

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

**MOTION TO STRIKE RESPONDENT'S RESPONSE TO COMPLAINANT'S REQUEST
FOR PRODUCTION OF MEDICAL SURVEILLANCE RECORDS**

Complainant Morton F. Dorothy moves that the Hearing Officer strike Respondent's Response to Complainant's Request for Production of Medical Surveillance Records, and for reason says as follows:

1. On September 21, 2006, Complainant directed a request for production of medical surveillance records to Flex-N-Gate Corporation through its attorney of record in this case.
2. The request was made pursuant to 29 CFR 1910.120(f)(2)(ii), and is a formal prerequisite to litigation pursuant to that Federal law, over which the Board has no subject matter jurisdiction.
3. The request was not captioned for this case, was not filed with the Board, or served on the Hearing Officer, and is, indeed, irrelevant to this case.
4. Neither the Board nor the Hearing Officer has jurisdiction to rule on anything concerning this request.

WHEREFORE Complainant moves that the Hearing Officer strike Respondent's Response to Complainant's Request for Production of Medical Surveillance Records.

/s/ Morton F. Dorothy
Morton F. Dorothy, Complainant

CERTIFICATE OF SERVICE

I, the undersigned, certify that, on the 24th day of October, 2006, I served the listed documents, by first class mail, upon the listed persons:

MOTION TO STRIKE RESPONDENT'S RESPONSE TO COMPLAINANT'S REQUEST FOR PRODUCTION OF MEDICAL SURVEILLANCE RECORDS

Thomas G. Safley
Hodge Dwyer Zeman
3150 Roland Avenue
Post Office Box 5776
Springfield, IL 62705-5776

Carol Webb
Hearing Officer, IPCB
1021 North Grand Avenue East
Post Office Box 19274
Springfield, IL 62794-9274

/s/ Morton F. Dorothy
Morton F. Dorothy, Complainant

Morton F. Dorothy
104 W. University
Southwest Suite
Urbana IL 61801