

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 Flex-N-Gate Corporation's **MOTION TO COMPEL**, a copy of which is herewith served upon you.

Respectfully submitted,

FLEX-N-GATE CORPORATION,
Respondent,

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

Dated: April 13, 2006

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

MOTION TO COMPEL 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 April 13, 2006; 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 April 13, 2006.

/s/ Thomas G. Safley
Thomas G. Safley

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MORTON F. DOROTHY,)	
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Complainant,)	
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v.)	PCB 05-49
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FLEX-N-GATE CORPORATION,)	
an Illinois corporation,)	
)	
Respondent.)	

MOTION TO COMPEL

NOW COMES Respondent, FLEX-N-GATE CORPORATION (“Flex-N-Gate”), by and through its attorneys, HODGE DWYER ZEMAN, pursuant to 35 Ill. Admin. Code § 101.616, and for its Motion to Compel, states as follows:

1. On December 9, 2005, Flex-N-Gate filed its proposed discovery schedule with the Illinois Pollution Control Board (“Board”), requesting 60 days for written discovery in this matter.
2. The Hearing Officer entered an Order granting Flex-N-Gate’s proposed discovery schedule on December 13, 2005. Pursuant to this Order, written discovery was due in this matter by February 14, 2006.
3. On January 18, 2006, Flex-N-Gate mailed its Interrogatories and Requests for Production to Complainant. See Flex-N-Gate Corporation’s Interrogatories to Complainant, a copy of which has been attached hereto as Exhibit A; Flex-N-Gate Corporation’s Requests for Production to Complainant, a copy of which has been attached hereto as Exhibit B.

4. On February 14, 2006, Complainant provided his responses to Flex-N-Gate's Interrogatories. See Response to Interrogatories, a copy of which has been attached hereto as Exhibit C. However, Complainant failed to certify his responses to Flex-N-Gate's Interrogatories, as required by 35 Ill. Admin. Code § 101.620(b). See id. Furthermore, Complainant failed to respond to Flex-N-Gate's Requests for Production.

5. On February 17, 2006, the undersigned sent the letter attached hereto as Exhibit D to Complainant asking Complainant to complete his responses to Flex-N-Gate's discovery requests. Complainant did not respond to that letter.

6. On February 27, 2006, the undersigned left a voicemail message for Complainant inquiring as to the status of Complainant's verification of his Answers to Interrogatories and as to the status of Complainant's Responses to Requests for Production.

7. Complainant contacted the undersigned via electronic mail on February 27, 2006, and stated that the Requests for Production had been "overlooked" and would be addressed in the near future. See E-mail from Morton Dorothy to Thomas G. Safley styled "Production," a copy of which has been attached hereto as Exhibit E. This message did not address Complainant's verification of his Answers to Interrogatories.

8. Upon review of Complainant's responses to its Interrogatories, Flex-N-Gate identified numerous concerns therewith.

9. Accordingly, on March 8, 2006, Flex-N-Gate sent correspondence to Complainant outlining these concerns and asking Complainant to amend his responses to

the Interrogatories. See Correspondence from Thomas G. Safley to Morton F. Dorothy, a copy of which has been attached hereto as Exhibit F.

10. On March 20, 2006, Complainant informed the Hearing Officer that he intended to amend his Complaint. See Hearing Officer Order dated March 20, 2006.

11. On March 28, 2006, however, Complainant informed the undersigned that he intends to move forward with Count I of his Complaint. Therefore, Flex-N-Gate's discovery requests, as served, remain valid.

12. As of the date of this Motion, Complainant has failed to respond to Flex-N-Gate's Requests for Production; Complainant has failed to certify his original responses to Flex-N-Gate's Interrogatories; and Complainant has failed to respond to Flex-N-Gate's request for amended responses to its Interrogatories.

13. Pursuant to Supreme Court Rule 201(k), counsel for Flex-N-Gate certifies that good faith efforts have been made to confer with Complainant and resolve the issues surrounding his responses to Respondent's Interrogatories and Requests for Production, as set forth above.

14. Pursuant to 35 Ill. Admin. Code § 101.616, the Board has granted the Hearing Officer the authority to resolve "all discovery disputes."

WHEREFORE, Respondent FLEX-N-GATE CORPORATION respectfully moves the Hearing Officer (a) to grant this Motion; (b) to compel Complainant to respond to Respondent's Requests for Production; (c) to compel Complainant to amend his responses to Respondent's Interrogatories as requested; (d) to order Complainant to

provide written certification for all responses, as required; and (e) to grant FLEX-N-GATE CORPORATION such other relief as the Hearing Officer deems just.

Respectfully submitted,

FLEX-N-GATE CORPORATION
Respondent,

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

Dated: April 13, 2006

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

GWST:003/Fil/Motion to Compel

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MORTON F. DOROTHY,)	
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an Illinois corporation,)	
)	
Respondent.)	

FLEX-N-GATE CORPORATION'S INTERROGATORIES TO COMPLAINANT

NOW COMES Respondent FLEX-N-GATE CORPORATION ("Flex-N-Gate"), by its attorneys, HODGE DWYER ZEMAN, and pursuant to 35 Ill. Admin. Code § 101.620, propounds the following Interrogatories on Complainant, MORTON F. DOROTHY (hereinafter "Complainant"), to be answered in accordance with the Illinois Pollution Control Board's procedural rules within twenty-eight (28) days of the date of service hereof.

INSTRUCTIONS

(a) The Board's procedural rules require you to serve your "answers and objections, if any" to the following Interrogatories on the undersigned "[w]ithin 28 days after" these Interrogatories are served on you. See 35 Ill. Admin. Code § 101.620(b).

(b) The Board's procedural rules also require that you answer each of the following Interrogatories "separately and fully in writing under oath, unless it is objected to." See 35 Ill. Admin. Code § 101.620(b).

EXHIBIT A

A verification statement (see 735 ILCS 5/1-109), signature line, and space for notarizing are provided for your use in meeting the requirement of Section 101.620(b) that Interrogatories be answered “under oath.”

(c) The Board’s procedural rules also require that you sign your answers to these Interrogatories and sign any objections you make to these Interrogatories. See 35 Ill. Admin. Code § 101.620(b).

(d) With respect to each Interrogatory, in addition to supplying the information asked for and identifying the specific documents referred to, please identify all documents to which you referred in preparing your answer thereto.

(e) If any document identified in an answer to an Interrogatory was, but is no longer, in your possession or subject to your custody or control, or was known to you, but is no longer in existence, please state what disposition was made of it or what became of it.

(f) If any document or statement is withheld from production hereunder on the basis of a claim of privilege or otherwise, please identify each such document or statement and the grounds upon which its production is being withheld.

(g) If you are unable or refuse to answer any Interrogatory completely for any reason, including, but not limited to, because of a claim of privilege, please so state, answer the Interrogatory to the extent possible, stating whatever knowledge or information you have concerning the portion of the Interrogatory which you do answer, and set forth the reason for your inability or refusal to answer more fully.

DEFINITIONS

As used in these Interrogatories, the terms listed below are defined as follows:

(a) “Act” means the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*

(b) “Board Regulations” means 35 Illinois Administrative Code §§101 *et seq.*

(c) “Document” or “documents” means any of the following of which you have knowledge or which are now or were formerly in your actual or constructive possession, custody or control: any writing of any kind, including originals and all non-identical copies (whether different from the originals by reason of any notation made on such copies or otherwise), including without limitation correspondence, memoranda, notes, desk calendars, diaries, statistics, checks, invoices, statements, receipts, returns, warranties, guarantees, summaries, pamphlets, books, prospectuses, inter-office and intra-office communications, offers, notations of any sort of conversations, telephone calls, meetings or other communications, bulletins, magazines, publications, printed matter, photographs, computer printouts, teletypes, telefax, invoices, worksheets and all drafts, alterations, modifications, changes and amendments to any of the foregoing; any correspondence, databases, spreadsheets, electronic mail or “e-mail” messages, or other information of any kind contained in any computer or other such storage system; and any audiotapes, videotapes, tape recordings, transcripts, or graphic or oral records or representations of any kind.

(d) “Hazardous Waste” means hazardous waste as defined by Part 721 of the Board Regulations.

(e) “Identify,” “identity” and “identification,” when used to refer to any entity other than a natural person, mean to state its full name, the present or last known address of its principal office or place of doing business, and the type of entity (e.g., corporation, partnership, unincorporated association).

(f) “Identify,” “identity” and “identification,” when used to refer to a natural person, mean to state the following:

1. The person’s full name and present or last known home address, home telephone number, business address and business telephone number;
2. The person’s present title and employer or other business affirmation; and
3. The person’s title and employer at the time of the actions at which each Interrogatory is directed.

(g) “Identify,” “identity” and “identification,” when used to refer to a document, mean to state the following:

1. The subject of the document;
2. The title of the document;
3. The type of document (e.g., letter, memorandum, telegram, chart);
4. The date of the document, or if the specific date thereof is unknown, the month and year or other best approximation of such date;
5. The identity of the person or persons who wrote, contributed to, prepared or originated such document; and
6. The present or last known location and custodian of the document.

(h) “Person” means any natural person, firm, corporation, partnership, proprietorship, joint venture, organization, group of natural persons, or other association separately identifiable whether or not such association has a separate juristic existence in its own right.

(i) “Possession, custody or control” includes the joint or several possession, custody or control not only by the person to whom these Interrogatories are addressed, but also the joint or several possession, custody or control by each or any other person acting or purporting to act on behalf of the person, whether as employee, attorney, accountant, agent, sponsor, spokesman, or otherwise.

(j) “Relates to” means supports, evidences, describes, mentions, refers to, contradicts or comprises.

(k) “You” means Complainant Morton F. Dorothy.

(l) “Flex-N-Gate’s Facility” means the property operated by Flex-N-Gate at 601 Guardian Drive in Urbana, Illinois, as alleged in paragraph three of your Complaint.

(m) “Wastewater Treatment Equipment” means the following equipment located at the Facility that is used to treat wastewater: equalization tanks, reduction and adjustment tanks, flocculation tank, lamella, sand filters, sludge holding tanks, and filter presses.

(n) “Wastewater Treatment Unit” means waste water treatment unit as defined in the Board Regulations at 35 Ill. Admin. Code § 720.110.

INTERROGATORIES

INTERROGATORY NO. 1: In your Complaint you allege that “Respondent is operating a hazardous waste treatment and storage facility....” (Complaint Pg. 4 ¶ 1.)

Please identify what material you are referring to in this statement that you allege constitutes “hazardous waste” as to which Flex-N-Gate is “operating a hazardous waste treatment and storage facility,” and further state:

- (a) the nature of the material;
- (b) the approximate quantity of the material;
- (c) the manner or method by which you allege Flex-N-Gate is storing, treating, and/or disposing of the material; and
- (d) the approximate location of the material at Flex-N-Gate’s Facility.

ANSWER:

INTERROGATORY NO. 2: In your Complaint you refer to “...the waste under the catwalk...” (Complaint Pg. 4 ¶ 2.) Please clarify what status you allege this material holds (i.e. do you allege that this material is hazardous waste?) and whether this is the material upon which you base your allegations in Count I of your Complaint that Flex-N-Gate has violated Section 21(f) of the Act and 35 Il. Admin. Code § 703.12(a).

ANSWER:

INTERROGATORY NO. 3: Count I of your Complaint alleges that Flex-N-Gate’s Facility is operating “...without a RCRA permit or interim status, in violation of Section 21(f) of the Act and 35 Ill. Adm. Code § 703.121(a).” (Complaint Pg. 4 ¶ 1.) On

what basis do you allege that Flex-N-Gate's facility is required to operate either with a permit or under interim status?

ANSWER:

INTERROGATORY NO. 4: In your Complaint you state, "35 Ill. Adm. Code 103.400 et seq. Include [sic] procedures under which the Board would supervise the issuance of a RCRA permit." (Complaint Pg. 4 ¶ 4.) Please state how this allegation relates, if at all, to the violation you are alleging under Section 21(f) of the Act and under 35 Ill. Admin. Code § 703.121(a) in Count I of your Complaint.

ANSWER:

INTERROGATORY NO. 5: Flex-N-Gate contends that its Wastewater Treatment Equipment (as defined above) generates and accumulates a sludge that satisfies the definition of "wastewater treatment sludge" as that term is used in the definition of "wastewater treatment unit" contained in 35 Ill. Admin Code § 720.110. Do you disagree with this contention, and, if so, please state the basis upon which you disagree including the specific portions of the definition of "sludge" at 35 Ill. Admin. Code § 720.110, and/or the definition of "hazardous waste" at 35 Ill. Admin. Code § 721.103, which you believe have not been satisfied.

ANSWER:

INTERROGATORY NO. 6: Flex-N-Gate contends that the Wastewater Treatment Equipment at its Facility meets the definition of “tank” or “tank system” as defined at 35 Ill. Admin. Code § 720.110. Do you disagree with this contention, and, if so, please state the basis upon which you disagree including the specific portion of the definition of “tank or tank system” contained at 35 Ill. Admin. Code § 720.110 which you believe has not been satisfied.

ANSWER:

INTERROGATORY NO. 7: Flex-N-Gate contends that the floor of the room in which the “chrome plating line” is located at the Facility, as alleged in paragraphs four through six of your Complaint (hereinafter “Plating Room Floor”), is sloped towards the center of the room, where two concrete “pits” are located in the floor. Do you disagree with this contention, and, if so, please state the basis upon which you disagree.

ANSWER:

INTERROGATORY NO. 8: Flex-N-Gate contends that the purpose of the slope of the Plating Room Floor is to direct any solution which falls from the bumpers proceeding through the “chrome plating line,” or otherwise falls from the “chrome plating line,” into the “pits” in the Plating Room Floor. Do you disagree with this contention, and, if so, please state the basis upon which you disagree.

ANSWER:

INTERROGATORY NO. 9: Flex-N-Gate contends that the Plating Room Floor meets the definition of “ancillary equipment” as defined at 35 Ill. Admin. Code § 720.110. Do you disagree with this contention, and, if so, please state the basis upon which you disagree including the specific portion of the definition of “ancillary equipment” contained at 35 Ill. Admin. Code § 720.110 which you believe has not been satisfied.

ANSWER:

INTERROGATORY 10: Flex-N-Gate contends that the “pits” located in the Plating Room Floor hold solution which falls from the “chrome plating line” until the solution can be transferred to the Wastewater Treatment Equipment, via direct connection. Do you disagree with this contention, and, if so, please state the basis upon which you disagree.

ANSWER:

INTERROGATORY NO. 11: Flex-N-Gate contends that the “pits” located in the Plating Room Floor meet the definition of “ancillary equipment” as defined in 35 Ill. Admin. Code § 720.110. Do you disagree with this contention, and, if so, please state the

basis upon which you disagree including the specific portion of the definition of “ancillary equipment” contained at 35 Ill. Admin. Code § 720.110 which you believe has not been satisfied.

ANSWER:

INTERROGATORY NO. 12: Flex-N-Gate contends that a pump is located at each “pit” in the Plating Room Floor, which pumps are used to transfer solution that falls onto the floor and is subsequently captured in each pit, via hard-piping, to the Wastewater Treatment Equipment. Do you disagree with this contention, and, if so, please state the basis upon which you disagree.

ANSWER:

INTERROGATORY NO. 13: Flex-N-Gate contends that the pump located at each “pit” in the Plating Room Floor meets the definition of “ancillary equipment” as defined at 35 Ill. Admin. Code § 720.110. Do you disagree with this contention, and, if so, please state the basis upon which you disagree, including the specific portion of the definition at “ancillary equipment” contained at 35 Ill. Admin. Code § 720.110 which you believe has not been satisfied.

ANSWER:

INTERROGATORY NO. 14: Flex-N-Gate contends that piping leads from the “pits” located in the Plating Room Floor to the “Wastewater Treatment Equipment.” Do you disagree with this contention, and, if so, please state the basis upon which you disagree.

ANSWER:

INTERROGATORY NO. 15: Flex-N-Gate contends that the pipes that lead from the pits in the Plating Room Floor to the Wastewater Treatment Equipment meet the definition of “ancillary equipment” as defined at 35 Ill. Admin. Code § 720.110. Do you disagree with this contention, and, if so, please state the basis upon which you disagree including the specific portion of the definition of “ancillary equipment” contained at 35 Ill. Admin. Code § 720.110 which you believe has not been satisfied.

ANSWER:

INTERROGATORY NO. 16: Flex-N-Gate contends that wastewater at the Facility is transferred through piping between the various pieces of equipment included in the definition of “Wastewater Treatment Equipment” set forth above. Do you disagree with this contention, and, if so, please state the basis upon which you disagree.

ANSWER:

INTERROGATORY NO. 17: Flex-N-Gate contends that all piping through which wastewater at the Facility is transferred between the various pieces of equipment included in the definition of “Wastewater Treatment Equipment” set forth above meets the definition of “ancillary equipment” as defined at 35 Ill. Admin. Code § 720.110. Do you disagree with this contention, and, if so, please state the basis upon which you disagree including the specific portion of the definition of “ancillary equipment” contained at 35 Ill. Admin. Code § 720.110 which you believe has not been satisfied.

ANSWER:

INTERROGATORY NO. 18: Flex-N-Gate contends that piping is used to discharge treated wastewater from the Wastewater Treatment Equipment to the Urbana Champaign Sanitary District. Do you disagree with this contention, and, if so, please state the basis upon which you disagree.

ANSWER

INTERROGATORY NO. 19: Flex-N-Gate contends that the piping from the Wastewater Treatment Equipment to the Facility’s connection with the Urbana-Champaign Sanitary District meets the definition of “ancillary equipment” as defined at 35 Ill. Admin. Code § 720.110. Do you disagree with this contention, and, if so, please state the basis upon which you disagree including the specific portion of the definition

“ancillary equipment” contained at 35 Ill. Admin. Code § 720.110 which you believe has not been satisfied.

ANSWER:

INTERROGATORY NO. 20: Please provide the name and address of each witness who will testify at any hearing in this matter and state the subject of each witness’s testimony.

ANSWER:

INTERROGATORY NO. 21: Please provide the name and address of each opinion witness who will offer any testimony or opinion on behalf of Complainant, and state:

(a) The subject matter on which the opinion witness is expected to testify;

(b) The conclusions and/or opinions of the opinion witness and the basis therefore, including reports of the witness, if any;

(c) The qualifications of each opinion witness, including a curriculum vitae and/or résumé, if any; and

(d) The identity of any written reports of the opinion witness regarding this occurrence.

ANSWER:

INTERROGATORY NO. 22: Please list the names and addresses of all other persons (other than yourself and persons heretofore listed) who purport to have knowledge, or with whom you have communicated, in writing or otherwise – including, but not limited to, representatives of the United States Environmental Protection Agency, the Illinois Environmental Protection Agency, and/or any other governmental body or agency other than the Illinois Pollution Control Board – relating to your contention in Count I of your Complaint that Flex-N-Gate has violated Section 21(f) of the Environmental Protection Act and/or 35 Ill. Admin. Code § 703.121(a).

ANSWER:

INTERROGATORY NO. 23: Please identify all persons who assisted with the preparation of your responses to these Interrogatories, whom you or your agents consulted in the preparation of your responses to these Interrogatories, and/or who otherwise provided any information used in the preparation of your responses to these Interrogatories, and indicate the Interrogatories with which each such person assisted or was consulted or provided information.

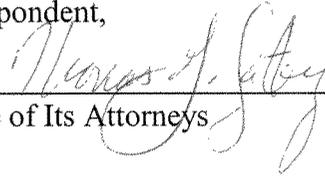
ANSWER:

INTERROGATORY NO. 24: Please identify any statements, information and/or documents or other evidence known to you and requested by any of the foregoing Interrogatories or by any Request for Production propounded on you by Respondent which you claim to be work product or subject to any common law or statutory privilege, and with respect to each Interrogatory or Request for Production, specify the legal basis for the claim.

ANSWER:

Respectfully submitted,

FLEX-N-GATE CORPORATION
Respondent,

By: 
One of Its Attorneys

Dated: January 18, 2006

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

GWST:003/Fil/Interrogatories

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**FLEX-N-GATE CORPORATION'S
REQUESTS FOR PRODUCTION TO COMPLAINANT**

NOW COMES Respondent FLEX-N-GATE CORPORATION ("Flex-N-Gate"), by its attorneys, HODGE DWYER ZEMAN, and pursuant to Section 101.616 of the Illinois Pollution Control Board's ("Board") procedural rules, 35 Ill. Admin. Code § 101.616, propounds the following Requests for Production on Complainant Morton F. Dorothy, to be answered within 28 days after these Requests for Production are served on Complainant.

INSTRUCTIONS

(a) Please produce all documents requested herein for copying at the offices of HODGE DWYER ZEMAN, 3150 Roland Avenue, Springfield, Illinois, within twenty-eight (28) days of the date of service of these Requests for Production, or provide copies of the documents requested herein to counsel for Flex-N-Gate by that date.

(b) If any document was previously in your possession or subject to your custody or control that these Requests for Production would require you to produce, but is no longer in your possession or subject to your custody or control, or was known to

EXHIBIT B

you, but is no longer in existence, please state what disposition was made of it or what became of it.

(c) If any document is withheld from production hereunder on the basis of a claim of privilege or otherwise, please identify each such document and the grounds upon which its production is being withheld.

(d) If you are unable or refuse to respond to any Request for Production completely for any reason, including, but not limited to, because of a claim of privilege, so state, answer the Request for Production to the extent possible, stating whatever knowledge or information you have concerning the portion of the Request for Production which you do answer, and set forth the reason for your inability or refusal to answer more fully.

DEFINITIONS

As used in these Requests for Production, the terms listed below are defined as follows:

(a) "Document" or "documents" means any of the following of which you have knowledge or which are now or were formerly in your actual or constructive possession, custody or control: any writing of any kind, including originals and all nonidentical copies (whether different from the originals by reason of any notation made on such copies or otherwise), including without limitation correspondence, memoranda, notes, desk calendars, diaries, statistics, checks, invoices, statements, receipts, returns, warranties, guarantees, summaries, pamphlets, books, prospectuses, interoffice and intraoffice communications, offers, notations of any sort of conversations, telephone calls, meetings or other communications, bulletins, magazines, publications, printed

matter, photographs, computer printouts, teletypes, telefax, invoices, worksheets and all drafts, alterations, modifications, changes and amendments to any of the foregoing; any spreadsheets, databases, electronic mail messages, or other information of any kind contained in any computer or other such storage system; and any audiotapes, videotapes, tape recordings, transcripts, or graphic or oral records or representations of any kind.

(b) “Possession, custody or control” includes the joint or several possession, custody or control not only by the person to whom these Requests are addressed, but also the joint or several possession, custody or control by each or any other person acting or purporting to act on behalf of the person, whether as employee, attorney, accountant, agent, sponsor, spokesman, or otherwise.

(c) “Relates to” means supports, evidences, describes, mentions, refers to, contradicts or comprises.

(d) “You” means Complainant Morton F. Dorothy.

(e) “Flex-N-Gate’s Facility” means the property operated by Flex-N-Gate at 601 Guardian Drive in Urbana, Illinois, as alleged in paragraph three of your Complaint.

REQUESTS FOR PRODUCTION

1. Please produce all correspondence or other documents of any kind relating to this matter exchanged between you and any lay witness whom you intend to, or may call to, testify at any hearing in this matter.

2. Please produce all correspondence or other documents of any kind relating to this matter exchanged between you and any independent expert witness whom you intend to call to testify at any hearing in this matter.

3. Please produce all correspondence or other documents of any kind relating to this matter exchanged between you and any controlled expert witness whom you intend to call to testify at any hearing in this matter.

4. Please produce any and all reports or other documents relating to this matter generated by any independent or controlled expert whom you intend to call to testify at any hearing in this matter.

5. Please produce a current résumé and curriculum vitae for each independent or controlled expert whom you intend to call to testify at any hearing in this matter.

6. Please produce copies of all correspondence, email messages, or other documents of any kind exchanged between you and the United States Environmental Protection Agency relating to this matter.

7. Please produce copies of all correspondence, e-mail messages, or other documents of any kind exchanged between you and the Illinois Environmental Protection Agency relating to this matter.

8. Please produce copies of all correspondence, e-mail messages, or other documents of any kind exchanged between you and any other governmental body or agency, other than the Illinois Pollution Control Board, relating to this matter.

9. Please produce any and all other documents of any kind which relate in any way to your allegation that Flex-N-Gate has violated Section 21(f) of the Act and/or 35 Ill. Admin. Code § 703.121(a), as alleged in Count I of your Complaint.

10. Please produce all exhibits which you intend to, or may seek to, enter into evidence or use as a demonstrative exhibit at any hearing in this matter.

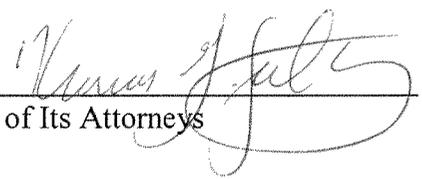
11. Please produce any photographs, motion pictures, videotapes, maps, drawings, or other visual or pictorial representations of any kind of the Flex-N-Gate Facility at issue in this matter or otherwise relating in any way to the allegations contained in your Complaint.

12. Please produce all documents, other than those produced in response to the Requests for Production set forth above, which you identified in response to Flex-N-Gate's Interrogatories.

13. Please produce all documents or other items of any kind, other than those produced in response to the Requests for Production set forth above, which you consulted or to which you referred in preparing your responses to Flex-N-Gate's Interrogatories to you or your responses to these Requests for Production.

Respectfully submitted,

FLEX-N-GATE CORPORATION
Respondent,

By: 
One of Its Attorneys

Dated: January 18, 2006

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

GWST:003/Fil/Requests for Production

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
CHAMPAIGN COUNTY, ILLINOIS

MORTON F. DOROTHY,)
)
 Complainant,)
)
 vs.)
)
 FLEX-N-GATE CORPORATION,)
 an Illinois Corporation,)
)
 Respondent.)

No. PCB 05-049

CERTIFICATE OF SERVICE

I, the undersigned, certify that, on the 13 day of February, 2006, I served the listed documents, by first class mail, upon the listed persons:

**RESPONSE TO INTERROGATORIES
THIRD INTERROGATORIES**

Thomas G. Safley
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Morton F. Dorothy
Morton F. Dorothy, Complainant

Morton F. Dorothy
104 W. University
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Urbana IL 61801
217/384-1010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
CHAMPAIGN COUNTY, ILLINOIS

MORTON F. DOROTHY,)
)
 Complainant,)
)
 vs.) No. PCB 05-049
)
 FLEX-N-GATE CORPORATION,)
 an Illinois Corporation,)
)
 Respondent.)

RESPONSE TO INTERROGATORIES

Complainant Morton F. Dorothy makes the following response to Interrogatories propounded by Respondent on January 18, 2006.

1. Complainant does not have detailed information to respond to this question, apart from the documents produced by Respondent in discovery, which are in Respondent's possession, and which are too voluminous to fully summarize. Evidence that Respondent is treating and storing hazardous waste includes the following:
 - a. Respondent has produced a "Contingency Plan" which represents that it was prepared to meet the Board's regulations governing hazardous waste management facilities in 35 Ill. Adm. Code 725. (Response to Request for Production No. 1, p. 6-12)
 - b. On January 19, 2001, The Illinois Environmental Protection Agency conducted a RCRA inspection which found numerous violations of the Board's rules governing hazardous waste management, including rules governing the storage of hazardous waste, and violations of the contingency planning requirements. The Agency contended that, because of the violations, the facility failed to qualify for exemption from the RCRA permit requirement. On May 3, 2001, Respondent answered the Agency with a detailed letter promising to come into compliance with the regulations, without raising any arguments to the effect that the facility was not conducting hazardous waste management operations. (Response to Request for Production No. 13)
 - c. Respondent has produced manifests showing large quantities of hazardous waste shipped out of the facility. (Response to Request for Production No. 9)

- d. In the course of job training, Complainant was told by Respondent's agent's, in the course of business, that the facility was treating and storing hazardous waste.
 - e. Ken Keigley and Holly Hirschert of the Illinois Environmental Protection Agency have told the Complainant that the facility was conducting hazardous waste treatment and storage operations pursuant to a claim of exemption as a large quantity generator of hazardous waste. Prior to taking her position with the Agency, Holly Hirschert was the environmental engineer for the Guardian West facility, with responsibility over many of these hazardous waste management operations.
 - f. Complainant was required to segregate certain wastes for separate disposal as hazardous waste, including chromic acid contaminated wastes from the area under the catwalk, and from the chromic acid recovery operation, which wastes were placed in containers labeled "hazardous waste", with storage times noted, by the Environmental Manager at Guardian West.
2. The Complaint speaks for itself as to the allegation. The question calls for a legal conclusion, and/or requests Complainant's work product. Complainant contends that the material under the catwalk, including liquids, debris and sludge, is hazardous waste. At a minimum, this is chromic acid contaminated waste.
 3. Pursuant to a Freedom of Information Act request, Illinois Environmental Protection Agency has told the Complainant that the facility does not have a RCRA permit or interim status. Ken Keigley and Holly Hirschert of the Illinois Environmental Protection Agency have told the Complainant the same thing. Respondent has failed to produce a RCRA permit or interim status notification in response to discovery requests. See also the Response to Question 1. The remainder of the question calls for a legal conclusion, and/or requests Complainant's work product.
 4. Objection. The question calls for a legal conclusion, and/or requests Complainant's work product.
 5. Objection. The question calls for a legal conclusion, and/or requests Complainant's work product. Moreover, this is irrelevant because neither the Complaint nor Answer has alleged that any portion of the facility is a "wastewater treatment unit".
 6. Objection. The question calls for a legal conclusion, and/or requests Complainant's work product. Moreover, this is irrelevant because neither the Complaint nor Answer has alleged that any portion of the facility is a "tank" or

"tank system" (other than the tanks involved in the production process).

7. Complainant generally agrees with this statement. However, Complainant does not know exactly where the pits are located with respect to the center of the room. Moreover, the pits are actually located to the east and west of the approximate center of the room, and the floor under the tanks appears to be sloped toward the line between the pits, rather than the apparent central point.
8. Complainant agrees that this is a part of the purpose of the slope of the floor.
9. Objection. The question calls for a legal conclusion, and/or requests Complainant's work product. Moreover, this is irrelevant because neither the Complaint nor Answer has alleged that any portion of the facility is "ancillary equipment".
10. Complainant generally agrees with this statement. However, the pits were not designed to "hold" the liquid for a significant period of time, but rather to pump the liquid immediately as it accumulated. By agreeing as to details concerning the physical appearance and design of the equipment, Complainant is not agreeing as to any regulatory interpretation hidden in Respondent's question.
11. Objection. The question calls for a legal conclusion, and/or requests Complainant's work product. Moreover, this is irrelevant because neither the Complaint nor Answer has alleged that any portion of the facility is "ancillary equipment".
12. Complainant agrees with this statement. By agreeing as to details concerning the physical appearance and design of the equipment, Complainant is not agreeing as to any regulatory interpretation hidden in Respondent's question
13. Objection. The question calls for a legal conclusion, and/or requests Complainant's work product. Moreover, this is irrelevant because neither the Complaint nor Answer has alleged that any portion of the facility is "ancillary equipment".
14. Complainant agrees with this statement. By agreeing as to details concerning the physical appearance and design of the equipment, Complainant is not agreeing as to any regulatory interpretation hidden in Respondent's question
15. Objection. The question calls for a legal conclusion, and/or requests Complainant's work product. Moreover, this is irrelevant because neither the Complaint nor Answer has alleged that any portion of the facility is "ancillary equipment".
16. Objection. The question calls for a legal conclusion, and/or requests

Complainant's work product.

17. Objection. The question calls for a legal conclusion, and/or requests Complainant's work product. Moreover, this is irrelevant because neither the Complaint nor Answer has alleged that any portion of the facility is "ancillary equipment".
18. Complainant agrees with this statement. By agreeing as to details concerning the physical appearance and design of the equipment, Complainant is not agreeing as to any regulatory interpretation hidden in Respondent's question
19. Objection. The question calls for a legal conclusion, and/or requests Complainant's work product. Moreover, this is irrelevant because neither the Complaint nor Answer has alleged that any portion of the facility is "ancillary equipment".
20. As it now stands, the Complaint appears to be restricted to the issue of whether Respondent has violated the storage time requirements for hazardous waste under the catwalk. Under these circumstances, the Complainant will testify as to the properties of the material under the catwalk, and as to the length of storage. In the event Respondent intends to offer testimony to the effect that the area is periodically cleaned, or that the material is not hazardous waste, Complainant will request subpoenas to obtain testimony of employees and former employees, including Larry Kelly, Afiba Martin and Holly Hirschert.
21. Complainant has no funds with which to employ outside expert witnesses. Complainant sees no need at this time for expert testimony. Complainant is, however, an expert on much of the factual material at issue, and will, if necessary, testify as an expert witness. In a citizen enforcement action, the Complainant has a right to testify about relevant matters at a public hearing regardless of qualification as an expert Any objections would go to the weight of the evidence. Complainant's relevant qualifications include:
 - a. Bachelor of Science in Chemistry, with high honors and distinction in the curriculum, University of Illinois, Urbana, Illinois, 1970. Juris Doctor, 1976.
 - b. Between 1980 and 1993, Complainant drafted the Illinois versions of most of the regulations involved in this case.
 - c. Between 1980 and 1993, Complainant handled public questions concerning these regulations for the State of Illinois.
 - d. Complainant attended numerous conferences and hearings concerning the subject of hazardous waste management, both as an attendee and speaker.

- e. Complainant drafted numerous documents and reports concerning hazardous waste, including the Annual Reports to the Governor of the Illinois Hazardous Waste Advisory Council.
- f. Complainant is a certified "HAZWOPER" first responder for hazardous waste emergencies.
- g. Complainant did process and quality control chemistry for the subject plating line for nearly two years, during which time he was regularly consulted by management concerning the operation and control of the plating process.

22. Other persons:

- a. Tanvir Ali, Plant Manager, Guardian West, 601 Guardian Drive, Urbana IL 61802
- b. Ken Keigley, Illinois Environmental Protection Agency, 2125 South First Champaign IL
- c. Holly Hirschert, Illinois Environmental Protection Agency, 2125 South First Champaign IL
- d. Bill Keller, Champaign County Emergency Services and Disaster Agency, 1905 East Main Urbana IL 61802
- e. Unknown person, Urbana Fire Department, 400 S. Vine, Urbana, IL 61801
- f. Peggy A. Zweber, Area Director, U.S. Dept. of Labor, Occupational Safety and Health Administration, 2918 Willows Knolls Rd, Peoria IL 61614.
- g. Brian Bothast, Acting Area Director, U.S. Dept. of Labor, Occupational Safety and Health Administration, 2918 Willows Knolls Rd, Peoria IL 61614.
- h. Sue Ellen DeManche, U.S. Dept. of Labor, Occupational Safety and Health Administration, 2918 Willows Knolls Rd, Peoria IL 61614.
- i. Mr. Thomas V. Skinner, Regional Administrator, US EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604
- j. Gary Westefer, US EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604

23. No persons have assisted Complainant.
24. Complainant has claimed privilege in response to several of the above questions.

Morton F. Dorothy
Morton F. Dorothy, Complainant

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Southwest Suite
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HODGE Dwyer ZEMAN
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THOMAS G. SAFLEY*
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February 17, 2006

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

RE: Morton F. Dorothy v. Flex-N-Gate Corporation
PCB No. 05-49
Our File No. – GWST:003

Dear Mr. Dorothy:

We have received your responses to Interrogatories in the above-referenced matter. Thank you. We have not received your verification to those responses, however, as required by the Illinois Pollution Control Board's rules. See 35 Ill. Admin. Code § 101.620(b); 735 ILCS 5/1-109. Also, we have not yet received your responses to Requests for Production of Documents. Please forward the above to us at your earliest convenience.

Please feel free to contact me if you have any questions regarding this correspondence..

Sincerely,



Thomas G. Safley

TGS:plt

GWST:003/Corr/Dorothy ltr5 – discovery

Thomas Safley

From: MDor4248@aol.com
Sent: Monday, February 27, 2006 9:31 AM
To: tsafley@hdzlaw.com
Subject: Production

I seem to have overlooked the Request for Production. I will get this together for you in the near future, although I don't really have much to produce.

Morton Dorothy

2/27/2006



HODGE ▾ DWYER ▾ ZEMAN
ATTORNEYS AT LAW

THOMAS G. SAFLEY*
*Licensed in Illinois and Indiana
E-mail: tsafley@hdzlaw.com

March 8, 2006

VIA ELECTRONIC MAIL
(Original via U.S. Mail)

Mr. Morton F. Dorothy
104 W. University
Southwest Suite
Urbana, Illinois 61801

RE: Morton Dorothy v. Flex-N-Gate Corporation
PCB No. 05-49
Our File No. – GWST:003

Dear Mr. Dorothy:

Flex-N-Gate Corporation (“Flex-N-Gate”) would like to thank you for providing your Answers to our Interrogatories in a timely manner. Upon reviewing your responses, however, we have some concerns. The purpose of this letter is to identify those concerns and to ask you to amend your answers to Interrogatories in light of them.

I. ASSERTION THAT FLEX-N-GATE HAS NOT RAISED THE WASTEWATER TREATMENT UNIT EXEMPTION

First, several of our Interrogatories focus on Flex-N-Gate’s contention that certain equipment, etc., at the facility at issue falls within the definition of “Wastewater Treatment Unit” (“WWTU”) under RCRA. See Interrogatory Nos. 5, 6, 9, 11, 13, 15, 17, 19. In response to these Interrogatories, you in part state: “this is irrelevant because neither the Complaint nor Answer has alleged that any portion of the facility is a ‘wastewater treatment unit’ . . . [or] ‘a tank’ or ‘tank system’ . . . [or] ‘ancillary equipment.’” See your responses to Interrogatory Nos. 5, 6, 9, 11, 13, 15, 17, 19.

We must respectfully disagree with this assertion. First, Flex-N-Gate’s original Answer specifically asserted in several cases that “portion[s] of the facility [were] a ‘wastewater treatment unit.’” For example, in response to paragraph 6 of your Complaint, Flex-N-Gate’s original Answer stated in part:

Mr. Morton F. Dorothy
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Rather, Flex-N-Gate affirmatively states that the chrome plating line is engineered so that substances will fall from the bumpers at issue during the process of cleaning, plating, and rinsing, and land on the floor of the room in which that line is located, which floor constitutes part of a Wastewater Treatment Unit as defined in 35 Ill. Admin. Code § 703.110, not a “hazardous waste treatment unit.” This process is intentional, and thus does not constitute “spillage.

Answer, ¶6. (Emphasis added.)

Flex-N-Gate’s original Answer also stated in response to paragraph 26 of your Complaint:

Flex-N-Gate denies that the water “washed” any material “to the hazardous waste treatment unit”; as noted above, the floor of the room constitutes part of a Wastewater Treatment Unit as defined in 35 Ill. Admin. Code § 703.110. Flex-N-Gate does admit that the water would have washed any material on the floor further into pipes and tanks that also make up the Wastewater Treatment Unit.”

Answer at 9. (Emphasis added.) See also Answer, ¶10.

A copy of the relevant portions of Flex-N-Gate’s original Answer is enclosed for your review.

Second, it also appears that you have not considered our Amended Answer and the Affirmative Defense set forth therein. As you know, it was our position in this matter that the application of the WWTU exemption was not an affirmative defense. You, and the Illinois Pollution Control Board (“Board”), disagreed, and by its Order last October, the Board ordered us to file an Amended Answer. We did so, and in that Amended Answer, we set forth the WWTU exemption as an “affirmative defense.” Amended Answer at 10-14. In that Affirmative Defense, we specifically state in relevant part as follows:

9. Flex-N-Gate’s Guardian West facility relies in part on this Wastewater Treatment Unit (“WWTU”) exemption to the RCRA permit requirement.

* * *

11. Flex-N-Gate’s Guardian West facility contains tanks and other associated equipment in which wastewater is treated (the “facility WWTU”).

* * *

Mr. Morton F. Dorothy
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20. The Plating Room floor and associated piping and other ancillary equipment from the pits to the wastewater treatment tanks, between the wastewater treatment tanks, and between the wastewater treatment tanks and the connection with the Urbana Champaign Sanitary District, meet the definitions of tank system and ancillary equipment set forth in 35 Ill. Admin. Code §720.110.
21. Pursuant to the WWTU exemption set forth in 35 Ill. Admin. Code 703.123(e), the facility is exempt from the RCRA permit requirement with respect to any hazardous waste that might be present on the Plating Room floor.
22. Pursuant to the WWTU exemption set forth in 35 Ill. Admin. Code 703.123(e), the facility is exempt from the RCRA permit requirement with respect to any hazardous waste that might be present in the pits located in that floor.
23. Pursuant to the WWTU exemption set forth in 35 Ill. Admin. Code 703.123(e), the facility is exempt from the RCRA permit requirement with respect to any hazardous waste that might be present in ancillary piping and other ancillary equipment between the pits and the wastewater treatment tanks at the facility, between the wastewater treatment tanks, and between the wastewater treatment tanks and the connection with the Urbana Champaign Sanitary District.
24. Pursuant to the WWTU exemption set forth in 35 Ill. Admin. Code 703.123(e), the facility is exempt from the RCRA permit requirement with respect to any hazardous waste that might be present in the wastewater treatment tanks at the facility.

Amended Answer at 12-13. (Emphasis added.)

Our records indicate that we served the Amended Answer on you by Certificate of Service dated November 15, 2005. Another copy of our Amended Answer is enclosed for you reference. (The WWTU defense also was discussed in detail in Flex-N-Gate's Motion for Complete Summary Judgment filed with the Board on May 27, 2005.)

As is clear from the portions of Flex-N-Gate's original Answer and Amended Answer set forth above, it is not the case, as you assert, that "neither the Complaint nor Answer has alleged that any portion of the facility is a 'wastewater treatment unit' . . . [or] 'a tank' or 'tank system' . . . [or] 'ancillary equipment.'" Therefore, we ask that you revise your Answers to Interrogatory Nos. 5, 6, 9, 11, 13, 15, 17, and 19 in light of this fact.

Mr. Morton F. Dorothy
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II. ASSERTION THAT INTERROGATORIES "CALL[] FOR A LEGAL CONCLUSION, AND/OR REQUEST[] COMPLAINANT'S WORK PRODUCT"

In response to the Interrogatories discussed above, as well as Interrogatory Nos. 2, 3, 4, and 16, you also state the following (or use similar language):

Objection. The question calls for a legal conclusion, and/or requests Complainant's work product.

See your responses to Interrogatory Nos. 2, 3, 4, 5, 6, 9, 11, 13, 15, 16, 17, and 19.

Again, we must disagree that this is a valid objection. It seems to us that this case is much less about a factual dispute (e.g., in a traffic accident case, whether the light was green or red), and much more about a legal dispute, that is: is Flex-N-Gate complying with the hazardous waste management rules? You allege in Count I of your Complaint that Flex-N-Gate is not complying with those rules, and that Flex-N-Gate is required to have a RCRA permit for activities at its facility. See Complaint, Count I. In order to defend itself against this allegation, Flex-N-Gate must understand exactly what you allege it is doing that requires a permit. We understand that you may view your Complaint as adequately setting this out, but Flex-N-Gate disagrees. This is the reason for Interrogatory Nos. 2, 3, and 4. That is, we are trying to understand (1) exactly what material at the facility you are alleging is hazardous waste that is not being properly managed, (2) what you allege Flex-N-Gate is doing that does not constitute proper management of that material, and (3), in the case of paragraph 4 of Count I, how that paragraph relates to your allegation.

It is Flex-N-Gate's position that these Interrogatory Nos. 2, 3, and 4 constitute valid "contention interrogatories." The court in *Bell v. Woodward*, a copy of which is enclosed, defines the nature and use of contention interrogatories as follows:

Contention interrogatories, distinct from the identification interrogatories largely completed in this case, inquire into a party's opinions or "contentions" about a particular fact or application of the law to a fact. See Fed. R. Civ. P.33(c). A contention interrogatory may, under the rules, ask for the material or facts that support a party's contentions in a case. *Id.*

Bell v. Woodward, 2005 U.S. Dist. LEXIS 18859 at *5 (N.D. Ill. 2005).

Further, Illinois Supreme Court Rule 213 provides the authority to serve interrogatories as a tool during discovery. This rule is supplemented by Illinois Supreme Court Rule 201, which provides the scope of discovery, specifically, Rule 201 states in relevant part:

Mr. Morton F. Dorothy
March 8, 2006
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...a party may obtain by discovery full disclosure regarding any matter relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking disclosure or of any other party....

Ill. S. Ct. R. 201(b)(1).

The Committee Comments to Rule 201(b) note that the language of Rule 201(b) is taken directly from the Federal Rules of Civil Procedure.

For these same reasons, it is Flex-N-Gate's position that its Interrogatory Nos. 5, 6, 9, 11, 13, 15, 16, 17, 19 constitute valid "contention interrogatories." These Interrogatories focus on Flex-N-Gate's WWTU "affirmative defense" discussed above. As just noted, Illinois Supreme Court Rule 201(b)(1) provides that "a party may obtain by discovery full disclosure regarding any matter relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking disclosure." Ill. S. Ct. R. 201(b)(1). (Emphasis added.)

As set forth in more particularity in Flex-N-Gate's Affirmative Defense, Flex-N-Gate contends that the floor of the plating room, the pits in that floor, pumps at those pits, piping from those pits to wastewater treatment tanks, etc., fall into the definition of "wastewater treatment unit," and thus that waste on the floor, in the pits, in the piping, etc., is exempt from RCRA requirements (other than those applying to WWTUs). See Amended Answer, Affirmative Defense. You obviously disagree with this contention, as you have continued to prosecute Count I of your Complaint even after Flex-N-Gate raised this defense. In order to know what evidence it needs to present at a hearing in this matter, Flex-N-Gate has to understand why you disagree with Flex-N-Gate's contention that the WWTU exemption applies. For example, do you allege that what Flex-N-Gate considers to be "tanks" for purposes of the WWTU exemption do not meet the definition of tank? Do you allege that piping that leads to those tanks, which Flex-N-Gate considers to be "ancillary equipment" for the purposes of the WWTU exemption, does not meet the definition of "ancillary equipment"? Etcetera.

Thus, for these reasons, we ask that you revise your responses to our Interrogatory Nos. 2, 3, 4, 5, 6, 9, 11, 13, 15, 16, 17, 19, so that (1) we can understand on what basis you allege that Flex-N-Gate has violated Section 21(f) of the Act, and (2) we can understand on what basis you allege that the WWTU exemption does not apply in this case.

Mr. Morton F. Dorothy
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III. CONCLUSION

Flex-N-Gate requests that you respond to this letter and submit amended Answers to its Interrogatories no later than Monday, March 20, 2006. Please be advised that if we do not receive Amended Answers by that date, we will have no choice but to move the Hearing Officer to compel you to provide such Amended Answers.

If you have any questions regarding this correspondence, please feel free to contact us.

Sincerely,



Thomas G. Safley

TGS:REM:plt
enclosures

GWST:003/Corr/ Dorothy 06 Ltr – Responses to Interrogatories