago, Illinois 60610
(312) 814-5282

cc. Chuck Gunnerson, Illinois EPA

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OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 7, 2003

Mr. David O'Neill, Esq.
5487 North Milwaukee
Chicago, IL 60630
Fax:(773) 792-8358

via facsimile and US mail

**Re: People v. Skokie Valley Asphalt,
Edwin L. Frederick, Jr., and
Richard J. Frederick**

Dear Mr. O'Neill,

This letter is written pursuant to Supreme Court Rule 201(k). Please call me no later than noon on July 9, 2003 to let me know when we can expect answers, responses, and documents for the following:

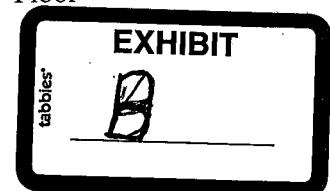
- Complainant's Second Set of Interrogatories on Respondent Skokie Valley Asphalt Co., Inc.
- Complainant's First Set of Interrogatories on Respondent Edwin L. Frederick, Jr.
- Complainant's First Set of Interrogatories on Respondent Richard J. Frederick
- Complainant's Second Request for Production of Documents, Objects, and Tangible Things on Respondent Skokie Valley Asphalt Co, Inc.
- Complainant's First Request for Production of Documents, Objects, and Tangible Things on Respondent Edwin L. Frederick, Jr.
- Complainant's First Request for Production of Documents, Objects, and Tangible Things on Respondent Richard J. Frederick
- Complainant's First Request for Admission of Facts to Respondent Skokie Valley Asphalt, Co., Inc.
- Complainant's First Request for Admission of Facts to Respondent Edwin L. Frederick, Jr.
- Complainant's First Request for Admission of Facts to Respondent Richard J. Frederick

As you know, Board Hearing Officer Sudman set June 20, 2003 as the original deadline for completion of written discovery but, without objection, extended that deadline to July 3, 2003. To date we have not received any discovery responses, and there have been no additional extensions. Please call me if you have any questions.

Sincerely,

Mitchell L. Cohen
Assistant Attorney General
Environmental Bureau
188 West Randolph, 20th Floor
Chicago, IL 60601
312-814-5282

cc. Ms. Carol Sudman - Illinois Pollution Control Board



CERTIFICATE OF SERVICE

I, MITCHELL COHEN, an Assistant Attorney General, certify that on the 9th day of July, 2003, I caused to be served by First Class Mail the foregoing "COMPLAINANT'S FIRST MOTION TO COMPEL RESPONDENTS, SKOKIE VALLEY ASPHALT, CO., INC., EDWIN L. FREDERICK, JR. AND RICHARD J. FREDERICK, TO RESPOND TO DISCOVERY REQUESTS" to the parties named on the attached service list, by telefaxing and by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



MITCHELL L. COHEN
Assistant Attorney General