

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Mercury Vapor Processing)
Technologies, Inc. a/k/a River Shannon)
Recycling)
13605 S. Halsted)
Riverdale, IL 60827)
EPA ID No: ILD005234141, and)
)
Laurence Kelly)
)
Respondents)

Docket No. RCRA-05-2010-0015

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RESPONDENTS' SUPPLEMENTAL PREHEARING EXCHANGE

Respondents Mercury Vapor Processing Technologies, Inc. a/k/a River Shannon Recycling and Laurence Kelly, pursuant to 40 CFR Part 22.19(a) and (f) as well as 22.16 of the Consolidated Rules, hereby move to file the attached supplemental prehearing exchange, in accordance with the Prehearing Order issued by the Honorable Judge Gunning as well as the statement made by the Honorable Judge Gunning during the May 19, 2011 conference call indicating all motions must be filed no later than July 8, 2011.

Respondents' Second Supplemental Prehearing Exchange

Respondents' request that the Honorable Judge Gunning grant this motion to supplement the Respondents' Prehearing Exchange with the following witnesses and items:

1. Identify Mary Allen, Solid Waste Agency of Northern Cook County, as a potential witness
2. Identify Gary Westefer, Illinois Regulatory Specialist, RCRA Programs Section, RCRA Branch, Land & Chemicals Division, USEPA Region 5
3. Affidavit from Mr. Laurence Kelly regarding his knowledge and activities with River Shannon Recycling.
4. Affidavit from Mr. Laurence Kelly regarding his knowledge and activities with Shannon Lamp Recycling.
5. Color copies of photographs of Riverdale facility taken October and December 2008.

Respectfully Submitted,



Laurence Kelly

7144 N. Harlem Ave.

Suite 303

Chicago, IL 60631

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Laurence Kelly Affidavit for Mercury Vapor Processing, Inc. d/b/a

River Shannon Recycling

I, Laurence Kelly, being first duly sworn, on oath state as follows:

1. I was the Chief Operating Officer and Health and Safety Officer for Mercury Vapor Processing, Inc. d/b/a River Shannon Recycling.
2. In October of 2003, I was invited to become a member of a group that intended to market, supply proper containers, transport small quantities of spent lamps from their customers locations and manage those lamps as a small quantity generator/handler. The company was known as Mercury Vapor Processing, Inc. d/b/a River Shannon Recycling.
3. I subsequently became the Chief Operating Officer of River Shannon Recycling (RSR) and also its Health and Safety Officer. My other responsibilities at the Riverdale location was maintaining a Health and Safety program for personnel that were involved in the safe transportation and staging of these inventories. I also managed the timely reporting to the IEPA on a quarterly basis of the amount of lamps it had generated and handled every three months to Mr. Mark Crites, Bureau of Land, RCRA permitting. (CX4)
4. RSR moved into a warehouse in February of 2005 and acquired its first business license with the Village of Riverdale to consolidate Universal Waste at that location.
5. In January 2006, RSR realized that from time to time it was coming close to exceeding the definition of a small quantity generator/ handler. RSR then immediately identified as a Large

Quantity Generator/Handler of Universal Waste to the IEPA and acquired a generator ID number (#ILD005234141) (RX5).

6. Acting as a Transporter, Handler/Generator, and Consolidator of Spent Lamps and Batteries, RSR supplied covered containers for spent lamps to small quantity generators with the proper placards, picked up those containers from time to time, and transported those containers under Bills of Lading to the warehouse RSR occupied in Riverdale, Illinois.
7. RSR has never Transported, Stored, Consolidated, Treated, Processed or Disposed of any RCRA Subtle "C" waste commonly known as hazardous waste.
8. RSR has never treated, processed or volume reduced any Universal Waste
9. Acting as a Large Quantity Handler/Co-generator, RSR only generated and consolidated lamps and batteries commonly known as Universal Waste at its warehouse.
10. RSR safely staged those lamps, maintained inventory control and from time to time it employed an Illinois solely owned and IEPA authorized outsource mobile lamp volume reduction company located in Morton Grove, Illinois known as SLR to safely volume reduce quantities of spent lamps.
11. RSR transported and used licensed battery recycling companies to recycle the batteries they accumulated at their warehouse.
12. As the material was volume reduced, SLR would place the non-hazardous residual mixed glass and metal into a lined and covered container awaiting further action.
13. Upon completion of the volume reduction task SLR's mobile equipment would be Demobilized and brought back to its storage yard located in Morton Grove Illinois.
14. SLR did not perform any other service at the Riverdale Warehouse
15. RSR did not perform any separation or any other process at the Riverdale Warehouse consistent with the clear and precise rules and directions published and managed by the IEPA since 2000.
16. When the material was volume reduced and the non-hazardous waste was safely staged, RSR would shop known end users that were permitted to separate and manage the volume reduced non-hazardous material. (RX10a and RX10b)

17. If no markets were available and to eliminate “Speculative Accumulation” issues, RSR had profiled the non-hazardous glass and metal mixture into a non-hazardous Special Waste Landfill known as Land and Lakes. (RX4)
18. On or about mid July of 2007 when I was in the Village Hall paying for our annual business license, I informed two of the directors of the village that we intended to acquire the warehouse and they referred me to their legal counsel who was also their environmental counsel.
19. I met with the legal counsel for the village several times between July 2007 and September 6, 2007.
20. On September 6, 2007, while attending a meeting at the lawyers’ office, I received a cease and desist letter from the Village delivered to me by their attorney, and it was from that point on I physically precluded from accessing the property or securing the property and its contents by village officials.
21. I was allowed access to the property on October 30, 2007, prior to the arrival of the USEPA representatives 55 days after I was locked out.
22. The property and its contents had experienced some vandalism prior to September 6, 2007.
23. The property and its contents had experienced extreme vandalism from September 6, 2007 through October 30, 2007.
24. River Shannon Recycling sued the village for prohibiting access to the property and disallowing them to secure the contents of the warehouse.
25. The village filed a countersuit against River Shannon.
26. River Shannon was able to remove the contents of the warehouse from July 25, 2008 through September 3, 2008 by court agreement.
27. River Shannon relocated the materials to a separate location outside the Village of Riverdale.
28. River Shannon coordinated with their volume reduction vendor to have these materials volume reduced.
29. River Shannon informed the USEPA in their response dated October 20, 2008, that these materials had been removed from the Riverdale Warehouse, relocated to a separate location, had been volume reduced and the non-hazardous residuals had been properly disposed of.

30. River Shannon provided documentation to the USEPA regarding these actions in their response dated October 20, 2008.

31. River Shannon cleaned the property to the satisfaction of the court, the environmental counsel for the village and the building owner.

32. River Shannon entered into settlement agreement with the village which was presented to the presiding officer in that case on February 3, 2009.

33. I have made every attempt to operate within the rules and guidelines that regulate Universal Waste in the State of Illinois.

34. I am aware that Illinois' Universal Waste Rule is adopted but unauthorized.

35. I am aware that the Illinois Universal Waste Rule had not received authorization due to what the USEPA has described to me as a "legislative glitch".

36. I am aware that Illinois is being allowed to manage their Universal Waste rule under what both the USEPA and the IEPA have described to me as a "handshake agreement".

37. I requested documentation from the IEPA regarding the "handshake agreement" and was provided with the "Herman memo". (RX4 and proposed CX45)

38. I sought additional guidance from the USEPA and was informed again that the USEPA was allowing the IEPA to manage this waste as Universal Waste.

39. I sought additional guidance from the USEPA's website and was referred to Illinois Universal Waste Rule at 35 IAC 733.

40. I sought additional guidance from the IEPA and was informed that my technology was within the Illinois Universal Waste guidelines.



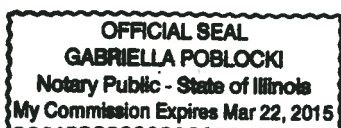
Laurence Kelly

Subscribed and sworn to before me, the undersigned Notary Public, this 7th day of July, 2011.



Notary Public

My commission expires 3-22-2015



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**Affidavit of Laurence Kelly acting as a sole owner of SLRT a
State authorized lamp volume reduction service**

I, Laurence Kelly, being first duly sworn, on oath state as follows:

1. In 2000, I received authorization by the IEPA to perform volume reduction of spent lamps utilizing my mobile equipment at generator locations in the State of Illinois.
2. Consistent with the Illinois rule and 29 CFR 1910-1000 the volume reducing equipment also captures mercury vapor if it becomes present as a result of the volume reduction activity.
3. SLR has utilized this method under the strict authorization issued by the IEPA for volume reducing lamps since receiving my authorizations in 2000.
4. SLR has only safely volume reduced lamps.
5. The authorization came with definitive caveats that included the following:
 - That the residual volume reduced materials (Glass and Metal Ends) could only be separated at another permitted facility and not at a generators location.
 - That the mobile volume reduction equipment could never become stationary
6. SLR has never conducted any separation of the mixed non-hazardous residual material
7. In 2003, I was offered an opportunity to become the COO and Health and Safety officer for a company known as RSR which was held by a corporation known as MVP.

8. It was agreed that my company, SLR would also assist the company known as RSR using its volume reduction technology from time to time to safely manage that specific task for lamps that were being generated at their warehouse in Riverdale, Illinois. SLR agreed to become the vendor for that service.
9. SLR maintained a storage yard for its State authorized volume reduction equipment in Morton Grove, Illinois (over 33 miles from RSR Riverdale warehouse) so as to have easy access to it when and if other large quantity generators were in need of my services such as Commonwealth Edison, University of Illinois, along with others.
10. Prior to the formation of RSR and up to when RSR filed a civil action against the Village of Riverdale, SLR was solely owned. At the direction of RSR's legal Counsel for the purpose of MVP's litigation, SLR was made part of the MVP umbrella and became a legal assumed name of MVP. During that period from September 2007 to December 2008 SLR never volume reduced lamps at the Riverdale location.
11. SLR Technologies, Inc. was incorporated in Illinois in December of 2008.
12. SLR's mobile volume reduction technology has been the subject of many regulatory reviews since 2000 including the US Postal Service and received the "Technical Innovation of The Year" award from the American Public Works association in 1999.
13. Since 2000 this method of safely volume reducing spent lamps has never been the subject of any regulatory compliance or enforcement action. In addition SLR's volume reduction methods never created a reportable OSHA Health and Safety violation related to employee and/or public health and safety.
14. SLR has never been involved in transporting, generating or consolidating spent lamps. SLR only offers a safe and equitable way of volume reducing spent lamps commonly known as Universal Waste in the State of Illinois.

Laurence Kelly

Laurence Kelly

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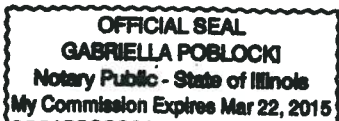
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Subscribed and sworn to before me, the undersigned Notary Public, this 7th day of July, 2011.

Gabriella Poblocki

Notary Public

My commission expires 3-22-2015



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CERTIFICATE OF SERVICE

I certify that the foregoing Respondents' Supplemental Prehearing Exchange, dated July 7, 2011, was sent this day in the following manner to the addressees listed below:

Original by Overnight Delivery to: Regional Hearing Clerk
U.S. EPA - Region 5
77 W. Jackson Blvd.
Mail Code: E-19J
Chicago, IL 60604

Copy by Overnight Delivery to: Jeffery Cahn
Associate Regional Counsel
US Environmental Protection Agency - Region 5
77 W. Jackson Blvd.
Mail Code: C-14J
Chicago, IL 60604

The Honorable Judge Gunning
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1099 14th Street, N. W.
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