

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

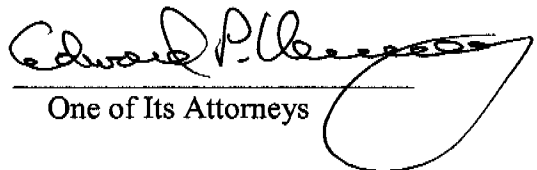
<b>IN THE MATTER OF:</b>	)	
	)	
<b>PETITION OF JOHNS MANVILLE</b>	)	
<b>FOR AN ADJUSTED STANDARD FROM</b>	)	
<b>35 ILL.ADM. CODE §§ 811.310,</b>	)	
<b>811.311, 811.318, 811.320, and 814</b>	)	<b>AS 04-04</b>
	)	<b>(Adjusted Standard-Land)</b>
	)	

**NOTICE OF FILING**

The undersigned, an attorney, hereby provides notice (see service list in Certificate of Service) that he has today caused copies of the following Joint Status Report of Petitioner Johns Manville and Respondent Illinois Environmental Protection Agency and Certificate of Service to be filed with:

Dorothy M. Gunn  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

JOHNS MANVILLE,  
Petitioner,

By:   
One of Its Attorneys

Edward P. Kenney  
Sidley Austin LLP  
One South Dearborn Street  
Chicago, Illinois 60603  
(312)853-2062

Dated: September 29, 2006

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>PETITION OF JOHNS MANVILLE</b>	)	
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	)	<b>(Adjusted Standard-Land)</b>
	)	

**JOINT STATUS REPORT OF PETITIONER JOHNS MANVILLE AND  
RESPONDENT ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

COMES NOW, Petitioner JOHNS MANVILLE, and Respondent ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by their respective counsel, and, pursuant to the Hearing Officer Order of September 14, 2006, hereby submit their Joint Status Report concerning the above-captioned matter.

1. By way of background, this case involves a closed landfill at the former Johns Manville ("JM") manufacturing facility in Waukegan, Lake County, Illinois. The landfill is located on small portion of the approximately three hundred acre site. JM ceased manufacturing operations at this location in the late 1990's, and the manufacturing buildings were demolished. The portion of this site that includes the landfill was listed on the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) National Priority List, and JM has conducted extensive remedial activities under federal and state oversight. The landfill is the subject of a federal consent decree, and a State Consent order, and the United States

Environmental Protection Agency (USEPA) and the Illinois Environmental Protection Agency (IEPA) have continuing oversight responsibilities at this site<sup>1</sup>. The landfill is physically surrounded by areas where, as part of the remediation of the site, engineered cover was placed over asbestos materials. It is important to maintain the integrity of the cover for these areas and JM must coordinate its activities relating to the landfill with the federal and state officials responsible for overseeing the CERCLA remedial activities.

2. This case was initiated by a petition filed on June 30, 2004. Petitioner Johns Manville ("JM") filed an amended petition on September 30, 2004, in response to an August 8, 2004 Order of the Pollution Control Board that directed JM to address certain statutory and regulatory information requirements.

3. The Amended Petition seeks an adjusted standard to certain provisions of the regulations governing solid waste landfills. These regulations govern various aspects of the operation, closure and post closure of different categories of solid waste landfills, and include, inter alia, regulations governing landfill gas control and groundwater monitoring. Part 814 applies to existing solid waste landfills, and incorporates various specific provisions of Part 811.

4. With respect to landfill gas control, JM seeks an adjusted standard to 35 Ill. Adm. Code 811.310(c)(1) as it relates to the frequency of sampling of landfill gas monitoring devices, and 35 Ill. Adm. Code 811.311(a)(1) as it relates to the placement of gas monitoring wells at a distance beyond the edge of the unit. With respect to groundwater monitoring requirements, JM seeks an adjusted standard to 35 Ill. Adm. Code 811.318(b)(3), and 811.318(b)(5), and to 811.320(c)(1) which relate to the location of groundwater monitoring wells beyond the perimeter

<sup>1</sup> The First Amended Consent Decree was entered by Judge Lindberg on December 1, 2004 (judgment entered on December 16, 2004) in the case of United States and People of the State of Illinois v. Manville Sales Corporation (now known as Johns Manville), United States District Court for the Northern District of Illinois, Civil Action No. 88C630. The State Consent Order was entered by Judge David Hall of the Lake County Circuit Court on January 6, 2005 in the case of People of the State of Illinois v. Johns Manville, Circuit Court of Lake County, No. CH 01 857. Both of these proceedings were concluded while this petition was pending.

of solid waste landfills and which relate to how the Zone of Attenuation should be defined and monitored.

5. Due to the complex and technical nature of the issues in this petition, counsel for Petitioner and Respondent believe that it would be in the interests of the parties and the Board if, to the extent practicable, the parties could agree on the proposed adjusted standards. Even in the absence of complete agreement, counsel believe that the interests of administrative economy would be served by narrowing the issues as much as possible. Toward that end, technical representatives of JM and IEPA have been exchanging information and meeting both before and since the petition was filed. A summary of these exchanges is set forth below:

June 23, 2004—JM submitted data from landfill gas sampling and discussed with IEPA staff the proposed adjusted standard for gas monitoring frequency and locations of gas collection devices (following up on meetings in December 2003 and February 2004 in which gas collection issues were discussed and data was requested by IEPA.

September 4, 2004—IEPA staff comments on the original petition transmitted to JM.

September 2004—JM representatives met with IEPA staff concerning proposed adjusted standards for both the landfill gas and groundwater monitoring programs.

November 30, 2004—IEPA commented regarding need for groundwater, leachate monitoring, and hydrogeological information for the site.

June 20, 2005—JM submitted Report on On-Site Landfill Groundwater and Leachate Monitoring.

August 30, 2005—Comments from IEPA concerning definition of uppermost aquifer and other items related to the pending hydrogeological investigation.

September 14, 2005—Comments from IEPA on June 20, 2005 Report.

September 26, 2005—JM submitted Site Investigation Report for On-Site Landfill.

November 23, 2005—IEPA transmitted Comments on JM September 26, 2005 Site Investigation Report for On-Site Landfill.

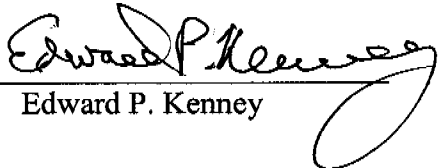
April 27, 2006—Meeting between IEPA and JM technical representatives. IEPA requested an updated and amended report on groundwater and leachate quality.

June 23, 2006—On-Site Landfill Groundwater and Leachate Quality Report submitted to IEPA in draft form for review and comment prior to finalizing.

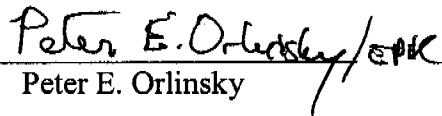
As a result of these meetings, counsel believe that the issues have been substantially narrowed, particularly concerning landfill gas monitoring frequency and location, upon which there appears to be substantial agreement between the parties. Counsel also believe that progress has also been made with respect to the groundwater monitoring well locations, and that the review of the June 23, 2006 Report by IEPA staff will serve the interests of administrative efficiency in further refining the issues. Counsel believe that it will be possible to conclude the technical discussions and proceed toward scheduling a hearing in which the issues have been appropriately framed within the next few months, and will report to the Hearing Officer on November 9, 2006 as to the progress that has been made as of that date, and their proposals for moving this case toward hearing.

Respectfully submitted,

JOHNS MANVILLE,  
Petitioner,

By:   
Edward P. Kenney

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,  
Respondent

By:   
Peter E. Orlinsky

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that he caused copies of the foregoing Notice of Filing and Joint Status Report of Petitioner Johns Manville and Respondent Illinois Environmental Protection Agency, by placing the same in the United States Mail, first class postage prepaid, this 29<sup>th</sup> day of September, 2006, addressed to:

Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
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CHI 3619250v.1