

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
<b>(VIA ELECTRONIC MAIL)</b>	<b>(VIA ELECTRONIC MAIL)</b>

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board **RESPONDENT'S STATUS REPORT OF DISCOVERY MOTIONS OUTSTANDING AS OF OCTOBER 20, 2005, AND PROPOSED DISCOVERY SCHEDULE**, a copy of which is herewith served upon you.

Respectfully submitted,

FLEX-N-GATE CORPORATION,  
Respondent,

By: /s/ Thomas G. Safley  
One of Its Attorneys

Dated: December 9, 2005

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

**THIS FILING SUBMITTED ON RECYCLED PAPER**

**CERTIFICATE OF SERVICE**

I, Thomas G. Safley, the undersigned, certify that I have served the attached  
RESPONDENT'S STATUS REPORT OF DISCOVERY MOTIONS OUTSTANDING  
AS OF OCTOBER 20, 2005, and PROPOSED DISCOVERY SCHEDULE 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 December 9, 2005; and upon:

Mr. Morton F. Dorothy  
104 West University, SW Suite  
Urbana, Illinois 61801

by depositing said documents in the United States Mail in Springfield, Illinois, postage  
prepaid, on December 9, 2005.

/s/ Thomas G. Safley  
Thomas G. Safley

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Complainant,	)	
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**RESPONDENT'S STATUS REPORT OF  
DISCOVERY MOTIONS OUTSTANDING AS OF  
OCTOBER 20, 2005, AND PROPOSED DISCOVERY SCHEDULE**

NOW COMES Respondent, FLEX-N-GATE CORPORATION ("Flex-N-Gate"), by and through its attorneys, HODGE DWYER ZEMAN, pursuant to the Hearing Officer's Order dated November 1, 2005, and for its Status Report of Discovery Motions Outstanding as of October 20, 2005, and Proposed Discovery Schedule, states as follows:

**I. BACKGROUND**

1. On November 1, 2005, the Hearing Officer directed Complainant and Respondent to prepare and submit a joint status report and proposed discovery schedule prior to the December 12, 2005, telephone status conference.
2. The subject of the status report was to be identification of motions which remain outstanding after the Illinois Pollution Control Board's ("Board") Order dated October 20, 2005, in this matter.
3. Respondent prepared its proposed joint status report; transmitted the same to Complainant by U.S. Mail on November 18, 2005; and attempted to contact Complainant regarding the draft report on November 29, 2005.

4. Respondent made two attempts to contact Complainant, one via phone, and one via fax.

5. As of the date of this filing, we have received no response to these attempts.

6. In order to comply with the Hearing Officer's Order, Respondent respectfully files its status report and proposed discovery schedule

**II. Respondent's Status Report of Discovery Motions Outstanding**

7. Only one discovery motion remains outstanding following the Board's Order dated October 20, 2005.

8. The undecided motion is "Complainant's Motion for Expedited Discovery" dated October 14, 2004. The Board specifically reserved ruling on this motion in its November 18, 2004, Order.

9. All other motions have either been decided or designated as moot by order of the Board. Specifically, the Board stated in its October 20, 2005, Order:

The remaining motions, such as Mr. Dorothy's motions to compel and for reconsideration of the June 7, 2005 hearing officer order, and Flex-N-Gate's motion for a protective order, are denied as moot.

IPCB, October 20, 2005 Order at 3.

**III. RESPONDENT'S PROPOSED SCHEDULE FOR DISCOVERY**

10. Respondent proposes that sixty (60) days be granted for written discovery regarding the matters at issue in this matter.

**III. CONCLUSION**

WHEREFORE, Respondent, FLEX-N-GATE CORPORATION, respectfully moves the Hearing Officer to accept the conclusions of this report and enter the proposed schedule for discovery in this matter.

Respectfully submitted,

FLEX-N-GATE CORPORATION  
Respondent,

By: /s/ Thomas G. Safley  
One of Its Attorneys

Dated: December 9, 2005

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GWST:003/Fil/Respondent Status Rprt of Mtns Outstanding & Disc Schedule