

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' OBJECTIONS TO COMPLAINANT'S FIRST SUPPLEMENTAL PREHEARING EXCHANGE**

Respondents, pursuant to 40 C.F.R 22.16(a) and 22.22(a), hereby file this Objection to Complainants First Supplemental Prehearing Exchange, for reasons as follows.

40 C.F.R 22.22 (a) provides, in part, "The Presiding Officer shall admit all evidence which is not irrelevant, immaterial, unduly repetitious, unreliable, or of little probative value, except that evidence relating to settlement which would be excluded in the federal courts under Rule 408 of the Federal Rules of Evidence (28 U.S.C.) is not admissible."

Respondents find the following exhibits irrelevant, unreliable, unduly repetitious or of no probative value:

A) Identify William K. Graham, P.E. as a potential witness. Mr. Graham is prepared to testify regarding consulting work done for Spent Lamp Recycling Technologies. (Supplemental Exchange Number 2)

Spent Lamp Recycling Technologies, Inc. is not a party to this complaint, and any consulting services performed for Spent Lamp Recycling Technologies by an outside consultant is irrelevant in this matter.

B) Identify Leonard Worth, President of Fluorecycle, Inc. as a potential witness. (Supplemental Exchange Number 3)

That Fluorecycle, Inc. advertises itself as the only IEPA RCRA-permitted destination facility recycler without any documentation to support that claim is unreliable.

C) Security Exchange Commission Registration Statement under The Securities Act of 1933, for VX Technologies, Inc., patent of Spent Lamp Recycling Technologies, Inc., dated February 11, 2002. (Supplemental Exchange Number 11, CX37)

Neither company to whom this document relates are parties to this Complaint, and therefore this document is irrelevant in this proceeding.

D) Information request under RCRA Section 7003 to S.L.R. Technologies, Inc. d/b/a Shannon Lamp Recycling dated July 6, 2010. (Supplemental Exchange Number 12, CX38)

S.L.R. Technologies, Inc. is not a party to this Complaint, and this document is irrelevant in this proceeding.

E) Response to July 6, 2010 Information Request from S.L.R. Technologies, Inc. d/b/a Shannon Lamp Recycling dated August 4, 2010. (Supplemental Exchange Number 13, CX39)

S.L.R. Technologies, Inc. is not a party to this Complaint, and this document is irrelevant in this proceeding.

F) Information request under RCRA Section 7003 to S.L.R. Technologies, Inc. d/b/a Shannon Lamp Recycling dated November 11, 2010. (Supplemental Exchange Number 14, CX40)

S.L.R. Technologies, Inc. is not a party to this Complaint, and this document is irrelevant in this proceeding.

G) Response to November 11, 2010 Information Request from S.L.R. Technologies, Inc. d/b/a Shannon Lamp Recycling dated December 24, 2010. (Supplemental Exchange Number 15, CX41)

S.L.R. Technologies, Inc. is not a party to this Complaint, and this document is irrelevant in this proceeding.

H) U.S. EPA Inspection report on the current conditions of the Riverdale Warehouse located at 13605 S. Halsted Street, Riverdale, Illinois, dated May 26, 2011, and accompanying photograph log. (Supplemental Exchange Number 16, CX42)

This document is irrelevant and of no probative value. River Shannon Recycling relinquished this property back to the owner in December 2008. The property as of December 2008 was in broom swept condition and pristine, as agreed to by the building owner, Village of Riverdale inspectors, the environmental counsel for the Village of Riverdale and the United States District Court Northern District of Illinois, the Honorable Judge Ruben Castillo. The USEPA, specifically Mr. Todd Brown, was notified of River Shannon Recycling's removal of all

materials from the Riverdale property in their response dated October 20, 2008 to the USEPA's request for information dated October 3, 2008, and they could have easily performed an inspection of the property at that time. However, the USEPA waited nearly three years, during which time the property was subjected to the same types of uncontrolled vandalism that River Shannon Recycling faced while occupying the property. Riverdale, IL is a downtrodden city, and River Shannon Recycling would often find vagrants living in the building when they would return on Monday mornings. River Shannon Recycling cannot be held accountable for the current condition of the property after a nearly three year vacancy, and nearly three years of uncontrolled vandalism and disrepair. Residential property depicted in the USEPA picture # 99 was at the time a one square mile of vacant, abandoned and dilapidated housing project, no inhabitable residences existed. This exhibit is a purposeful misrepresentation of the conditions of the Riverdale property and does not truly and accurately portray what it purports to portray, that being the conditions in which River Shannon Recycling left the building upon their exiting the property in December 2008. For USEPA investigators to return to a building after nearly 3 years of being vacant and left to the vandals is an attempt to distort the actual facts of this issue using insinuation and innuendo by depicting the current condition of this property as the condition in which River Shannon Recycling left the property in. The picture showing the adjacent property next door (CX42, number 91 and 99) which apparently now currently houses single family dwellings was not even inhabited during River Shannon Recycling's occupation of the Riverdale property. In fact, the same investigator taking the pictures, Mr. Todd Brown, was at the site in October and November 2007 and is aware that the current residences adjacent to the property were uninhabited subject to a gentrification project.

Another example of the USEPA's attempt to distort the facts are the litany of pictures depicting a crack in the floor of the building insinuating that somehow we caused the crack and by some means there could possibly be some sort of Environmental insult to the soil below that crack as a result of our warehousing operations some 3 years prior to this picture being taken. Further, the crack in the floor as that relates to our warehousing activities, does not pose any potential insult to the environment when managing Universal Waste spent mercury containing lamps, because mercury vapor, when emitted, does not grow legs and will not leach into the soil when a lamp is broken. Mercury vaporizes when exposed to the air, and grows wings, thus any initial insult, if present, is an air quality insult, not a land and soil issue. This exhibit is characteristic of the USEPA's consistent attempt to distort the facts. Respondents have attached the following pictures that were taken at the time of River Shannon Recycling's exiting the property. The attached pictures are similar to the recent pictures taken by the USEPA investigator, but depict the true and accurate condition the building was in upon leaving the property in December of 2008.

#### LISTING OF PICTURES ATTACHED

Picture # 1 Matches the USEPA picture marked # 1

Picture # 2 Matches the USEPA picture marked # 2

Picture # 3 Matches the USEPA picture marked # 6

Picture # 4 Matches the USEPA picture marked # 26

Picture # 5 Matches the USEPA picture marked # 30

Picture # 6 Matches the USEPA picture marked # 34

Picture # 7 Matches the USEPA picture marked # 99

I) "Universal Waste Rule – Implementation" memorandum from Steve Herman, Assistant Administrator, April 10, 1996. (Supplemental Exchange Number 19, CX45)

This document is redundant to RX4a.

J) William K. Graham's consulting file for Laurence C. Kelly and Spent Lamp Recycling Technologies, Inc. (Supplemental Exchange Number 21, CX47)

Spent Lamp Recycling Technologies, Inc. is not a party to this complaint. Any consulting services performed for Spent Lamp Recycling Technologies, Inc. by an outside consultant is irrelevant in this matter. Further, any correspondence between the engineer and Spent Lamp Recycling Technologies should be considered privileged and confidential, including eight pages headed "Memorandum" with subsequent headings either stating "Draft" or "Draft for internal discussion". This exhibit has nothing to do with MVP or River Shannon Recycling.

Respondents do not object to the remaining proposed supplemental prehearing exchange exhibits or witnesses.

Respectfully Submitted,



Laurence Kelly

6/27/11

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**RESPONDENT PICTURE # 1**  
**TO USEPA PICTURE # 1**







**RESPONDENT PICTURE # 2**  
**TO USEPA PICTURE # 2**







**RESPONDENT PICTURE # 3  
TO USEPA PICTURE # 6**



**RESPONDENT PICTURE # 4  
TO USEPA PICTURE # 26**





**RESPONDENT PICTURE # 5  
TO USEPA PICTURE # 30**







**RESPONDENT PICTURE # 6  
TO USEPA PICTURE # 34**



**RESPONDENT PICTURE # 7  
TO USEPA PICTURE # 99**







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CERTIFICATE OF SERVICE

I certify that the foregoing Respondents' Objection to Complainants First Supplemental Prehearing Exchange, dated June 27, 2011, was sent this day in the following manner to the addressees listed below:

Original by Certified Mail to:

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

Copy by Certified Mail 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  
Mail Code 1900L  
1200 Pennsylvania Avenue, N.W.  
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