

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 Respondent Flex-N-Gate Corporation's **MOTION FOR PROTECTIVE ORDER and proposed ORDER**, copies of which are herewith served upon you.

Respectfully submitted,

FLEX-N-GATE CORPORATION,  
Respondent,

Dated: May 27, 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

MOTION FOR PROTECTIVE ORDER and proposed ORDER 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 May 27, 2005; and upon:

Mr. Morton F. Dorothy  
804 East Main  
Urbana, Illinois 61802

by depositing said documents in the United States Mail in Springfield, Illinois, postage prepaid, on May 27, 2005.

/s/ Thomas G. Safley  
Thomas G. Safley

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**MOTION FOR PROTECTIVE ORDER**

NOW COMES Respondent, FLEX-N-GATE CORPORATION ("Flex-N-Gate"), by and through its attorneys, HODGE DWYER ZEMAN, and moves the Hearing Officer for a Protective Order, and in support of this Motion, states as follows:

1. On or about March 15, 2005, Complainant mailed his Interrogatories to Respondent. See Certificate of Service attached hereto as Exhibit A; Affidavit of Thomas G. Safley ("Safley Aff.") attached hereto as Exhibit B, at ¶3.
2. Complainant's Interrogatories contain thirty-six numbered interrogatories, some of which contain multiple questions. See Complainant's Interrogatories, attached hereto as Exhibit C; Safley Aff. at ¶4.
3. Section 101.620(a) of the Illinois Pollution Control Board's ("Board") procedural rules provides that:

Unless ordered otherwise by the hearing officer, a party may serve a maximum of 30 written interrogatories, including subparts, on any other party, no later than 35 days before hearing.

35 Ill. Admin. Code § 101.620(a). (Emphasis added.)
4. Complainant did not move the Hearing Officer for leave to serve more than thirty interrogatories on Flex-N-Gate.

5. Despite the fact that Complainant's Interrogatories contained more than the allowed thirty interrogatories, Flex-N-Gate did not object to Complainant serving more than thirty interrogatories, but instead responded (by answer and/or objection on other grounds) to all of Complainant's Interrogatories. Safley Aff., at ¶5.

6. On or about April 25, 2005, Complainant mailed his Supplemental Interrogatories to Flex-N-Gate. See Certificate of Service attached hereto as Exhibit D; Safley Aff. at ¶6.

7. Complainant's Supplemental Interrogatories contain an additional twenty numbered interrogatories, many of which have subparts, for a total of approximately 87 additional interrogatories. See Complainant's Supplemental Interrogatories, attached hereto as Exhibit E; Safley Aff., at ¶7.

8. Complainant did not seek or obtain leave to serve these additional interrogatories on Flex-N-Gate, as required by Section 101.602(a) of the Board's rules.

9. Combined with Complainant's original Interrogatories, Complainant – without leave – now has served approximately 123 interrogatories on Flex-N-Gate, or more than four times the number of interrogatories that Section 101.602(a) allows.

10. In addition, many of Complainant's Supplemental Interrogatories clearly relate to the question of whether or not a release of hydrogen sulfide occurred at the Facility as alleged in Complainant's Complaint. See, e.g., Supplemental Interrogatories No. 6, 7, 8, 9, 10, 11, 12, 14, 15, and subparts thereof.

11. As set forth in Flex-N-Gate's Motion for Partial Summary Judgment and Motion for Summary Judgment as to All Counts of Complainant's Complaint, this

question is not material to this litigation, and therefore, these interrogatories seek information that is irrelevant and will not lead to relevant evidence.

12. Section 101.616(d) of the Board's procedural rules provides in relevant part that "[t]he hearing officer may . . . issue protective orders that deny, limit, condition or regulate discovery to prevent unreasonable expense, or harassment. . . ." 35 Ill. Admin. Code § 101.616(d).

13. Complainant's service, without leave, of more than four times the number of Interrogatories that the Board's rules allow, many of which seek irrelevant information, subjects Flex-N-Gate to unreasonable expense and constitutes harassment.

14. For the reasons stated above, Flex-N-Gate moves the Hearing Officer for a Protective Order finding that Flex-N-Gate need not make any response to Complainant's Supplemental Interrogatories.

15. For the Hearing Officer's convenience, Flex-N-Gate has filed herewith a proposed Order granting this Motion.

WHEREFORE, Respondent FLEX-N-GATE CORPORATION respectfully moves the Hearing Officer to grant it a Protective Order as set forth above, and to grant FLEX-N-GATE CORPORATION such other relief as the Hearing Officer deems just.

Respectfully submitted,

FLEX-N-GATE CORPORATION  
Respondent,

Dated: May 27, 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

GWST:003/Fil/Motion for Protective Order

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

**ORDER**

This cause comes before the Hearing Officer on Respondent, FLEX-N-GATE CORPORATION'S MOTION FOR PROTECTIVE ORDER. Having considered the foregoing, and being duly advised, the Hearing Officer hereby GRANTS said Motion.

It is, therefore, ORDERED that Respondent FLEX-N-GATE CORPORATION is granted a PROTECTIVE ORDER as to Complainant's Supplemental Interrogatories, and that FLEX-N-GATE CORPORATION need not make any response to said Supplemental Interrogatories.

Date: \_\_\_\_\_

\_\_\_\_\_  
Carol Webb  
Hearing Officer  
Illinois Pollution Control Board

ELECTRONIC FILING, RECEIVED, CLERK'S OFFICE, MAY 27, 2005

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 I have served the listed documents, by first class mail, upon the listed persons, on the 15<sup>th</sup> day of March, 2005.

**REQUEST FOR PRODUCTION OF DOCUMENTS**

**INTERROGATORIES**

**REQUEST TO ADMIT THE TRUTH OF CERTAIN FACTS**

**REQUEST TO ADMIT THE GENUINENESS OF CERTAIN DOCUMENTS**

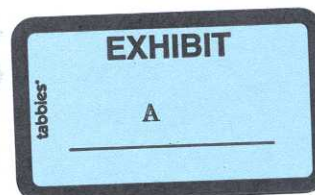
**MOTION TO STRIKE ANSWER**

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

Carol Webb, Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, IL 62794-9274

Morton F. Dorothy  
Morton F. Dorothy, Complainant

Morton F. Dorothy  
804 East Main  
Urbana IL 61802  
217/384-1010





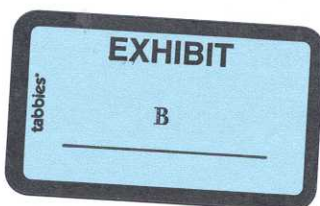
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
CHAMPAIGN COUNTY, ILLINOIS

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

**AFFIDAVIT OF THOMAS G. SAFLEY**

Thomas G. Safley, being first duly sworn, deposes and states under oath, and if sworn as a witness, would testify, as follows:

1. I have personal knowledge of the matters set forth in this affidavit.
2. I am an attorney duly licensed in the State of Illinois, and have been retained by respondent Flex-N-Gate Corporation ("Flex-N-Gate") to represent it in this matter.
3. The Certificate of Service attached to Flex-N-Gate's Motion for Protective Order as Exhibit A is a true and accurate copy of the Certificate of Service by which Flex-N-Gate received Complainant's Interrogatories.
4. Exhibit C to Flex-N-Gate's Motion for Protective Order is a true and accurate copy of Complainant's Interrogatories to Flex-N-Gate in this action.
5. Flex-N-Gate did not object to Complainant serving more than thirty interrogatories, but instead responded (by answer and/or objection on other grounds) to all of Complainant's Interrogatories.



6. The Certificate of Service attached to Flex-N-Gate's Motion for Protective Order as Exhibit D is a true and accurate copy of the Certificate of Service by which Flex-N-Gate received Complainant's Supplemental Interrogatories.

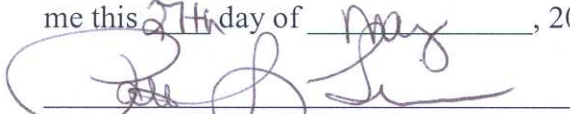
7. Exhibit E to Flex-N-Gate's Motion for Protective Order is a true and accurate copy of Complainant's Supplemental Interrogatories to Flex-N-Gate in this action.

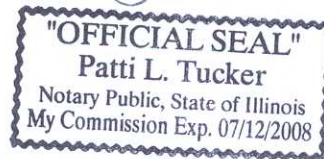
*Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.*

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Thomas G. Safley

Subscribed and sworn to before  
me this 27th day of May, 2005.

  
\_\_\_\_\_  
Notary Public



GWST:003/Fil/Affidavit of Thomas Safley – Motion for Protective Order

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
CHAMPAIGN COUNTY, ILLINOIS

MORTON F. DOROTHY,

Complainant,

vs.

FLEX-N-GATE CORPORATION,  
an Illinois Corporation,

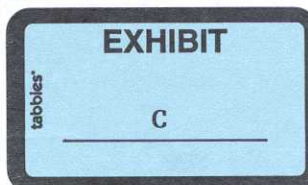
Respondent.

No. PCB 05-049

**INTERROGATORIES**

Complainant Morton F. Dorothy requests that respondent Flex-N-Gate Corporation respond to the following interrogatories within 30 days after the date of this request:

1. List any witnesses respondent intends to call at hearing, including name, address, phone number, and whether the witness is to testify as an expert witness.
2. List any documentary or physical evidence respondent intends to introduce at hearing.
3. By which provisions has respondent, prior to August 5, 2004, claimed exemption from the RCRA permit requirement for the Guardian West facility?
4. Has respondent had any laboratory analyses performed on the liquid, sludge or debris under the plating line? Provide the results of such analyses.
5. Has respondent had any laboratory analyses performed on the influent into what respondent refers to as the "wastewater treatment unit" receiving "wastewater" from the plating area? Provide the results of such analyses.
6. By what name does respondent wish to refer to the area under the plating tanks?
7. By what name does respondent wish to call the accumulated liquid in the sump area under the plating tanks?
8. By what name does the respondent wish to call the series of events that occurred during third shift on August 4 - 5, 2004 on respondent's plating line, which events are the subject of this enforcement action?





9. Names, addresses and telephone numbers for the following persons, and whether they are still employed by respondent.
  - a. Production associates, including team leaders, working in the load/unload area for the plating line during third shift on August 4 - 5, 2004, and first shift on August 5, 2004.
  - b. Solution attendants, including team leaders, working on the plating line during third shift on August 4 - 5, 2004, and first shift on August 5, 2004.
  - c. Safety officer working during third shift on August 4 - 5, 2004.
  - d. Maintenance persons, including team leaders, working during third shift on August 4 - 5, 2004, and first shift on August 5, 2004.
10. List of persons who reported being sickened during third shift on August 4 - 5, 2004.
11. Prior to August 5, 2004, when was the floor under the plating tanks last completely clear of sludge, debris and liquid?
12. What was the quantity and identity of hazardous waste generated by the facility during the months of July, August and September, 2004?
13. Describe the odor of the bulk sulfuric acid used at the facility.
14. Who was the emergency coordinator for the facility during third shift on August 4 - 5, 2004.
15. List the personnel at the facility who had received 24-hour "hazwoper" emergency response training as of third shift on August 4 - 5, 2004. Why did these persons receive this training?
16. Was the 24-hour "hazwoper" training provided in order to comply with the preparedness requirements of 29 CFR 1910?
17. Did the facility have an Emergency Response Plan for the facility pursuant to 29 CFR 1910 as of August 5, 2004. If the facility did not have such a plan, why was it not required to have one?
18. Did the facility have meters available to measure hydrogen sulfide levels during third shift on August 4 - 5, 2004? If so, list the manufacturer and model number, and ASTM or other standard specifications.

ELECTRONIC FILING, RECEIVED, CLERK'S OFFICE MAY 27, 2005

19. Did the facility have respirators approved for use with hydrogen sulfide during third shift on August 4 - 5, 2004? If so, list the manufacturer and model number, and ASTM or other standard specifications.
20. What are the requirements for permitted confined space entry at the facility?
21. What was the source of the odor reported during the incident during third shift, August 4 - 5, 2004?
22. Did respondent notify local agencies with designated response roles in the facility's Emergency Response and Contingency Plan concerning the incident during third shift on August 4 - 5, 2004?
23. Did respondent identify the amount and areal extent of the release during or following the incident during third shift on August 4 - 5, 2004?
24. Did respondent assess possible hazards to human health and the environment during or following the incident during third shift on August 4 - 5, 2004?
25. Did respondent report to the Agency within fifteen days the incident during third shift on August 4 - 5, 2004?
26. Did the facility's Emergency Response and Contingency Plan in effect on August 4 - 5, 2004, specifically address the possibility of an acid spill resulting in a hydrogen sulfide release?
27. Did the facility's Emergency Response and Contingency Plan in effect on August 4 - 5, 2004, require the ready availability of a hydrogen sulfide meter?
28. Did the facility's Emergency Response and Contingency Plan in effect on August 4 - 5, 2004, require that responders be familiar with measurement of hydrogen sulfide?
29. Did the facility's Emergency Response and Contingency Plan in effect on August 4 - 5, 2004, require the availability of respirators suitable for use with hydrogen sulfide?
30. Did respondent amend the facility's Emergency Response and Contingency Plan in effect on August 4 - 5, 2004 in response to the incident of that date? If so, when was the Plan amended?
31. Is it possible that a spill of sulfuric acid on the plating line could result in a release of hydrogen sulfide gas? If not, why is it impossible?
32. Did respondent determine that there was no emergency during third shift on



August 4 - 5, 2004? When was this determination made, and who made the determination? Who notified the first responders of the determination?

33. What chemical reaction results when sulfuric acid comes into contact with a metal sulfide, such as nickel sulfide?
34. Describe the odor of hydrogen sulfide.
35. Does a yellow smoke-like haze form over Tank 26 or the evaporator low tank when barium hydroxide or carbonate is added? What is the chemical identity of the yellow smoke-like haze? What chemical reaction forms the yellow smoke-like haze?
36. Does the respondent prepare manifests for the material pumped from the sump area under the plating tanks to what the respondent refers to as the "wastewater treatment unit"? If respondent does not prepare such manifests, why are they not prepared?

Morton F. Dorothy  
Morton F. Dorothy, Complainant

Morton F. Dorothy  
804 East Main  
Urbana IL 61802  
217/384-1010

ELECTRONIC FILING, RECEIVED, CLERK'S OFFICE, MAY 27, 2005

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 25 day of April, 2005, I served the listed documents, by first class mail, upon the listed persons:

**SUPPLEMENTAL REQUEST TO ADMIT THE TRUTH OF CERTAIN FACTS  
SUPPLEMENTAL INTERROGATORIES**

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

Morton F. Dorothy  
Morton F. Dorothy, Complainant

Morton F. Dorothy  
804 East Main  
Urbana IL 61802

217/384-1010



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
CHAMPAIGN COUNTY, ILLINOIS

MORTON F. DOROTHY,

Complainant,

vs.

No. PCB 05-049

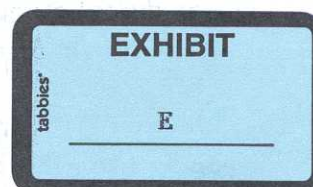
FLEX-N-GATE CORPORATION,  
an Illinois Corporation,

Respondent.

**SUPPLEMENTAL INTERROGATORIES**

Complainant Morton F. Dorothy requests that respondent Flex-N-Gate Corporation respond to the following supplemental interrogatories within 30 days after the date of this request:

1. In response to Question 3 and Requests to Admit 5 through 7, Respondent claims that only "some of the hazardous waste that the facility at issue generates is managed pursuant to" 35 Ill. Adm. Code 722.134.
  - a. Which wastes does respondent claim to manage pursuant to 35 Ill. Adm. Code 722.134?
  - b. Which wastes does respondent claim to not manage pursuant to 35 Ill. Adm. Code 722.134?
  - c. Provide a map delineating the portions of the facility which operate under 35 Ill. Adm. Code 722.134 and the portions which do not operate under Section 722.134.
  - d. Identify the regulatory provisions under which respondent claims the right to operate only a portion of the facility under 35 Ill. Adm. Code 722.134.
  - e. Has respondent ever notified the Illinois Environmental Protection Agency that it claims that only "some of the hazardous waste that the facility at issue generates is managed pursuant to" 35 Ill. Adm. Code 722.134. If so, provide copies of all correspondence concerning this issue.
  - f. Has the Illinois Environmental Protection Agency ever approved the subdivision of the facility into a Section 722.134 and non-Section 722.134 facility?





- g. Identify any portion of the Emergency Response and Contingency Plan for the facility that delineates the Section 722.134 portion of the facility.
  - h. Identify any portion of the Emergency Response and Contingency Plan that limits its applicability to the Section 722.134 portion of the facility.
  - i. Under the Emergency Response and Contingency Plan, who makes the determination as to whether a response is to be made pursuant to the Section 722.134 requirements, or otherwise?
  - j. Does respondent prepare hazardous waste manifests for wastes that are moved from the Section 722.134 portion of the facility to the non-Section 722.134 portion of the facility?
- 2. In response to Question 6, respondent has stated that it prefers to refer to the area under the "chrome plating line" as the "plating room floor". Complainant accepts this terminology for purposes of the following questions, with the following caveat: Only Tanks 25 and 26 are involved in plating chromium. Tanks 1 through 22 are involved in cleaning and plating nickel in preparation for plating with chromium. Complainant is using the term "plating room floor" as referring to the area under Tanks 1 through 29.
  - a. In response to Question 5, respondent has provided analyses of the influent into the "wastewater treatment unit". Do these samples include the suspended solids in the influent, or are they samples filtered prior to analysis?
  - b. In response to Question 11, respondent has admitted that the "plating room floor" has never been completely clear of materials. Prior to August 5, 2004, when was the "plating room floor" last completely clear of sludge and debris?
  - c. Has respondent tested the sludge on the "plating room floor" to see if it evolves hydrogen sulfide in the presence of strong acid?
- 3. Has respondent tested the copper conductors, in their usual corroded state, to see if the copper, or the corrosion on the copper, produces hydrogen sulfide on contact with concentrated sulfuric acid?
  - a. Is respondent familiar with the reduction of concentrated sulfuric acid with copper metal, resulting in reduced sulfur oxides?
- 4. In response to Question 18, respondent has stated that a "3M 60926 Multi gas/Vapor cartridge/P100" filter was available, but did not provide the ASTM or

other standard specifications for this mask and cartridge. Complainant is unable to confirm that this cartridge is effective against hydrogen sulfide. What is the ASTM or other standard specification for this mask and cartridge? Other standards could include ANSI, ISO, NIMS or other industrial standard setting bodies.

5. In response to Question 30, states that it has amended the Emergency Response and Contingency Plan since August 4-5, 2004, but not in response to the incident of that date. Has respondent amended the plan to address the potential hydrogen sulfide problem for reasons other than "in response to" the incident?
6. In response to Question 34, respondent states that "the haze is very likely a suspension of very small particles of Barium Carbonate and Chromium Trioxide and Barium Sulfate".
  - a. Does respondent have any evidence to support this assertion?
  - b. Does respondent have any proof that the haze is not elemental sulfur?
7. In response to Question 31, respondent discusses possible mechanisms resulting in a release of hydrogen sulfide gas. Is the respondent familiar the "disproportionation reaction" in which molecularly-combined sulfur compounds with a certain oxidation state react with themselves to "disproportionate", with a mixture of higher and lower sulfur oxidation states resulting?
  - a. Why do the sodium thiosulfate analytical solutions used in the plating lab sometimes appear to be slightly turbid?
  - b. Does respondent have any evidence suggesting that disproportionation does not occur on the "plating room floor".
8. Is respondent familiar with the reaction of elemental sulfur with water to produce sulfide?
  - a. Does respondent have any evidence to show that sulfide is not formed from elemental sulfur on the plating room floor?
9. Do the cleaners used in the basic cleaning tanks use organic sulfonate surfactants?
  - a. Do the cleaners use other organo-sulfur compounds?
  - b. Do organic sulfonates contain sulfur in a reduced form?



- c. Provide the MSDSs for the basic cleaners used on the plating line in the year preceding August 5, 2004.
10. In response to Question 31, respondent discusses anaerobic biodegradation as a possible mechanism for the formation of sulfide.
- a. Does respondent have any evidence that anaerobic biodegradation is not occurring on the "plating room floor"?
11. In response to Question 31, respondent has stated that "no strong reducing agents are used on the plating line"
- a. Does respondent use additives "2-NS" and "TL" as additives to the nickel plating tanks?
  - b. Is an active ingredient in 2-NS formaldehyde?
  - c. Is formaldehyde a reducing agent?
  - d. What happens when you mix formaldehyde with silver nitrate?
  - e. Is the active ingredient in TL 1,4-propynediol?
  - f. Is 1,4-propynediol a reducing agent?
  - g. What happens when you mix a strong chromic acid solution with 1,4-propynediol?
  - h. Does the MSDS for TL have a warning against mixing it with strong oxidizing agents?
  - i. Are formaldehyde and 1,4-propynediol used in Tanks 17 - 21?
  - j. Are tanks 17 through 21 located across from and in close proximity to Tank 8?
  - k. What is the purpose of Tank 20 in the plating process?
  - l. In the months prior to August, 2004, did respondent use additives "TA" and "HSA-90" in Tank 20?
  - m. Was HSA-90 a new additive that had not previously been used at the facility?
  - n. What is the form of sulfur used in TA and HSA-90?

- o. Is the sulfur in TA and HSA-90 in a reduced or oxidized state?
  - p. Why does the MSDS for TA have a warning against mixing it with strong acids?
  - q. Is sulfite a known degradation product of HSA-90?
- 12. In response to Question 31, respondent has stated that "Quite the opposite, chromic acid is a very strong oxidizing agent."
  - a. Is chromic acid normally used and spilled in the vicinity of Tank 8?
  - b. Is chromic acid normally used and spilled only in the vicinity of Tanks 25 and 26?
  - c. Does the floor slope from Tank 25 all the way toward Tank 8?
  - d. Name any strong oxidizing agents used in the vicinity of Tank 8.
- 13. In response to Question 32, respondent has stated that Denny Corbett and Tony Rice made the determination that there was no emergency.
  - a. How long after the spill was noticed was this determination made?
  - b. What language in the Emergency Response and Contingency Plan gave these persons the authority to make this determination?
  - c. Provide a copy of the determination.
- 14. In response to Question 33, respondent states that "[n]o metal sulfides were present in the plating room..." Does respondent have proof of this assertion?
  - a. Do Tanks 17 through 22 contain a solution of nickel chloride and nickel sulfate in a slightly acidic borate buffer?
  - b. Does Tank 15 contain an acidic solution of nickel chloride and nickel sulfate?
  - c. Are Tanks 8 and 13 acidic cleaners?
  - d. Are Tanks 1,3,5,10 and 11 basic cleaners?
  - e. Is the usual pH on the "plating room floor" basic to slightly acidic, with the possibility of being more acidic after an acid tank is dumped to the floor, or



ELECTRONIC FILING, RECEIVED, CLERK'S OFFICE, MAY 27, 2005

more basic after a basic tank is dumped to the floor?

- f. When the pH is basic to slightly acidic, is any sulfide present on the plating floor likely to be present as solid nickel sulfide?

15. In response to Question 34, respondent states that "the haze is very likely a suspension of very small particles of Barium Carbonate and Chromium Trioxide and Barium Sulfate".

- a. Does respondent have any evidence to support this assertion?
- b. Does respondent have any proof that the haze is not elemental sulfur?

16. In response to complainant's request to admit the truth of certain facts, Request 13, respondent denies that "Respondent did not assess possible hazards to human health and the environment during or following the incident during third shift on August 4-5, 2004."

- a. Provide a copy of the assessment.
- b. Who made the assessment?
- c. When and where was the assessment made?
- d. What were the levels of hydrogen sulfide in the vicinity of the spill?

17. Is there an air curtain over Tank 8, and the other tanks in the vicinity of Tank 8?

- a. Does the exhaust from the air curtain exit to the roof?
- b. What treatment is provided for the Tank 8 air curtain exhaust?
- c. Is the exhaust from the acid tanks routed to different treatment than the exhaust from the basic tanks?

18. Does the plating lab have fume hoods to exhaust air to the roof?

- a. Where does the make-up air for the plating lab come from?

19. In response to complainant's request to admit the truth of certain facts, Request 20, respondent refused to admit that "Tony Rice testified under oath on October 26, 2004, that the acid spill was from the fill pipe to Tank 8 and that he was told that the spill was concentrated sulfuric acid."

ELECTRONIC FILING, RECEIVED, CLERK'S OFFICE, MAY 27, 2005

- a. Did Tony Rice testify under oath concerning the August 5, 2004 incident on October 26, 2004?
  - b. What did Tony Rice say about the source of the spill?
  - c. What did Tony Rice say about the concentration of the acid?
20. In response to complainant's request to admit the truth of certain facts, Request 20, respondent denies that "Tony Rice stated to complainant, on or about August 13, 2004, during the course of a discussion of the August 4-5 incident, that the ruptured pipe "emptied the day tank"".
- a. What did Tony Rice say to complainant about the extent of the acid spill on or about August 13, 2004?
  - b. How much acid was spilled in the August 4-5 incident?
  - c. How did respondent determine the volume of acid spilled.

Morton F. Dorothy  
Morton F. Dorothy, Complainant

Morton F. Dorothy  
804 East Main  
Urbana IL 61802  
217/384-1010