



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

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In the Matter of:
Aylin, Inc., Rt. 58 Food Mart, Inc.,
Franklin Eagle Mart Corp.,
Adnan Kiriscioglu d/b/a New Jersey Petroleum
Organization a/k/a NJPO,
5703 Holland Road Realty Corp.,
8917 South Quay Road Realty Corp., and
1397 Carrsville Highway Realty Corp.
Respondents.

Docket No. RCRA-03-2013-0039

ORDER ON MOTION FOR LEAVE TO FILE SUPPLEMENTAL PREHEARING EXCHANGE

On March 27, 2013, the United States Environmental Protection Agency, Director of the Land and Chemicals Division of Region 3 ("Complainant"), filed an Administrative Complaint, Compliance Order and Notice of Right to Request Hearing ("Complaint") charging Aylin, Inc. ("Aylin"), Rt. 58 Food Mart, Inc. ("Rt. 58"), Franklin Eagle Mart Corp. ("Franklin Eagle"), and Adnan Kiriscioglu d/b/a New Jersey Petroleum Organization a/k/a NJPO ("Kiriscioglu") with violations of Section 9005(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6991d(a), and certain provisions of the Virginia Administrative Code. Aylin, Rt. 58, Franklin Eagle, and Kiriscioglu filed a joint Answer to Administrative Complaint, Compliance Order and Notice of Right to Request a Hearing on April 29, 2013.

Following the parties' participation in this Tribunal's Alternative Dispute Resolution process, I was designated to preside over the litigation of this matter. On November 5, 2013, I issued a Prehearing Order and Order on Motion to Stay Proceedings ("Prehearing Order"), which set deadlines for the parties' prehearing exchange process and for the filing of dispositive motions regarding liability. The parties subsequently filed their prehearing exchanges and engaged in extensive motions practice. Complainant also filed a First Supplemental Prehearing Exchange and Second Supplemental Prehearing Exchange without accompanying motions on December 31, 2014, and March 19, 2015, respectively. I ruled on various motions filed by the

parties by Order dated August 10, 2015.¹ Therein, I also noted that Complainant had not sought leave to supplement its prehearing exchange and reminded the parties that any addition of a proposed witness or exhibit to a prehearing exchange shall be filed with an accompanying motion to supplement the prehearing exchange, as directed in the Prehearing Order.

On August 20, 2015, Complainant filed a Motion for Leave to File Supplement Prehearing Exchange (“Motion to Supplement”), in which Complainant seeks leave to add 13 proposed exhibits denoted as CX 81-93 to its prehearing exchange. Complainant explains that these exhibits are identical to those submitted in its First and Second Supplemental Prehearing Exchanges and that it hopes the filing of the Motion to Supplement “will cure [the] procedural deficiency” of having failed to obtain leave to file those supplemental prehearing exchanges previously. To date, Respondents have not responded to the Motion to Supplement.

This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules of Practice”), set forth at 40 C.F.R. Part 22. The Rules of Practice provide:

A party who has made an information exchange under paragraph (a) of this section . . . shall promptly supplement or correct the exchange when the party learns that the information exchanged or response provided is incomplete, inaccurate or outdated, and the additional or corrective information has not otherwise been disclosed to the other party pursuant to this section.

40 C.F.R. § 22.19(f).

In the instant proceeding, Complainant explains that it is providing the 13 additional proposed exhibits well in advance of the hearing, which has yet to be scheduled, and that it attempted to do so even sooner when it first obtained the documents. Complainant further contends that each additional proposed exhibit “is relevant and material to matters at issue in this proceeding.”

Upon consideration, I find that the Motion to Supplement satisfies the requirements of 40 C.F.R. § 22.19(f). Moreover, Respondents have not objected to it. Accordingly, the Motion to Supplement is hereby **GRANTED**.

¹ Among other rulings, I granted leave to Complainant to amend the Complaint to add three corporations – 5703 Holland Road Realty Corp., 8917 South Quay Road Realty Corp., and 1397 Carrsville Highway Realty Corp. (collectively, “Realty Corporations”) – as named respondents in this proceeding. Complainant subsequently filed a First Amended Administrative Complaint, Compliance Order and Notice of Right to Request Hearing on August 12, 2015. Aylin, Rt. 58, Franklin Eagle, Kiriscioglu, and the Realty Corporations (collectively, “Respondents”) filed a joint Answer to First Amended Complaint, Administrative Complaint, Compliance [sic] Order and Notice of Right to Request a Hearing on August 31, 2015.

SO ORDERED.

Christine Donelian Coughlin
Administrative Law Judge

Dated: September 14, 2015
Washington, D.C.

In the Matter of *Aylin, Inc., RT. 58 Food Mart, Inc., Franklin Eagle Mart Corp., Adnan Kiriscioglu d/b/a New Jersey Petroleum Organization a/k/a NJPO, 5703 Holland Quay Road Realty Corp., and 1397 Carrsville Highway Realty Corp.*, Respondents.
Docket No. RCRA-03-2013-0039

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Motion for Leave to File Supplemental Prehearing Exchange**, dated September 14, 2015, was sent this day in the following manner to the addressees listed below.



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Dated: September 14, 2015
Washington, D.C.