

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MORTON F. DOROTHY,)
)
Complainant,)
)
v.) PCB No. 05-49
)
FLEX-N-GATE CORPORATION,)
an Illinois corporation,)
)
Respondent.)

NOTICE OF FILING

TO: Ms. Dorothy M. Gunn Carol Webb, Esq.
Clerk of the Board Hearing Officer
Illinois Pollution Control Board Illinois Pollution Control Board
100 West Randolph Street 1021 North Grand Avenue East
Suite 11-500 Post Office Box 19274
Chicago, Illinois 60601 Springfield, Illinois 62794-9274
(VIA ELECTRONIC MAIL) (VIA ELECTRONIC MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **RESPONSE TO COMPLAINANT'S MOTION FOR RECONSIDERATION**, a copy of which is herewith served upon you.

Respectfully submitted,

FLEX-N-GATE CORPORATION,
Respondent,

Dated: November 28, 2005

By: /s/ Thomas G. Safley

One of Its Attorneys

Thomas G. Safley
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

CERTIFICATE OF SERVICE

I, Thomas G. Safley, the undersigned, certify that I have served the attached
RESPONSE TO COMPLAINANT'S MOTION FOR RECONSIDERATION upon:

Ms. Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Carol Webb, Esq.
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Post Office Box 19274
Springfield, Illinois 62794-9274

via electronic mail on November 28, 2005; and upon:

Mr. Morton F. Dorothy
104 West University, SW Suite
Urbana, Illinois 61801

by depositing said documents in the United States Mail in Springfield, Illinois, postage
prepaid, on November 28, 2005.

/s/ Thomas G. Safley

Thomas G. Safley

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MORTON F. DOROTHY,)
)
 Complainant,)
)
 v.) PCB No. 05-49)
)
 FLEX-N-GATE CORPORATION,)
 an Illinois corporation,)
)
 Respondent.)

**RESPONSE TO COMPLAINANT'S
MOTION FOR RECONSIDERATION**

NOW COMES Respondent, FLEX-N-GATE CORPORATION ("Flex-N-Gate"), by and through its attorneys, HODGE DWYER ZEMAN, and for its Response to Complainant's Motion for Reconsideration, states as follows:

Complainant argues in his Motion that the Board's Order, as issued, is internally inconsistent. Flex-N-Gate disagrees and denies the same. In addition, Complainant argues that Flex-N-Gate failed to timely file its Motion for Partial Summary Judgment as to Counts II-VI. Flex-N-Gate disagrees and specifically denies that 35 Ill. Admin. Code § 103.212(b), which Complainant cites, applies to Flex-N-Gate's Motions for Summary Judgment. Complainant further alleges that the Board lacks authority to grant summary judgments in enforcement actions. Respondent vehemently disagrees. In response to Complainant's other arguments, Respondent hereby re-alleges and re-incorporates its Motions for Summary Judgment and its Response to Complainant's Motion for Summary Judgment. Finally, in light of the above, Flex-N-Gate submits that Complainant has not presented any sufficient justification for reconsideration of the Board's October 20, 2005 Order.

ELECTRONIC FILING, RECEIVED, CLERK'S OFFICE, NOVEMBER 28, 2005

WHEREFORE, the Respondent, FLEX-N-GATE CORPORATION, respectfully prays that the Board deny Complainant's Motion for Reconsideration and award FLEX-N-GATE CORPORATION such other relief as the Board deems just and proper in the premises.

Respectfully submitted,

FLEX-N-GATE CORPORATION
Respondent,

By: /s/ Thomas G. Safley
One of Its Attorneys

Dated: November 28, 2005

Thomas G. Safley
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

GWST:003/Fil/Response to Motion to Reconsideration