



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

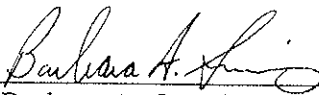
IN THE MATTER OF)
)
)
GEOLOGISTICS AMERICAS, INC.,) DOCKET NO. RCRA-06-2003-0922
)
)
)
)
Respondent)

ORDER GRANTING MOTION FOR SUBPOENAS

On September 22, 2004, Geologistics Americas, Inc. ("Respondent") submitted Respondent Geologistics Americas, Inc.'s Consent Motion for Additional Discovery Pursuant to 40 C.F.R. § 22.19(e) ("Consent Motion"). Respondent seeks subpoenas for the depositions of Laura Del Boecco, Howard Boubel, and Sara Cardenas and representatives from the Environmental Protection Agency ("EPA"), Integrated Trade Systems, Inc., and the Texas Commission on Environmental Quality ("TCEQ"), and for the production of documents by the TCEQ and Integrated Trade Systems, Inc.

Upon consideration of Respondent's unopposed Consent Motion and for good cause shown in accordance with 40 C.F.R. § 22.19(e)(4), the Consent Motion will be granted. Respondent has shown sufficient grounds that it is necessary and appropriate to issue subpoenas to these individuals and to order production of the documents requested.¹ Accordingly, Respondent's Consent Motion is **Granted**.

So ordered.



Barbara A. Gunning
United States Administrative Law Judge

Dated: September 24, 2004
Washington, D.C.

¹ All the subpoenas are being issued with this Order.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
GEOLOGISTICS AMERICAS, INC.,) DOCKET NO. RCRA-06-2003-0922
)
)
)
Respondent)

SUBPOENA²

TO: Environmental Protection Agency

YOU ARE HEREBY COMMANDED, pursuant to Section 3008(b) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(b), Rule 30(b)(6) of the Federal Rules of Civil Procedure, and 40 C.F.R. §§ 22.4(c)(9), 22.19(e)(4), **TO APPEAR IN PERSON, on the dates and times agreed upon with Respondent regarding the issues referenced in Exhibit A of Respondent's Geologistics Americas, Inc.'s Consent Motion for Additional Discovery Pursuant to 40 C.F.R. § 22.19(e).**³

PLACE: Thompson & Knight, LLP
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201

YOU ARE FURTHER COMMANDED:

TO TESTIFY then and there under oath, and make truthful response to all lawful inquiries and questions put to you by the Parties to the proceedings.

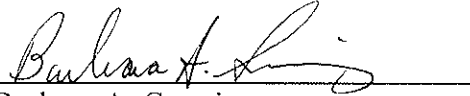
NOTICE: FAILURE TO COMPLY WITH THIS SUBPOENA MAY RESULT IN INITIATION OF COURT PROCEEDINGS IN A UNITED STATES DISTRICT COURT

² This subpoena is to be served on the witness in accordance with 40 C.F.R. § 22.5(b)(1).

³ A copy of Exhibit A is attached hereto.

**AGAINST THE RECIPIENT OF THE SUBPOENA TO COMPEL COMPLIANCE WITH
THE SUBPOENA AND ANY FAILURE TO OBEY SUCH ORDER OF THE COURT
MAY BE PUNISHED BY SUCH COURT AS CONTEMPT THEREOF.**

ISSUED in Washington, D.C., this 24th day of September 2004.



Barbara A. Gunning
U.S. Administrative Law Judge
Office of Administrative Law Judges
Mail Code 1900L
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Witness Fees and expenses in the same amounts as are paid to witnesses in the courts of the United States shall be paid by the party upon whose request the subpoena is issued, in this instance, Respondent, Geologistics Americas, Inc. See 40 C.F.R. § 22.19(e)(4).

Counsel for Respondent:

Edward D. Greenberg, Esquire
David K. Monroe, Esquire
Galland Kharasch Greenberg
Fellman & Swirsky, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007-4492

SUBPOENA FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF: §
§
GEOLOGISTICS AMERICAS, INC., §
§ Docket No. RCRA-06-2003-0922
LAREDO, TEXAS §
§
EPA ID NO. TXDR000036830 §
§
RESPONDENT. §

RESPONDENT GEOLOGISTICS AMERICAS, INC.'S RULE 30(b)(6) NOTICE
TO THE ENVIRONMENTAL PROTECTION AGENCY

PLEASE TAKE NOTICE that pursuant to Section 22.19(e) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Consolidated Rules of Practice"), 40 C.F.R. § 22.1-22.32, and Rule 30(b)(6) of the Federal Rules of Civil Procedure, respondent GeoLogistics Americas, Inc. ("GeoLogistics"), by its attorneys, will take the deposition upon oral examination and before a person qualified to administer oaths and to make stenographic transcripts, of the Environmental Protection Agency ("EPA"). This deposition will be taken for the purpose of discovery, use in the hearing in this proceeding and any other use authorized by law.

Pursuant to Rule 30(b)(6), the EPA shall designate one or more officers, directors or managing agents, or other persons who consent to testify on its behalf, regarding the matters alleged in the Complaint filed in the above-captioned case and the topics set forth in Exhibit A attached hereto. The deposition will be held at the offices of Thompson & Knight, LLP, 1700 Pacific Avenue, Suite 3300, Dallas, Texas, 75201, on _____, _____, 2004, beginning at _____ a.m., and continue thereafter until concluded.

You are invited to attend and cross-examine.

Respectfully submitted,

Edward D. Greenberg
David K. Monroe
GALLAND KHARASCH GREENBERG
FELLMAN & SWIRSKY, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007-4492
Telephone: 202/342-5200
Facsimile: 202/342-5219

Attorneys for Respondent
GEOLOGISTICS AMERICAS, INC.

DATE: September ____, 2004

EXHIBIT A

1. EPA communications with Integrated Trade Systems, Inc. regarding the storage, analysis, transportation and disposition of the spent catalyst at issue in this proceeding.
2. EPA enforcement proceedings (or the lack thereof) against Integrated Trade Systems, Inc., USF Worldwide, Gemini Industries, CJG International, CRI-Catalyst Recovery or any other person or entity regarding the spent catalyst at issue in this proceeding.
3. EPA communications with GeoLogistics Americas, Inc. regarding the spent catalyst at issue in this proceeding.
4. EPA communications with the Texas Natural Resource Conservation Commission or the Texas Commission on Environmental Quality regarding the spent catalyst at issue in this proceeding.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
GEOLOGISTICS AMERICAS, INC.,) DOCKET NO. RCRA-06-2003-0922
)
)
Respondent)

SUBPOENA⁴

TO: Integrated Trade Systems, Inc.

YOU ARE HEREBY COMMANDED, pursuant to Section 3008(b) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(b), Rule 30(b)(6) of the Federal Rules of Civil Procedure, and 40 C.F.R. §§ 22.4(c)(9), 22.19(e)(4), **TO APPEAR IN PERSON**, on the dates and times agreed upon with Respondent regarding the issues referenced in Exhibit A of Respondent's Geologistics Americas, Inc.'s Consent Motion for Additional Discovery Pursuant to 40 C.F.R. § 22.19(e).⁵

PLACE: Thompson & Knight, LLP
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201

YOU ARE FURTHER COMMANDED:

TO TESTIFY then and there under oath, and make truthful response to all lawful inquiries and questions put to you by the Parties to the proceedings.

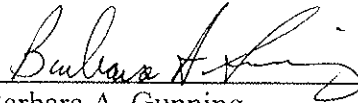
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⁴ This subpoena is to be served on the witness in accordance with 40 C.F.R. § 22.5(b)(1).

⁵ A copy of Exhibit A is attached hereto.

MAY BE PUNISHED BY SUCH COURT AS CONTEMPT THEREOF.

ISSUED in Washington, D.C., this 24th day of September 2004.



Barbara A. Gunning
U.S. Administrative Law Judge
Office of Administrative Law Judges
Mail Code 1900L
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Witness Fees and expenses in the same amounts as are paid to witnesses in the courts of the United States shall be paid by the party upon whose request the subpoena is issued, in this instance, Respondent, Geologistics Americas, Inc. See 40 C.F.R. § 22.19(e)(4).

Counsel for Respondent:

Edward D. Greenberg, Esquire
David K. Monroe, Esquire
Galland Kharasch Greenberg
Fellman & Swirsky, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007-4492

SUBPOENA FOR INTEGRATED TRADE SYSTEMS, INC.

ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF: §
GEOLOGISTICS AMERICAS, INC., §
LAREDO, TEXAS § Docket No. RCRA-06-2003-0922
EPA ID NO. TXDR000036830 §
RESPONDENT. §

RESPONDENT GEOLOGISTICS AMERICAS, INC.'S RULE 30(b)(6) NOTICE
TO INTEGRATED TRADE SYSTEMS, INC.

PLEASE TAKE NOTICE that pursuant to Section 22.19(e) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Consolidated Rules of Practice"), 40 C.F.R. § 22.1-22.32, and Rule 30(b)(6) of the Federal Rules of Civil Procedure, respondent GeoLogistics Americas, Inc. ("GeoLogistics"), by its attorneys, will take the deposition upon oral examination and before a person qualified to administer oaths and to make stenographic transcripts, of Integrated Trade Systems, Inc. ("ITS"). This deposition will be taken for the purpose of discovery, use in the hearing in this proceeding and any other use authorized by law.

Pursuant to Rule 30(b)(6), ITS shall designate one or more officers, directors or managing agents, or other persons who consent to testify on its behalf, regarding the matters alleged in the Complaint filed in the above-captioned case and the topics set forth in Exhibit A attached hereto. The deposition will be held at the offices of Thompson & Knight, LLP, 1700 Pacific Avenue, Suite 3300, Dallas, Texas, 75201, on _____, _____, 2004, beginning at _____ a.m., and continue thereafter until concluded.

You are invited to attend and cross-examine.

Respectfully submitted,

Edward D. Greenberg
David K. Monroe
GALLAND KHARASCH GREENBERG
FELLMAN & SWIRSKY, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007-4492
Telephone: 202/342-5200
Facsimile: 202/342-5219

Attorneys for Respondent
GEOLOGISTICS AMERICAS, INC.

DATE: September ____, 2004

EXHIBIT A

1. The spent catalyst at issue in this proceeding, including its origin, nature, use, importation, transportation, reclamation, storage and exportation.
2. ITS communications with the Environmental Protection Agency regarding the importation, storage, analysis, transportation and disposition of the spent catalyst at issue in this proceeding.
3. ITS communications with the Texas Commission on Environmental Quality regarding the importation, storage, analysis, transportation and disposition of the spent catalyst at issue in this proceeding.
4. ITS communications with GeoLogistics regarding the importation, storage, analysis, movement, transportation and disposition of the spent catalyst at issue in this proceeding.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
GEOLOGISTICS AMERICAS, INC.,) DOCKET NO. RCRA-06-2003-0922
)
)
Respondent)

SUBPOENA⁶

TO: Texas Commission on Environmental Quality

YOU ARE HEREBY COMMANDED, pursuant to Section 3008(b) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(b), Rule 30(b)(6) of the Federal Rules of Civil Procedure, and 40 C.F.R. §§ 22.4(c)(9), 22.19(e)(4), **TO APPEAR IN PERSON**, on the dates and times agreed upon with Respondent regarding the issues referenced in Exhibit A of Respondent's Geologistics Americas, Inc.'s Consent Motion for Additional Discovery Pursuant to 40 C.F.R. § 22.19(e).⁷

PLACE: Thompson & Knight, LLP
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201

YOU ARE FURTHER COMMANDED:

TO TESTIFY then and there under oath, and make truthful response to all lawful inquiries and questions put to you by the Parties to the proceedings.

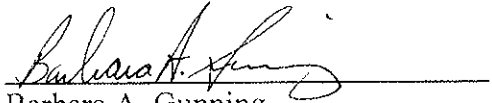
NOTICE: FAILURE TO COMPLY WITH THIS SUBPOENA MAY RESULT IN INITIATION OF COURT PROCEEDINGS IN A UNITED STATES DISTRICT COURT

⁶ This subpoena is to be served on the witness in accordance with 40 C.F.R. § 22.5(b)(1).

⁷ A copy of Exhibit A is attached hereto.

AGAINST THE RECIPIENT OF THE SUBPOENA TO COMPEL COMPLIANCE WITH THE SUBPOENA AND ANY FAILURE TO OBEY SUCH ORDER OF THE COURT MAY BE PUNISHED BY SUCH COURT AS CONTEMPT THEREOF.

ISSUED in Washington, D.C., this 24th day of September 2004.



Barbara A. Gunning
U.S. Administrative Law Judge
Office of Administrative Law Judges
Mail Code 1900L
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Witness Fees and expenses in the same amounts as are paid to witnesses in the courts of the United States shall be paid by the party upon whose request the subpoena is issued, in this instance, Respondent, Geologistics Americas, Inc. See 40 C.F.R. § 22.19(e)(4).

Counsel for Respondent:

Edward D. Greenberg, Esquire
David K. Monroe, Esquire
Galland Kharasch Greenberg
Fellman & Swirsky, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007-4492

SUBPOENA FOR TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:

GEOLOGISTICS AMERICAS, INC.,
LAREDO, TEXAS

EPA ID NO. TXDR000036830

RESPONDENT.

§
§
§
§
§
§
§
§

Docket No. RCRA-06-2003-0922

RESPONDENT GEOLOGISTICS AMERICAS, INC.'S RULE 30(b)(6) NOTICE
TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PLEASE TAKE NOTICE that pursuant to Section 22.19(e) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Consolidated Rules of Practice"), 40 C.F.R. § 22.1-22.32, and Rule 30(b)(6) of the Federal Rules of Civil Procedure, respondent GeoLogistics Americas, Inc. ("GeoLogistics"), by its attorneys, will take the deposition upon oral examination and before a person qualified to administer oaths and to make stenographic transcripts, of the Texas Commission on Environmental Quality ("TCEQ"). This deposition will be taken for the purpose of discovery, use in the hearing in this proceeding and any other use authorized by law.

Pursuant to Rule 30(b)(6), the TCEQ shall designate one or more officers, directors or managing agents, or other persons who consent to testify on its behalf, regarding the matters alleged in the Complaint filed in the above-captioned case and the topics set forth in Exhibit A attached hereto. The deposition will be held at the offices of Thompson & Knight, LLP, 1700 Pacific Avenue, Suite 3300, Dallas, Texas, 75201, on _____, _____, 2004, beginning at _____ a.m., and continue thereafter until concluded.

You are invited to attend and cross-examine.

Respectfully submitted,

Edward D. Greenberg
David K. Monroe
GALLAND KHARASCH GREENBERG
FELLMAN & SWIRSKY, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007-4492
Telephone: 202/342-5200
Facsimile: 202/342-5219

Attorneys for Respondent
GEOLOGISTICS AMERICAS, INC.

DATE: September ____, 2004

EXHIBIT A

1. TCEQ communications with Integrated Trade Systems, Inc. regarding the storage, sampling, inspection, analysis, transportation and disposition of the spent catalyst at issue in this proceeding.
2. TCEQ enforcement proceedings (or the lack thereof) against Integrated Trade Systems, Inc., USF Worldwide, Gemini Industries, CJG International, CRI-Catalyst Recovery or any other person or entity regarding the spent catalyst at issue in this proceeding.
3. TCEQ communications with GeoLogistics Americas, Inc. regarding the spent catalyst at issue in this proceeding.
4. TCEQ communications with the Environmental Protection Agency regarding the spent catalyst at issue in this proceeding.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
GEOLOGISTICS AMERICAS, INC.,) DOCKET NO. RCRA-06-2003-0922
)
)
Respondent)

SUBPOENA⁸

TO: Laura Del Boecco

YOU ARE HEREBY COMMANDED, pursuant to Section 3008(b) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(b), Rules 26 and 30 of the Federal Rules of Civil Procedure, and 40 C.F.R. §§ 22.4(c)(9), 22.19(e)(4), **TO APPEAR IN PERSON, on the dates and times agreed upon with Respondent regarding the issues referenced in Respondent's Geologistics Americas, Inc.'s Consent Motion for Additional Discovery Pursuant to 40 C.F.R. § 22.19(e).**⁹

PLACE: Thompson & Knight, LLP
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201

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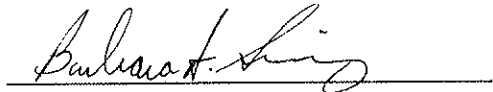
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⁸ This subpoena is to be served on the witness in accordance with 40 C.F.R. § 22.5(b)(1).

⁹ A copy of the Consent Motion is attached hereto.

**THE SUBPOENA AND ANY FAILURE TO OBEY SUCH ORDER OF THE COURT
MAY BE PUNISHED BY SUCH COURT AS CONTEMPT THEREOF.**

ISSUED in Washington, D.C., this 24th day of September 2004.



Barbara A. Gunning
U.S. Administrative Law Judge
Office of Administrative Law Judges
Mail Code 1900L
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Witness Fees and expenses in the same amounts as are paid to witnesses in the courts of the United States shall be paid by the party upon whose request the subpoena is issued, in this instance, Respondent, Geologistics Americas, Inc. See 40 C.F.R. § 22.19(e)(4).

Counsel for Respondent:

Edward D. Greenberg, Esquire
David K. Monroe, Esquire
Galland Kharasch Greenberg
Fellman & Swirsky, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007-4492

SUBPOENA FOR LAURA DEL BOECCO

ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF: §
GEOLOGISTICS AMERICAS, INC., §
LAREDO, TEXAS §
EPA ID NO. TXDR000036830 §
RESPONDENT. §

Docket No. RCRA-06-2003-0922

RECEIVED
SEP 24 2004
EPA REGION 6
DALLAS, TEXAS

RESPONDENT GEOLOGISTICS AMERICAS, INC.'S
CONSENT MOTION FOR ADDITIONAL DISCOVERY PURSUANT TO 40 C.F.R. § 22.19(e)

Pursuant to § 22.19(e) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Consolidated Rules of Practice"), 40 C.F.R. §§ 22.1-22.32, respondent GeoLogistics Americas, Inc. ("GeoLogistics") hereby moves for additional discovery in this proceeding. Specifically, respondent GeoLogistics seeks an Order for (1) the depositions of Integrated Trade Systems, Inc. ("ITS"), the Texas Commission on Environmental Quality ("TCEQ") and the Environmental Protection Agency ("EPA") pursuant to the provisions of Rule 30(b)(6) of the Federal Rules of Civil Procedure; (2) the depositions of three former employees of GeoLogistics; and (3) the production of documents by ITS and TCEQ. The above-described discovery requests are attached hereto. Respondent GeoLogistics also requests the issuance of subpoenas in connection with the discovery sought from ITS, TCEQ and the three former employees of GeoLogistics.

Counsel for EPA has advised GeoLogistics that the EPA has no objection to the discovery requested in this motion.

BACKGROUND

GeoLogistics is an international freight forwarder engaged in the business of arranging for the transportation of industrial and commercial freight into and out of the United States by land, sea and air. In connection with its freight forwarding services, GeoLogistics provides temporary warehousing for freight in transit. GeoLogistics' warehouses, including the Laredo warehouse at issue in this proceeding, have a policy of refusing to accept or store hazardous waste materials.

This case involves the storage of spent platforming catalyst imported by ITS from Mexico for the purpose of reclaiming precious metals. The spent catalyst was apparently briefly stored in a warehouse in Texas, transported to a reclamation facility in California, transported to another reclamation facility in Louisiana, and briefly stored in a warehouse in New Orleans before it was moved to GeoLogistics' warehouse in May 2000. GeoLogistics was not involved in the importation, transportation or storage of the spent catalyst before it was delivered to GeoLogistics' warehouse. GeoLogistics was not informed by ITS that the spent catalyst was hazardous waste, that the spent catalyst had been rejected by two reclamation facilities for ignitability, or that ITS had contacted EPA about the spent catalyst. When it arrived at GeoLogistics' warehouse, the spent catalyst was not manifested or labeled as hazardous waste, and the shipping documentation did not indicate that the spent catalyst was hazardous waste.

During the first three to four months the spent catalyst was stored in GeoLogistics' warehouse, ITS apparently had extensive communications with EPA and TCEQ about the spent catalyst. ITS and EPA/TCEQ analyzed samples of the spent catalyst taken in June 2000 and determined that the spent catalyst came within the definition of hazardous waste. GeoLogistics was

not informed by ITS, EPA or TCEQ that the spent catalyst was suspected of being hazardous waste or of the results of the hazardous waste analysis until August 2000.

When GeoLogistics was finally informed that the spent catalyst was considered a hazardous waste, GeoLogistics requested that ITS immediately remove the spent catalyst from GeoLogistics' warehouse. GeoLogistics was informed that the spent catalyst could not be moved, and that EPA/TCEQ required that the spent catalyst remain where it was until it was exported back to Mexico which was expected to occur in a short period of time. As a result of unforeseen delays, however, the spent catalyst remained in GeoLogistics' warehouse until it was exported back to Mexico in February 2001. This proceeding arises in connection with the assessment of penalties against GeoLogistics for failure to notify EPA of hazardous waste activity, obtain an EPA ID number, perform a hazardous waste analysis, and for storage of hazardous waste without a permit.

The requested discovery will not unreasonably delay this proceeding, nor unreasonably burden EPA. The proposed discovery can be completed within the procedural schedule established in this proceeding, which requires prehearing stipulations to be completed by November 12, 2004, and the hearing to commence on December 6, 2004. Respondent anticipates that the requested depositions will be short and that the requests for production of documents seek a limited number of documents.

The requested discovery seeks information that is most reasonably obtained from other parties. Indeed, GeoLogistics was not involved in the importation or prior movements of the spent catalyst, nor was GeoLogistics privy to communications between and among EPA, TCEQ and ITS relating to the spent catalyst. In addition, to the extent GeoLogistics' employees did have communications with ITS, TCEQ or EPA, those employees are not longer employed by

GeoLogistics, and GeoLogistics has no means of obtaining that information except through the requested discovery.

The proposed discovery seeks evidence relating to the above-described facts, which are relevant and material to both issues of liability and the relief sought. For example, facts relating to the importation of the spent catalyst, the chain of custody of the spent catalyst before it was received by GeoLogistics, and the manner in which the spent catalyst came to be stored in GeoLogistics' warehouse are relevant to GeoLogistics' regulatory status and obligations as a generator under RCRA. See Complainant's Prehearing Exchange at 2 (alleging violations of 40 C.F.R. Part 262). Similarly, the state of knowledge of GeoLogistics regarding the hazardous nature of the spent catalyst, communications between and among GeoLogistics, EPA, CEQ and ITS, and the activities of others regarding the management of the spent catalyst after its importation from Mexico are relevant to the appropriateness of the penalties sought against GeoLogistics, taking into account GeoLogistics' relative culpability, efforts to comply, and degree of willfulness, as well as the fairness, consistency and deterrent effect of the proposed penalties.

The information sought through deposition discovery cannot reasonably be obtained through alternative methods such as interrogatories or review of documents. Moreover, given GeoLogistics' lack of access to this information through alternative means, there is a substantial reason to believe that relevant and probative evidence will not be preserved for presentation in GeoLogistics' defense by a witness at the hearing.

GeoLogistics also respectfully asks for the issuance of subpoenas in support of the requested discovery from ITS, TCEQ and GeoLogistics' former employees. As set forth more fully above,

such subpoenas are necessary to obtain relevant and material evidence relating to both issues of liability and the penalties sought.

Respectfully submitted,



Edward D. Greenberg
David K. Monroe
GALLAND KHARASCH GREENBERG
FELLMAN & SWIRSKY, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007-4492
Telephone: 202/342-5200
Facsimile: 202/342-5219

Attorneys for Respondent
GEOLOGISTICS AMERICAS, INC.

DATE: September 20, 2004

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
GEOLOGISTICS AMERICAS, INC.,) DOCKET NO. RCRA-06-2003-0922
)
)
Respondent)

SUBPOENA¹⁰

TO: Howard Boubel

YOU ARE HEREBY COMMANDED, pursuant to Section 3008(b) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(b), Rules 26 and 30 of the Federal Rules of Civil Procedure, and 40 C.F.R. §§ 22.4(c)(9), 22.19(e)(4), **TO APPEAR IN PERSON, on the dates and times agreed upon with Respondent regarding the issues referenced in Respondent's Geologistics Americas, Inc.'s Consent Motion for Additional Discovery Pursuant to 40 C.F.R. § 22.19(e).**¹¹

PLACE: Thompson & Knight, LLP
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201

YOU ARE FURTHER COMMANDED:

TO TESTIFY then and there under oath, and make truthful response to all lawful inquiries and questions put to you by the Parties to the proceedings.

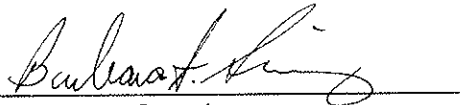
NOTICE: FAILURE TO COMPLY WITH THIS SUBPOENA MAY RESULT IN INITIATION OF COURT PROCEEDINGS IN A UNITED STATES DISTRICT COURT AGAINST THE RECIPIENT OF THE SUBPOENA TO COMPEL COMPLIANCE WITH

¹⁰ This subpoena is to be served on the witness in accordance with 40 C.F.R. § 22.5(b)(1).

¹¹ A copy of the Consent Motion is attached hereto.

**THE SUBPOENA AND ANY FAILURE TO OBEY SUCH ORDER OF THE COURT
MAY BE PUNISHED BY SUCH COURT AS CONTEMPT THEREOF.**

ISSUED in Washington, D.C., this 24th day of September 2004.



Barbara A. Gunning
U.S. Administrative Law Judge
Office of Administrative Law Judges
Mail Code 1900L
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Witness Fees and expenses in the same amounts as are paid to witnesses in the courts of the United States shall be paid by the party upon whose request the subpoena is issued, in this instance, Respondent, Geologistics Americas, Inc. See 40 C.F.R. § 22.19(e)(4).

Counsel for Respondent:

Edward D. Greenberg, Esquire
David K. Monroe, Esquire
Galland Kharasch Greenberg
Fellman & Swirsky, P.C.
1054 Thirty-First Street, NW
Washington, DC 20007-4492

SUBPOENA FOR HOWARD BOUBEL