

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MORTON F. DOROTHY,

Complainant,

v.

FLEX-N-GATE CORPORATION,
an Illinois corporation,

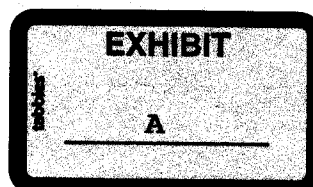
Respondent.

PCB 05-49

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 Corporate Safety Director for Flex-N-Gate Corporation ("Flex-N-Gate").
3. On August 5, 2004, a pipe in the Facility that carries a solution of approximately 93% concentrated sulfuric acid/ 7% water separated at a fitting, and a small amount of acid drained out from the pipe onto the floor of a room inside the Facility.
4. No fire occurred at the Facility on August 5, 2004.
5. No explosion occurred at the Facility on August 5, 2004.

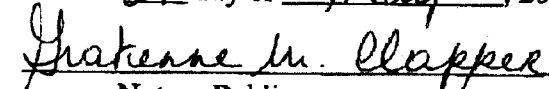


Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies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

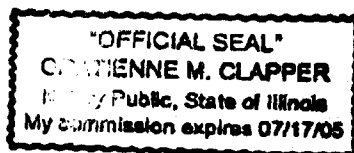
FURTHER AFFIANT SAYETH NOT.


Denny Corbett

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


Notary Public

GWST:003/Fil/Affidavit of Denny Corbett - Partial MSI



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Hotline Questions and Answers

May 1995

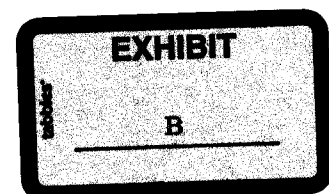
1. Solid Waste Determination for Spilled Commercial Chemical Products

According to 40 CFR §261.2, Table 1, hazardous commercial chemical products, when recycled, are exempt from RCRA because they are not solid wastes. If a manufacturer spills a commercial chemical product into the soil and intends to reclaim the spill residue, is the spill residue exempt from RCRA standards?

The intent to recycle a commercial chemical product spill residue does not exempt the material from RCRA jurisdiction. In fact, EPA has stated that contaminated soils and other cleanup residues generally are solid wastes because of the difficulty associated with recycling wastes contained within environmental media (54 FR 48494; November 22, 1989). Sometimes, however, a spill residue can be returned to a process or otherwise put to use, and thus remain exempt from RCRA standards.

In order to demonstrate that a spill residue is not a solid waste, the generator has the burden of proving that legitimate recycling will take place. The Agency has adopted objective considerations to evaluate a generator's claim that a spilled product will be legitimately recycled. The length of time the spill residue has existed is one such consideration. In order to prove that legitimate recycling will occur, a generator may also show that recycling has already begun, the material is valuable, the material can feasibly be recycled and/or the company has recycled such material in the past (55 FR 22671; June 1, 1990).

In the absence of strong, objective indicators of recycling or intent to recycle a spill residue, "the materials are solid wastes immediately upon being spilled because they have been abandoned" (54 FR 48494; November 22, 1989), and must be managed in accordance with all applicable RCRA standards.





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Environmental Protection
Agency

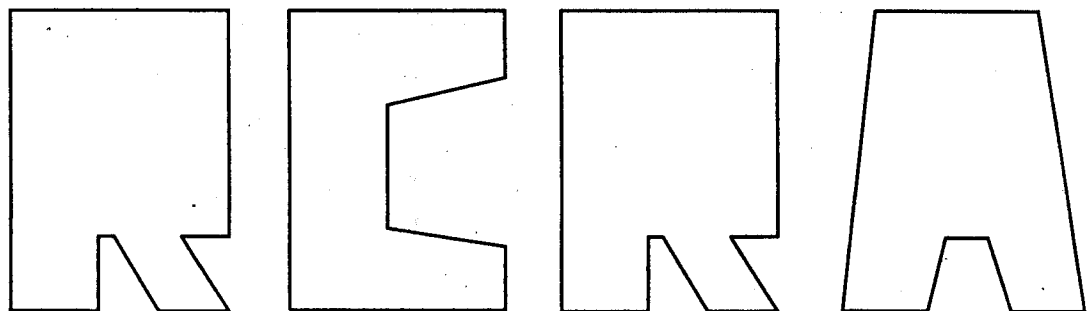
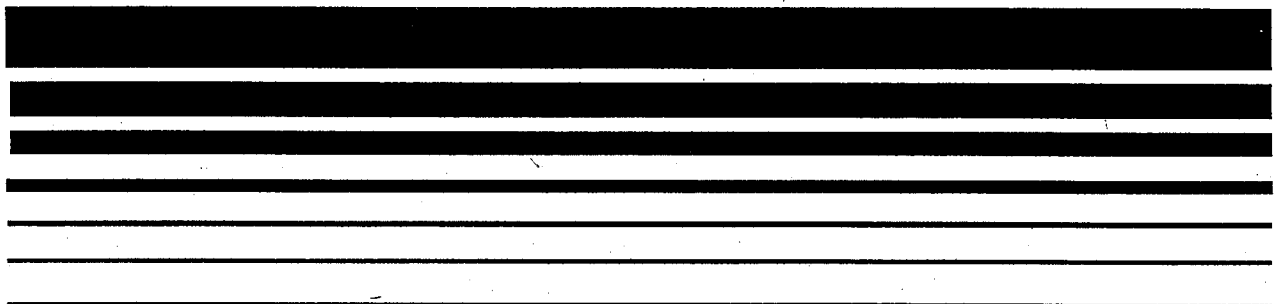
Office of Air Quality
Planning and Standards
Research Triangle Park NC 27711

EPA-450/3-89-021
July 1990

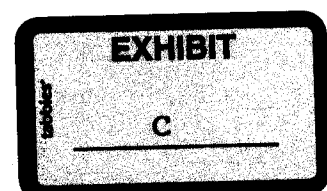
Air



Hazardous Waste TSDF - Technical Guidance Document for RCRA Air Emission Standards for Process Vents and Equipment Leaks



EPA
450/3-
89-021



and its associated process vent(s) are subject to the Subpart AA standards must be maintained in the facility operating record (Sections 264.1035(e) and 265.0135(e)). For example, documentation of a waste analysis showing that the waste managed in a distillation unit is less than the 10-ppmw applicability criterion must be kept in the facility operating record.

The owner/operator must then determine emission rates (through engineering calculations or direct source tests) for each vent and for the entire facility from all affected vents. Total facility process vent emission rates must then be compared to the short- and long-term process vent emission rate limit (1.4 kg/h or 2.8 Mg/yr [3 lb/h or 3.1 short tons/yr]) to determine if additional emission controls are required. Facilities with organic emissions from affected vents that never exceed the emission rate limit are not required to install controls or monitor process vent emissions under this rule. If the process vent emission rate limit is exceeded, the owner/ operator must install additional controls or change waste management process operations to reduce total facility process vent emissions to below the cutoff or install additional controls to reduce total facility process vent organic emissions from all affected vents by 95 weight percent; if enclosed combustion devices are used, the owner/operator has the option of reducing the organic concentration of each affected vent stream to a total organic compound concentration of no more than 20 parts per million by volume (ppmv), expressed as the sum of the actual compounds on a dry basis corrected to 3 percent oxygen. The standards for process vents do not require the use of any specific equipment or add-on control devices. Condensers, carbon adsorbers, incinerators, boilers, process heaters, and flares are applicable and demonstrated emission control devices for the regulated processes, although the choice of control is not limited to these.

Regardless of the technology selected by the facility, estimates of process vent emissions and emission reductions achieved by add-on control devices must be thoroughly documented, including certification of 95 percent reduction capability for control equipment. This information and documentation must be kept on record and must be included in the facility's Part B application. The implementation schedule, also required as Part B information, establishes dates for installation of the required emission controls for each particular facility.

2.0 SUMMARY OF THE REGULATION

The standards (promulgated 55 FR 25454, June 21, 1990) limit emissions of organics from certain process vents and equipment leaks at new and existing hazardous waste TSDF requiring a RCRA permit under RCRA Subtitle C (i.e., TSDF that need authorization to operate under RCRA Section 3005[e]). This applicability includes all hazardous waste management units that are subject to the permitting requirements of Part 270 and hazardous waste recycling units that are located on hazardous waste management facilities otherwise subject to the permitting requirements of Part 270.

2.1 PROCESS VENTS (SUBPART AA)

The standards are applicable to vents on affected hazardous waste management units that manage hazardous waste with an annual average total organics concentration of 10 parts per million by weight (ppmw) or greater and specifically include: (1) process vents on distillation, fractionation, thin-film evaporation, solvent extraction, and air or steam stripping operations and vents on condensers serving these operations, and (2) process vents on tanks (e.g., distillate receivers, bottoms receivers, surge control tanks, separator tanks, and hot wells) associated with distillation, fractionation, thin-film evaporation, solvent extraction, and air or steam stripping processes if emissions from these process operations are vented through the tanks.

To comply with the process vent standards, the facility owner/operator is required to identify all process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, and stripping processes that are handling or processing hazardous wastes that manage wastes exceeding the applicability criterion of 10 ppmw total organics (i.e., vents affected by the process vent standard). Up-to-date information and data used to determine whether or not a hazardous waste management unit

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The standards for process vents contain requirements that specific control device operating parameters be monitored continuously (Sections 264.1034 and 265.1034) and the monitoring information be recorded in the facility operating record to ensure that the devices perform according to their design and are properly operated and maintained. Operating parameters are specified for condensers, carbon adsorbers, flares, incinerators, and other enclosed combustion devices. While minimum operating conditions are identified for organic vapor destruction devices (e.g., incinerators and flares) to ensure 95 percent destruction, values or ranges of values for recovery device (i.e., condensers and carbon adsorbers) operating parameters cannot be specified on an industry-wide basis. A recovery device must be designed for a particular application and monitored to ensure that it is being operated within design specifications. (Note: This is an important point for permit writers/reviewers to keep in mind when evaluating control device efficiencies.) Proper design shall be determined through and documented by engineering calculations, vendor certification, and/or emission testing, although the use of emission testing to determine compliance with efficiency requirements is expected to occur only rarely. For facilities with final RCRA permits, periods when monitoring data indicate that control device operating parameters exceed established tolerances for design specifications for more than 24 hours must be reported on a semiannual basis. The records and reports must include dates, duration, cause, and corrective measures taken. (Note: Air standards also have been promulgated for the control of air emissions from permitted hazardous waste incinerators (40 CFR 264, Subpart O). These standards require that incinerators burning hazardous waste be operated to achieve a destruction and removal efficiency (DRE) of at least 99.99 percent for those primary organic hazardous constituents listed in the facility permit. However, the process vent stream (i.e., gases and vapors) from a hazardous waste management unit would not be classified as a hazardous waste. Noncontainerized gases emitted from hazardous wastes are not themselves hazardous wastes because the RCRA statute implicitly excludes them. Therefore, combustion of process vent streams in an incinerator is not subject to the 99.99 DRE requirement.)

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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

JUNE 89

1. Appendix VIII and Appendix IX

What is the difference between Appendix VIII and Appendix IX under RCRA? When each is used?

The hazardous waste regulations (40 CFR) contain two lists of chemicals which are sometimes confused: Appendix VIII of Part 261, and Appendix IX of Part 264.

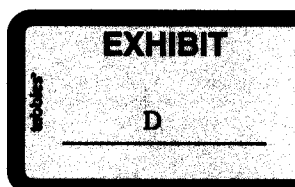
-Appendix VIII

Appendix VIII in 40 CFR Part 261 is EPA's list of RCRA hazardous constituents. This list was first promulgated in the May 19, Federal Register (45 FR 33130). The Appendix VIII list is comprised of chemicals which have toxic, carcinogenic, mutagenic, or teratogenic effects on humans or other life forms. Compounds which meet the criteria for 40 CFR Sections 261.33(e) and (f) as identified in Sections 261.11(a)(1)(2), and (3) are also included in Appendix VIII.

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1. Appendix VIII and Appendix IX (Cont'd)

Appendix VIII is a composite of several other lists of regulated chemicals. Appendix VIII includes chemicals from the priority pollutants list under the Clean Water Act, chemicals considered hazardous to transport under Department of Transportation, chemicals identified as carcinogens by EPA's Carcinogen Assessment Group, and chemicals which have a high acute toxicity as identified by NIOSH's registry of Toxic Effects of Chemical Substances list. Appendix VIII lists the chemical names in alphabetical order, the Chemical Abstract Service (CAS) name and number, and the RCRA hazardous waste code (where



Under the July 9, 1987 rules (52 FR 25942), and owner/operator of a RCRA facility will

applicable). There are currently 416 chemicals or classes of chemicals on Appendix VIII.

The main purpose of Part 261, Appendix VIII is to identify the universe of chemicals of concern under RCRA. Appendix VIII is used for two main purposes. EPA uses Appendix VIII to determine if a waste contains hazardous constituents and, therefore, should be considered for listing under 40 CFR Section 261.11. (Appendix VIII however, should not be used by a generator identifying hazardous wastes under Part 261, Subparts C and D. Appendix VIII is much broader than the actual hazardous waste lists in 40 CFR sections 261.31-261.33.)

Owners/operators of RCRA facilities use Appendix VIII for hazardous waste analysis before incineration (Section 264.340).

EPA's original regulations for ground-water monitoring at permitted land disposal facilities required owners and operators, under some circumstances, to analyze samples of groundwater for all constituents listed on Appendix VIII. The Agency soon discovered that compliance with this requirement caused a wide range of practical analytical problems. These problems included listings in Appendix VIII that covered broad categories (e.g., chlorinated naphthalene, not otherwise specified), listings of standard existed. To abate these groundwater monitoring problems, EPA promulgated Appendix IX of Part 264, the Groundwater Monitoring List (see 52 FR 25112).

-Appendix IX

Part 264, Appendix IX was promulgated to replace Part 261, Appendix VIII for groundwater monitoring for permitted facilities. Hence Part 264, Appendix IX is the Groundwater Monitoring List. It is comprised of compounds in the Part 261, Appendix VIII list for which it is feasible to analyze in groundwater samples as well as a few compounds routinely monitored under Superfund. Appendix IX lists the chemicals' common name in alphabetical order, the CAS number, the CAS index name, the SW-846 suggested test method, and the Practical Quantitation Limits

-3-

1. Appendix VIII and Appendix IX (Cont'd)

(PQL's) which are the lowest concentrations of analytes in groundwater that can be reliably determined within specified precision and accuracy limits using the suggested method. Appendix IX of Part 264 currently contains 211 chemicals and their associated test methods.

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Document Record Detail**Full Document:****Title:**

APPENDIX VIII AND APPENDIX IX

RCRA Online Number:

13290

Date:

06/01/1989

To:

NA

From:

NA

Organization of Recipient:

NA

Description:

Explains the differences between Part 261 Appendix VIII and Part 264 Appendix IX. EPA uses 261 Appendix VIII in listing hazardous wastes, but it should not be used by generators in waste identification. 264 Appendix IX is used only for groundwater monitoring at permitted facilities.

Regulatory Citation(s) :261.11, 262.11, 264.98 [EXIT disclaimer >](#)**Statutory Citation(s):**NA Read US Code 42, Chapter 82 [EXIT disclaimer >](#)**Topic(s):**

Generators; Hazardous Waste; Identification of Hazardous Waste; Permits and Permitting; Large Quantity Generators (LQG); Listing Hazardous Waste; TSDFs

Approximate Number of Hardcopy

2

Pages:**EPA Publication Number:**

530-SW-89-075F

RPPC Number (if applicable):

9445.1989(01)

OSW Policy:

No

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EMERGENCY RESPONSE AND CONTINGENCY PLAN

GUARDIAN WEST
601 GUARDIAN DRIVE
P.O. BOX 877
URBANA, ILLINOIS
61803

24 HOUR EMERGENCY PHONE
217-278-2355

Location:

Latitude: 40:7:07

Longitude: 88: 11:12

SE 1/4 Sec 9, T19N, R9E

UTM Coordinates: 399150 E, 4441400 N

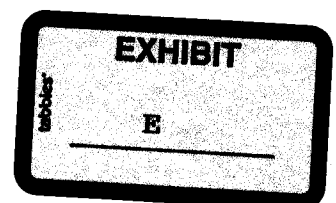
USEPA ID # ILD000061853

Illinois EPA ID # 0191055145

May, 2001

FOR REFERENCE ONLY

ISSUED BY lp
DATE 4/12/05



DISASTER RECOVERY PROCEDURES

HAZARDOUS MATERIAL SPILLS

Revision Date : March, 2002

NUCLEAR DISASTER PROCEDURES

There may be a nuclear accident involving a vehicle carrying radioactive materials where radioactive particles are released into the atmosphere in the vicinity of the Guardian West Plant. If there is time, measures can be taken to minimize contamination to vital equipment.

The following actions should be taken to protect plant associates and equipment. The Guardian West Safety Technician and Maintenance personnel will take these actions with additional assistance from other personnel if necessary.

1. Close all openings to the Guardian West plant.
 - a. Cover all exhaust vents with plastic and fasten the plastic securely with tape.
 - b. Cover all fresh air intake openings the same way, including the combustion air openings.
 - c. Place tape around all door openings and windows.
2. Cover equipment with sheets of plastic and tape them securely around the bottom.
3. Tape cracks around doors that can't be covered with plastic.

CLEAN-UP PROCEDURES

After the radioactivity has reached safe levels, clean up procedures will start. Precautions will be taken to provide for Associate safety. These precautions include:

1. Wear disposable clothing.
2. Move articles carefully so as not to raise dust.
3. Wash smooth, painted and hard surfaces clean.
4. Replace items that trap and hold dust such as carpets, drapes, and upholstered furniture if necessary.

NUCLEAR DISASTER PROCEDURES

TORNADO SAFETY PROCEDURES

Once the internal alarm has been sounded for a tornado, all associates should:

1. Shut down the equipment they are working with
2. Proceed immediately to Corridor B, the main hallway on the ground level
3. Seek shelter in Corridor B, the hall way south of the stairway, safety office, or the women's restroom

Do not go outside of the building

Do not seek shelter in the break room, men's restroom, or the hallway north of the stairs

Remain in the shelter area until Safety or Security has signaled that it is safe to go back to the departments.

MEDICAL EMERGENCY PROCEDURES

All plant personnel should be aware and have a copy of the procedures to follow in the event of a medical emergency (see next page). The Safety Department should review this policy with all Plant personnel on a Quarterly basis.

In the event of a Medical Emergency the Associate shall notify his or her Department Manager / Team leader, Shift Coordinator, Shift Safety Technician immediately. The affected associate if possible shall be transported directly to the Safety office for Assessment of Injury, and possible treatment or Transport to Carle Hospital for medical treatment.

In a Medical Emergency you may save someone's life if you:

*****Stay Calm.

*****Act Quickly.

*****Follow These Steps

1. If an Associate is injured while working at the Guardian West facility that associate shall immediately notify his / her Department Manager / Team Leader, Shift Coordinator, Shift Safety Technician.
2. If you are reporting a Medical Emergency for an Associate:
 - a. Tell / Describe problem or incident slowly.
 - b. Who you are.
 - c. Who the Victim is.
 - d. What has happened / is happening.
3. If you are reporting a Medical Emergency over the Plant Communications system:
(Motorola Radio Via Channel 1)
 - a. Call the Safety Technician.
 - b. Tell/ Describe problem or incident slowly.
 - c. Where you are.
 - d. Who the victim is.
 - e. What is currently happening?

The Security Department or Safety Technician will call the Urbana Fire Department and Arrow Ambulance service if needed.

MEDICAL PROCEDURES

**TABLE OF CONTENTS
GUARDIAN WEST**

SECTION	REV. DATE
1. Call Lists	October, 2003
2. Medical Procedures	May, 2001
3. Fire Procedures	May, 2001
4. Tornado/Severe Storm Procedures	August, 2001
5. Nuclear Disaster Procedures	May, 2001
6. Hazardous Material Spills	March, 2002
7. Disaster Recovery Procedures	May, 2001
8. Security Operations	May, 2001
9. Fire/Tornado/Severe Weather Evacuation Routes	May, 2001
10. Chemical Storage Areas	October, 2001
11. Emergency Equipment Location	October, 2001
12. Attachment A- Consolidated list of RQ	May, 2001
13. Attachment B- RCRA Hazardous Waste	May, 2001
14. Attachment C-Hazardous Materials	May, 2001
15. Attachment D-Chemical Spill Reporting Form	May, 2001

DISASTER RECOVERY PROCEDURES

In the event of a major disaster that renders the facility's systems inoperable and the facility maintenance department is unable to affect repairs, the following companies have been identified to perform repair work:

- | | |
|------------------------------------------------------|------------------|
| 1. Carrier, chillers and HAVC | 1-(309)-693-0578 |
| 2. Potter, general electrical work | 1-(217)-367-4074 |
| 3. McWilliams, HVAC, Mechanical, piping, plumbing | 1-(217)-351-4900 |
| 4. Bennett, electronic, alarms, fire control systems | 1-800-221-2380 |
| 5. Smelberg, presses | 1-773-734-3000 |
| 6. Material Handling Inc., overhead cranes | 1-317-783-6179 |
| 7. Roessler Construction, general contractor | 1-217-893-3355 |

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P. 8

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
CHAMPAIGN COUNTY, ILLINOIS

MORTON F. DOROTHY,

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FLEX-N-GATE CORPORATION,
an Illinois corporation,

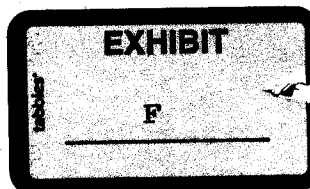
Respondent.

PCB 05-49

AFFIDAVIT OF JACKIE CHRISTENSEN

Jackie Christensen, 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 by Flex-N-Gate Corporation ("Flex-N-Gate") as Environmental Manager at the facility at issue in the above-captioned matter.
3. True and accurate copies of portions of Flex-N-Gate's Facility Emergency Response and Contingency Plan ("Plan") are attached to Flex-N-Gate's Motion for Partial Summary Judgment as Exhibit D.
4. The Plan was developed by Flex-N-Gate to address numerous types of situations that could occur at the Facility, including, but not limited to, situations involving "hazardous waste."
5. Thus, portions of the Facility's "Emergency Response and Contingency Plan" serve as:
 - the Facility's "Contingency Plan" under Subpart D to 35 Ill. Adm. Code Part 725;



- the Facility's "Emergency Response Plan" under the Occupational Safety and Health Act (29 C.F.R. § 1910.120(p)(8)(i));

and set out other procedures for the Facility relating to maintenance, security, etc.

6. Section 6 of the Plan is not focused on "hazardous waste," but rather, is titled "Hazardous Material Spills," and addresses any type of hazardous substance at the Facility, be it a waste or a product.

7. Flex-N-Gate included its RCRA contingency plan within its OSHA emergency response plan; this is why the Facility's Plan is titled "Emergency Response and Contingency Plan."

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.

Jackie Christensen
Jackie Christensen

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

Gratiene M. Clapper
Notary Public

GWST:003/Fil/Affidavit of Jackie Christensen - Partial MSJ

