

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
CHAMPAIGN COUNTY, ILLINOIS

RECEIVED
CLERK'S OFFICE

MAY 27 2005

STATE OF ILLINOIS
Pollution Control Board

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

AFFIDAVIT IN SUPPORT OF MOTIONS TO COMPEL

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph
Suite 11-500
Chicago, Illinois 60601

Morton Dorothy

Morton F. Dorothy, Complainant

Morton F. Dorothy
804 East Main
Urbana IL 61802

217/384-1010

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AFFIDAVIT IN SUPPORT OF MOTIONS TO COMPEL

Complainant Morton F. Dorothy is filing the attached affidavit in support of the following motions to the hearing officer: Motion to Compel Response to Interrogatories; Motion to Compel Respondent to Admit The Truth of Certain Facts; Motion to Compel Production of Documents.

MORTON F. DOROTHY

Morton F. Dorothy

State of Illinois)
) ss
County of Champaign)

AFFIDAVIT

1. Complainant has filed a complaint with the Occupational Safety and Health Administration (OSHA) concerning the same incident that is the subject of the complaint in this action.
2. Complainant is not a party to the OSHA proceeding concerning this incident. Complainant has not been allowed to attend hearings, testify, present evidence or examine witnesses.
3. Complainant never had direct access to the emergency response and contingency plan prior to the August 5 incident. Complainant instead received training from respondent as to how to deal with emergencies pursuant to the plan. Request 18 is directed at obtaining the training materials. The training materials are obviously relevant to respondent's interpretation of the plan.

4. The first work order produced was initiated by Larry Kelly at 07:28 on 08-05-04. However, Afiba Martin's statement, produced elsewhere, refers to a work order he initiated several hours earlier. That work order has not been produced. Nor do any other work orders appear for third shift of August 4-5, 2004, during which shift the incident happened.
5. Denny Corbett was a witness to some of the events in this incident. It is reasonable to expect that he will be called as a witness at the hearing, in which case his credibility will be an issue. Complainant is aware that Denny Corbett has made several false statements, including statements made in writing to OSHA in its investigation of this incident. One of these statements concerns "threat letters that if we did not hire this employee back he would make it difficult for Guardian West by calling local and federal agencies".
6. Complainant hand-delivered a written account of the incident to Tony Rice on or about August 9, 2004.

Morton F. Dorothy

Morton F. Dorothy, Complainant

The undersigned, a notary public in and for the aforesaid County and State, certifies that the above person appeared before me and signed the foregoing document on the 23rd day of May, 2005,

Sandra J. McCall
Notary Public

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

