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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2222 ELSTON LLC, an Illinois)
 limited liability company,)
)
 Complainant,)
)
 v.)
)
 PUREX INDUSTRIES, INC., a Delaware)
 corporation, FEDERAL DIE CASTING)
 CO., an Illinois corporation, FEDERAL)
 CHICAGO CORP., an Illinois corporation,)
 RAYMOND E. CROSS, an Illinois resident,)
 BEVERLY BANK TRUST NO. 8-7611,)
 and LAKESIDE BANK TRUSTS NOS.)
 10-1087 AND 10-1343,)
)
 Respondents.)

PCB No. 03-55

**FEDERAL DIE CASTING CO.'S FIRST SET OF DOCUMENT REQUESTS
TO COMPLAINANT 2222 ELSTON LLC**

Pursuant to 35 ILL. ADM. CODE §101.614 and 101.616, Respondents Federal Die Casting, Co., an Illinois corporation, Federal Chicago Corporation, an Illinois corporation, and Raymond E. Cross, an Illinois resident (collectively, "Federal Respondents"), by their counsel, hereby request that Complainant 2222 Elston LLC ("Elston" or "Complainant") comply with each of the following discovery requests by producing for inspection and copying all documents and things (as further defined below) responsive to the specific requests set forth below, that are within its possession, custody, or control, within twenty-eight (28) days after service.

The Instructions and Definitions that appear below form an integral part of these specific requests for the production of documents and things that follow, and must be read in conjunction therewith. Where any defined word or phrase is used in a discovery request, it is to be interpreted as defined.

INSTRUCTIONS AND DEFINITIONS

A. Responses to this discovery request shall be supplemented and/or amended as required by 35 ILL. ADM. CODE §101.616(h).

B. “You,” “Your,” “Complainant,” or “Elston” shall refer to 2222 Elston LLC, and, individually and collectively, include all parent corporations, subsidiaries, affiliates, predecessors-in-interest, successors-in-interest, and any present or former divisions, directors, officers, employees (present and former), attorneys, agents, consultants, contractors, or representatives thereof.

C. The singular shall be construed to include the plural, and vice versa, to make the request inclusive rather than exclusive.

D. The terms “any,” “all,” and “each” shall be interchangeable as necessary to call for the broadest possible response.

E. For the purposes of this request for production of documents and things, a document or thing shall be deemed to be in the control of Elston if any person or entity having possession or custody of the document or thing would provide a copy or other reproduction to Elston in the ordinary course of business as a result of contractual obligation, employment by Elston, fiduciary duty, business relationship, or otherwise.

F. Any privilege objection that you raise should be confined to that portion of the request for which you make such a claim and shall not excuse you from otherwise responding to the request to the fullest extent possible consistent with preserving your claim of privilege.

G. If you object to any request on grounds of privilege, identify each document or thing with respect to which privilege is claimed, and provide (a) the reason for

withholding; (b) a statement of facts constituting the basis for any claim of privilege or other grounds for non-production; and (c) a brief description of the document or thing, including:

- (a) the date of the document or the identification and location of the thing;
- (b) the name of the author, authors, or preparer of the document or custodian of the thing and identification by employment and title of each such author(s), preparer, or custodian;
- (c) the name of each person who was sent or has had access to, or custody of the document or thing, together with an identification of each such person;
- (d) the numbered request to which the document or thing relates; and
- (e) in the case of any document relating in any way to a meeting or conversation, identification of such meeting or conversation.

H. Documents and things are to be produced for inspection and copying as they are kept in the usual course of business, or organized and labeled to correspond with the categories in this request, but all documents and things shall be produced in accordance with a single approach.

SPECIFIC DEFINITIONS

I. The term "Site" shall refer to that parcel of property located at 2228 N. Elston Avenue in Chicago, Illinois, legally described as:

Lots 1 to 4, inclusive, in block 4 in Fullerton's addition to Chicago being a subdivision of that part of the Southeast ¼ of Section 30, Township 40 North, Range 14 East, of the third principal meridian lying west of the north bend of the Chicago River and that part of the north ½ of the northeast ¼ of Section 31, Township 40 North, Range 14 East of the third principal meridian, in Cook County, Illinois.

J. The term "Sales Contract" shall refer to the August 3, 1999 Real Estate Sales Contract for the sale of 2222 N. Elston Avenue entered into by Baker Development Corporation and Lakeside Bank, as Trust No. 10-343 and Trust No. 10-1087, along with any and all Riders and Exhibits attached thereto.

K. The term "Escrow Agreement" shall refer to the Escrow Agreement by and among Elston, Raymond Cross as beneficiary of Lakeside Bank Land Trusts No. 10-1343 and 10-1087, and The First Commercial Bank as Escrow Agent, dated January 24, 2000.

J. The term "contaminants" shall refer to the oils, solvents, varnish-related products and by-products, PCB-containing materials, and petroleum-related products and by-products that are alleged in the Complaint to have been released at or near the Site.

K. The term "affiliate" shall mean, when used with respect to a specified Person, another Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the Person specified. For the purposes of this definition, the term "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

L. The term "response actions" shall refer to any and all actions taken to address, investigate, remove, remediate, or otherwise cleanup any waste materials, pollutants, or contaminants at or near the Site.

M. The term "Act" shall refer to the Illinois Environmental Protection Act, 415 ILL. COMP. STAT. 5/1 et. seq.

N. The term “relating to” means constituting, comprising, containing, consisting of, evidencing, setting forth, proposing, showing, disclosing, describing, discussing, explaining, summarizing, concerning, reflecting, authorizing, or referring to, directly or indirectly.

O. The term “person” means any natural individual, firm, corporation, limited liability company, partnership, joint venture, governmental agency, association, trust, estate, or any other form of entity, together with any officers, directors, partners, trustees, employees, legal representatives, or agents thereof.

REQUESTS

Request No. 1 All documents relating to any affiliate of Elston or any shareholders/owners of Elston.

Request No. 2 All documents relating to the negotiation, drafting, execution, assessment, and/or analysis of the Sales Contract.

Request No. 3 All documents relating to the negotiation, drafting, execution, assessment, and/or analysis of the Escrow Agreement.

Request No. 4 All documents relating to the establishment, funding, use, or disbursement, of or from the escrow account pursuant to the Escrow Agreement.

Request No. 5 All documents relating to any environmental diligence, investigation, assessment, or other inspection of the Site or property at or near the Site, including but not limited to any documents related to decisions not to pursue or undertake any such diligence, investigation, assessment, or other inspection of the Site or property at or near the Site.

Request No. 6 All documents relating to any development or business plans regarding the Site or property at or near the Site.

Request No. 7 All documents relating to any response actions performed at or near the Site, including but not limited to invoices, receipts, work orders, agreements, contracts, memoranda, drafts, communications, maps, charts, graphs, studies, evaluations, sample results, assessments, and notes.

Requests No. 8 All documents relating to any future response actions to be taken at or near the Site, including but not limited to invoices, receipts, work orders, agreements, contracts, memoranda, drafts, communications, maps, charts, graphs, studies, evaluations, sample results, assessments, and notes.

Request No. 9 All documents related to any communications between Elston and the State of Illinois (including any agency, board, or other political or administrative subdivision) regarding the Site.

Request No. 10 All documents related to any communications between Elston and the City of Chicago (including any agency, department, or political or administrative subdivision) regarding the Site.

Request No. 11 All documents related to any communications between Elston and the United States Environmental Protection Agency (including any division or other political or administrative subdivision) regarding the Site.

Request No. 12 All documents relating to the allegation that any of the Federal Respondents conducted die casting operations at or near the Site.

Request No. 13 All documents relating to the allegation that any of the Federal Respondents stored, disposed of, or abandoned the alleged contaminants at or near the Site.

Request No. 14 All documents relating to the allegation that releases of the alleged contaminants occurred at or near the Site between 1978 and 2000.

Request No. 15 All documents relating to the allegation that the Federal Respondents had knowledge of or otherwise allowed the releases of the alleged contaminants at or near the Site between 1978 and 2000.

Request No. 16 All documents relating to the allegation that the Federal Respondents disposed of or allowed the disposal of waste tires and other discarded materials at or near the Site between 1978 and 2000.

Request No. 17 All documents relating to the allegation that the Federal Respondents disposed of or allowed the disposal of hazardous waste at or near the Site, or allowed such disposal to continue unabated, between 1978 and 2000.

Request No. 18 All documents related to the allegation that the alleged releases of contaminants at or near the Site from 1978 and 2000 caused or tended to cause surface water and/or ground-water pollution or otherwise created a water pollution hazard in Illinois.

Request No. 19 All documents related to any leases of all or part of the Site from 1978 to the present.

Request No. 20 All documents related to any communications with any third-party (including but not limited to any environmental consultants) regarding environmental conditions at the Site.

Request No. 21 All documents related to the operations conducted by any person at or near the Site from 1940 to the present.

Request No. 22 All documents referred to, relied upon, consulted, or related to the allegations in your Complaint.

Request No. 23 All documents that relate to your response to any of Federal Die Casting Co.'s First Set of Interrogatories.

Dated: September 26, 2003

Respectfully submitted,

FEDERAL DIE CASTING, CO.


By: 

One of the attorneys for Federal Die Casting, Co.

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CERTIFICATE OF SERVICE

I, Shorge K. Sato, an attorney, certify that I have served Federal Die Casting, Co.'s First Set of Document Requests to Complainant 2222 Elston LLC upon the parties on the attached service list, in the manner indicated, this 26th day of September, 2003:


Shorge K. Sato

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