

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS )  
 by LISA MADIGAN, Attorney General )  
 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. )  
 Respondents. )

PCB 96-98

**RECEIVED**  
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 DEC 05 2005  
 STATE OF ILLINOIS  
 Pollution Control Board

**RESPONSES OF THE RESPONDENT, EDWIN L. FREDERICK, JR., TO  
 COMPLAINANT'S INTERROGATORIES TO RESPONDENTS REGARDING  
 COMPLAINANT'S FEE PETITION**

NOW COMES the Respondent, EDWIN L. FREDERICK, JR., by his attorneys, David O'Neill, P.C. and Michael B. Jawgiel, P.C., and in response to the Complainant's Interrogatories to Respondent regarding Complainant's Fee Petition, states as follows:

**Interrogatory #1**

Identify the individual(s) answering these interrogatories on behalf of the Respondents, including his relationship to the Respondents, and how long he has been associated with the Respondents. Specify the particular interrogatories to which each such person contributed.

Answer: Edwin L. Frederick, with the assistance of his attorneys.

**Interrogatory #2**

With respect to any witnesses that Respondents may call at a hearing on the attorney fee issue, state the following:

- a. The name, address and employer of each witness;

- b. A summary of the relevant facts within the knowledge of or to which said witness will testify, and
- c. A list of all documents or photographs which any such witness relied upon, will use or which Respondents may introduce into evidence in connection with the testimony of said witness.

Answer: a. Joel J. Sternstein, 333 S. Wabash, 19-S, Chicago, Illinois 60685; Michael C. Partee, 188 W. Randolph Street, 20<sup>th</sup> Floor, Chicago, Illinois 60601; Mitchell L. Cohen, 188 W. Randolph Street, 20<sup>th</sup> Floor, Chicago, Illinois 60601 and Bernard J. Murphy, Jr., 125 S. Clark Street, Suite 700, Chicago, Illinois 60603.

b. These witnesses will testify on matters including, but not limited to, the billing and time record practices and procedures at the Attorney General's office, both in general and as they pertain to this matter. The testimony will also address the authenticity and the accuracy of the time sheets that were submitted in this matter as a basis for billable hours, the basis for the pay rate for the attorneys that were billed in this matter, the practices for selecting and supervising junior counsel to work on cases before the Illinois Pollution Control Board, the witnesses knowledge of and duty to know the procedural rules of the Illinois Pollution Control Board when practicing before the Board, the Attorney General's policy concerning the responsibility of a supervising attorney for either directing or allowing another assistant attorney general to knowingly and willfully commit ethical violations and violate procedural rules. The witnesses will also testify on the Attorney General's office policy and procedures to ensure against and report the submittal of false testimony in the form of false affidavits, fraudulent time records, duplication of billable hours, manufactured billing rates and other types of unethical behavior.

c. I have no knowledge of the information concerning the information on which the witnesses will reply.

### **Interrogatory #3**

Identify any and all opinion witnesses that Respondents interviewed and/or expects to call at a hearing on the attorney fee issue. Specify:

- a. The subject matter on which the opinion witness is expected to testify as well as the conclusions, opinions and/or expected testimony of any such witness;
- b. The qualifications, including, but not limited to, the opinion witness' educational background, practical experience, if any and all seminars and post graduate training he has received, his experience, if any, as a teacher or lecturer, and his professional appointments and associations;
- c. The identity of each document examined, considered, or relied upon by him to form his opinions;
- d. All proceedings in which each opinion witness has previously testified as an opinion witness;
- e. Any and all reports of the opinion witness and
- f. Whether or not each such person viewed, examined, inspected or conducted any tests at or concerning the site in issue and, if so, state:
  - i. The date of each such viewing, examining, inspection or testing;
  - ii. The location at which each such viewing, examining, inspecting or testing took place;
  - iii. The nature of each such viewing, examining, inspecting or testing (*i.e.*, visual, photographic, etc.);
  - iv. The names, addresses, titles, and capacities of all persons present during each such viewing, examining, inspecting or testing; and
  - v. Whether notes, calculations, reports or other documents were prepared or made during or as a result of any such examination, inspection or test, and identify same.

Answer: a. Deborah A. Stonich, 333 S. Wabash Avenue, Suite 19-S, Chicago, Illinois 60685. The opinion witness has not completed her review of the materials in this case and has not developed the scope and contents of her testimony. When these materials are available, they will be presented to the Board and the Complainant.

#### **Interrogatory #4**

For each attorney that has provided legal services to Respondents related to this case, list all of their hours spent on such services, as well as the corresponding activity

performed, regardless of whether all such hours and activities were actually billed to Respondents.

Answer: Objection. This interrogatory is not calculated to be to admissible evidence at the time of the hearing. Furthermore, this interrogatory asks for irrelevant information and violates the attorney-client privilege between the Respondent and the Respondent's attorneys. The Respondent has not placed his attorney's fees or his expenses at issue in this matter.

#### **Interrogatory #5**

For each attorney that has provide legal services to Respondents related to this case, describe the attorney fee arrangement with Respondents and as between attorneys in this case (*e.g.*, flat fee arrangement, hourly billing arrangement).

Answer: Objection. This interrogatory is not calculated to be to admissible evidence at the time of the hearing. Furthermore, this interrogatory asks for irrelevant information and violates the attorney-client privilege between the Respondent and the Respondent's attorneys. The Respondent has not placed his attorney's fees or his expenses at issue in this matter.

#### **Interrogatory #6**

For each attorney that has provided legal services to Respondents related to this case, list all of their hours spent on such services, as well as the corresponding activity performed, that were billed to Respondents.

Answer: Objection. This interrogatory is not calculated to be to admissible evidence at the time of the hearing. Furthermore, this interrogatory asks for irrelevant information and violates the attorney-client privilege between the Respondent and the Respondent's attorneys. The Respondent has not placed his attorney's fees or his expenses at issue in this matter.

#### **Interrogatory #7**

For each attorney that has provided legal services to Respondents related to this case, list their hourly billing rate while providing such services, and list any changes in hourly billing rates during the pendency of this case.

Answer: Objection. This interrogatory is not calculated to be to admissible evidence at the time of the hearing. Furthermore, this interrogatory asks for irrelevant information and violates the attorney-client privilege between the Respondent and the Respondent's attorneys. The Respondent has not placed his attorney's fees or his expenses at issue in this matter.

**Interrogatory #8**

Itemize all costs, on a daily basis, that were billed to Respondents and/or accrued by Respondents' attorneys related to this case.

Answer: Objection. This interrogatory is not calculated to be to admissible evidence at the time of the hearing. Furthermore, this interrogatory asks for irrelevant information and violates the attorney-client privilege between the Respondent and the Respondent's attorneys. The Respondent has not placed his attorney's fees or his expenses at issue in this matter.

**Interrogatory #9**

For each attorney that has provided legal services to Respondents related to this case, describe their education and legal experience and expertise relevant to this case.

Answer: Objection. This interrogatory is not calculated to be to admissible evidence at the time of the hearing. Furthermore, this interrogatory asks for irrelevant information and violates the attorney-client privilege between the Respondent and the Respondent's attorneys. The Respondent has not placed his attorney's fees or his expenses at issue in this matter.

**Interrogatory #10**

For each attorney that has provided legal services to Respondents related to this case, list their hourly rate billed in all other similar cases during the same time frame of this case.

Answer: Objection. This interrogatory is not calculated to be to admissible evidence at the time of the hearing. Furthermore, this interrogatory asks for irrelevant information and violates the attorney-client privilege between the Respondent and the

Respondent's attorneys. The Respondent has not placed his attorney's fees or his expenses at issue in this matter.

**Interrogatory #11**

Identify the name, address and telephone number for the attorney(s) that will be representing attorneys David S. O'Neill and Michael B. Jawgiel when they give deposition and hearing testimony on the attorney fee issue.

Answer: Objection. This interrogatory is not calculated to be to admissible evidence at the time of the hearing. Furthermore, this interrogatory asks for irrelevant information and violates the attorney-client privilege between the Respondent and the Respondent's attorneys. The Respondent has not placed his attorney's fees or his expenses at issue in this matter.

STATE OF ILLINOIS        )  
                                  ) SS  
COUNTY OF COOK         )

EDWIN L. FREDERICK, JR., being first duly sworn on oath, deposes and states that he is a Respondent in the above-captioned matter that he has read the foregoing document, and the answers made herein are true, correct and complete to the best of his knowledge and belief.

\_\_\_\_\_  
EDWIN L. FREDERICK, JR.,

SUBSCRIBED and SWORN to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2005

\_\_\_\_\_  
NOTARY PUBLIC

David O'Neill and  
Michael B. Jawgiel, P.C.  
Attorneys for Respondent  
5487 Milwaukee Avenue  
Chicago, Illinois 60630

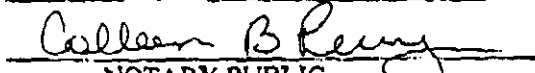
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

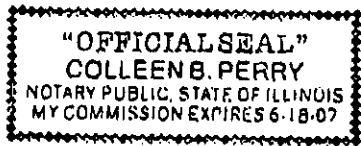
EDWIN L. FREDERICK, JR., being first duly sworn on oath, deposes and states that he is a Respondent in the above-captioned matter that he has read the foregoing document, and the answers made herein are true, correct and complete to the best of his knowledge and belief.

  
EDWIN L. FREDERICK, JR.

SUBSCRIBED and SWORN to before me this

2 day of December, 2005

  
NOTARY PUBLIC




David O'Neill and  
Michael B. Jawgiel, P.C.  
Attorneys for Respondent  
5487 Milwaukee Avenue  
Chicago, Illinois 60630



CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached RESPONSE OF THE RESPONDENT, EDWIN L. FREDERICK, JR., TO COMPLAINANT'S INTERROGATORIES TO RESPONDENTS REGARDING COMPLAINANT'S FEE PETITION by hand delivery on December 5, 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 5th

day of Dec., 20 05

  
Notary Public



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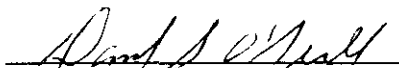
STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE 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	)	

NOTICE OF FILING

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the RESPONSE OF THE RESPONDENT, EDWIN L. FREDERICK JR., TO COMPLAINANT'S INTERROGATORIES TO RESPONDENTS REGARDING COMPLAINANT'S FEE PETITION, a copy of which is hereby served upon you.

  
\_\_\_\_\_  
David S. O'Neill

December 5, 2005

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