

RECEIVED
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

NOV 08 2004

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

STATE OF ILLINOIS
Pollution Control Board

PCB No. 05-49

NOTICE OF FILING

TO: Ms. Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(VIA FIRST CLASS MAIL)

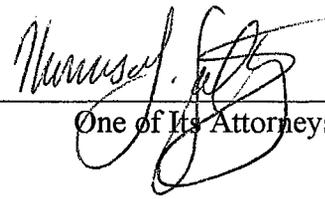
Mr. Morton F. Dorothy
804 East Main
Urbana, Illinois 61802
(VIA FIRST CLASS MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of a **SUBSTITUTION OF AFFIDAVITS**, a copy of which is herewith served upon you.

Respectfully submitted,

FLEX-N-GATE CORPORATION,
Respondent,

Dated: November 3, 2004

By: 

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

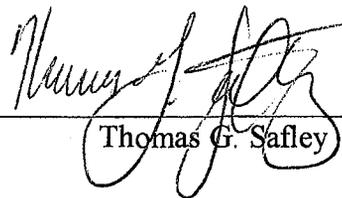
I, Thomas G. Safley, the undersigned, certify that I have served the attached

SUBSTITUTION OF AFFIDAVITS upon:

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

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 November 3, 2004.



Thomas G. Safley

GWST:003/Fil/NOF and COS -- Substitution

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

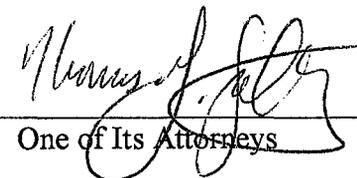
| | | |
|--------------------------|---|-----------|
| MORTON F. DOROTHY, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 05-49 |
| |) | |
| FLEX-N-GATE CORPORATION, |) | |
| an Illinois corporation, |) | |
| |) | |
| Respondent. |) | |

SUBSTITUTION OF AFFIDAVITS

NOW COMES Respondent, FLEX-N-GATE CORPORATION ("Flex-N-Gate"), by and through its attorneys, HODGE DWYER ZEMAN, and files the attached original Affidavit of Susan Linville and original Affidavit of Denny Corbett to replace the facsimile copies of said Affidavits that were attached as Exhibits to Flex-N-Gate's Response to Complainant's Motion to Accept for Hearing and for Expedited Discovery.

Respectfully submitted,

FLEX-N-GATE CORPORATION
Respondent,

By: 
One of Its Attorneys

Dated: November 3, 2004

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

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STATE OF ILLINOIS BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
Pollution Control Board

MORTON F. DOROTHY,

Complainant,

v.

FLEX-N-GATE CORPORATION,
an Illinois corporation,

Respondent.

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PCB 05-49

AFFIDAVIT OF SUSAN LINVILLE

Susan Linville, 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 currently am employed as Corporate Benefits Manager for Flex-N-Gate Corporation ("Flex-N-Gate").
3. I previously was employed as Human Resources Manager for Flex-N-Gate.
4. Morton F. Dorothy is a former employee of Flex-N-Gate's facility in Urbana, Illinois.

5. Before September 8, 2004, Mr. Dorothy asked Flex-N-Gate to rehire him, and Flex-N-Gate declined to do so.

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.

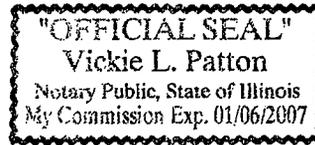
Susan Linville

Susan Linville

Subscribed and sworn to before
me this 1 day of November, 2004.

Vickie L. Patton

Notary Public



GWST:003/Fil/Affidavit of Susan Linville

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MORTON E. DOROTHY,
Pollution Control Board

Complainant,

v.

PCB 05-49

FLEX-N-GATE CORPORATION,
an Illinois corporation,

Respondent.

AFFIDAVIT OF DENNY CORBETT

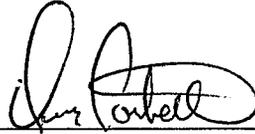
Denny Corbett, being first duly sworn, deposes and states under oath, and if sworn as a witness, would testify, as follows:

1. I have personal knowledge of the matters set forth in this affidavit.
2. I am employed as Urbana Safety Manager for Flex-N-Gate Corporation ("Flex-N-Gate").
3. I have reviewed Complainant's Motion to Accept for Hearing and for Expedited Discovery in this matter, and make the following statements in response thereto.
4. As Urbana Safety Manager for Flex-N-Gate, I have made or otherwise been involved in communications with the federal Occupational Safety and Health Administration ("OSHA") with regard to the incident at issue in this matter.
5. Flex-N-Gate specifically denies that it has made false statements to OSHA, as Complainant alleges in his Motion to Accept for Hearing and for Expedited Discovery.
6. Flex-N-Gate takes Complainant's lawsuit, and Flex-N-Gate's obligation to preserve documents related to Complainant's allegations in that lawsuit, very seriously, and

Flex-N-Gate denies that it would, in any circumstance, alter or destroy documents as
Complainant alleges in his Motion to Accept for Hearing and for Expedited Discovery.

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.



Denny Corbett

Subscribed and sworn to before
me this 29 day of October, 2004.

Gratiene M. Clapper
Notary Public

