



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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REGIONAL HEARING CLERK U.S. ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF)
MERCURY VAPOR PROCESSING) DOCKET NO. RCRA-05-2010-0015
TECHNOLOGIES, INC., a/k/a)
RIVER SHANNON RECYCLING, AND)
LAURENCE C. KELLY,)
RESPONDENTS)

ORDER DESIGNATING CERTAIN TRANSCRIPT PAGES AND EXHIBITS AS CONFIDENTIAL AND RESETTING BRIEFING SCHEDULE

A hearing in this matter was held from July 25 through July 27, 2011, in Chicago, Illinois. At the hearing, Mercury Vapor Processing Technologies, Inc., a/k/a River Shannon Recycling, and Laurence C. Kelly ("Respondents"), appearing pro se and through Mr. Kelly, requested that certain financial matters be treated as confidential business information ("CBI"). Accordingly, the undersigned closed the courtroom to the public during the presentation of certain testimony and agreed to keep Complainant's Exhibits 58, 59, and 61 under seal.

The hearing transcript became available on August 15, 2011. After reviewing the transcript, the undersigned determined that the following excerpts should be designated as CBI: pages 598 through 600, line 23; and pages 708, line 15, through 756, line 4.

On September 1, 2011, the office of the undersigned notified the parties that these portions of the transcript would be designated as confidential and requested that the parties notify the undersigned if they objected to the designation. Complainant promptly confirmed that it would not oppose the designation. After being contacted by the undersigned's office on September 12, 2011, Mr. Kelly indicated that he would review the transcript and advise as to whether he intended to file any motion opposing the designations. To date, Mr. Kelly has yet to file such a motion or notify the undersigned's office of his intent to do so.

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. Section 22.25 of the Rules of Practice provides that "[a]ny person not a party to the proceeding may receive a copy of the transcript . . . except for those parts of the transcript ordered to be kept confidential by the Presiding Officer." 40 C.F.R. § 22.25. Accordingly, Complainant's Exhibits 58, 59, and 61 will be kept under seal, and the following transcript excerpts will be designated as CBI and kept confidential: pages 598 through 600, line 23; and pages 708, line 15, through 756, line 4.

On August 18, 2011, the undersigned issued an Order Setting Briefing Schedule, in which deadlines were established for the parties to submit for consideration any proposed findings of fact, conclusions of law, a proposed order, and briefs in support thereof. Due to the process of designating certain parts of the transcript and accompanying exhibits as CBI and other problems related to the transcript, the briefing schedule is hereby reset. The proposed findings, conclusions, order, and supporting briefs are due no later than **November 7, 2011**. Reply briefs must be filed on or before **November 21, 2011**. All submissions shall be in writing, shall be served upon the opposing party, and shall contain adequate references to the record and authorities relied on. See Section 22.26 of the Rules of Practice, 40 C.F.R. § 22.26.


Barbara A. Gunning
Administrative Law Judge

Dated: September 29, 2011
Washington, D.C.

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PROTECTION AGENCY

**In the Matter of Mercury Vapor Processing Technologies, Inc., a/k/a River Shannon Recycling,
and Laurence C. Kelly, Respondent.
Docket No. RCRA-05-2010-0015**

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **Order Designating Certain Transcript Pages and Exhibits as Confidential and Resetting Briefing Schedule**, dated September 29, 2011, issued by Barbara A. Gunning, Administrative Law Judge, was sent on this 29th day of September 2011, in the following manner to the addressees listed below.



Mary Angeles
Legal Staff Assistant

Original and One Copy by Facsimile and Pouch Mail to:

LaDawn Whitehead
Regional Hearing Clerk
U.S. EPA, Region V, MC-E-19J
77 West Jackson Blvd.,
Chicago, IL 60604-3590
Fx: 312.692.2405

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Copy by Facsimile and Pouch Mail to:

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REGIONAL HEARING CLERK
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PROTECTION AGENCY

Copy by Facsimile and Regular Mail to:

Laurence Kelly
MVP Technologies, Inc.
a/k/a River Shannon Recycling
7144 N. Harlem Ave., Ste. 303
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Fx: 773.775.4279

Dated: September 29, 2011
Washington, DC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ADMINISTRATIVE LAW JUDGES
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Date: Thurs., 9/29/11

From the office of: Administrative Law Judge Barbara Gunning

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Fax: 312.692.2405

To: Jeffrey A. Cahn, Esq. (Lead Attorney)
Of: ORC, U.S. EPA / Region V

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To: Laurence Kelly
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In Re: *Mercury Vapor Processing Technologies, Inc., a/k/a River Shannon Recycling, and Laurence C. Kelly*
Docket No. RCRA-05-2010-0015

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REMARKS/COMMENTS: