

4/2/96

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of )  
 )  
RECYCLING SCIENCES CENTER, ) Docket No. V-W-006-93  
 )  
Respondent )

ORDER GRANTING MOTION TO AMEND ANSWER

Recycling Sciences International, Inc. ("RSI"), moves to amend its answer in this case. RSI's motion to amend is opposed by the Environmental Protection Agency ("EPA"). For the reasons that follow, RSI's motion is granted and its amended answer is accepted for filing.

RSI's motion and EPA's opposition can best be understood against the procedural backdrop of this case. This matter was initiated when EPA filed a complaint on November 25, 1992, alleging violations of certain interim status standards (40 C.F.R. Part 265) under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 *et seq.* Thereafter, RSI filed an answer, EPA filed an amended complaint, and RSI filed an answer to the amended complaint. These filings brought the case up to March 13, 1995. EPA then filed a motion for accelerated decision in September of 1995, and RSI followed suit with its own motion for accelerated decision in October of 1995. Despite this flurry of pleadings, the parties have yet to engage in a prehearing exchange of proposed witnesses and exhibits. As such, the parties are now no closer to a hearing than they were the day that EPA filed its initial administrative complaint. It is against this background that RSI has filed the subject motion to amend its answer.

As the basis for filing an amended answer, RSI cites "new information". According to RSI, this new information "indicates not only that Respondent's activities in Wayne, Michigan were not subject to the interim status standards, but also that U.S. EPA Region V has recognized that Respondent's activities were not subject to the interim status standards." Resp. Mot. at 2.

EPA vigorously opposes RSI's amending its answer. First, it argues that the alleged "new information" relied upon by respondent is not new and further, that it is "unsupported and false". EPA Resp. at 1. Second, EPA asserts that the amended answer contradicts RSI's already stated position in this case. *Id.* at 2. Third, EPA states that respondent's motion to amend is untimely and that it is "designed solely to delay these proceedings." *Id.* at 2-3.

IN THE MATTER OF RECYLCING SCIENCES CENTER, Respondent  
Docket No. V-W-006-93

Certificate of Service

I certify that the foregoing Order Granting Motion to Amend Answer, dated April 2, 1996, was sent this day in the following manner to the below addressees.

Original by Regular Mail to:

Ms. Jodi Swanson-Wilson  
Regional Hearing Clerk  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

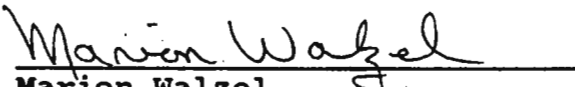
Copy by Regular Mail to:

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Marion Walzel  
Legal Staff Assistant

Dated: April 2, 1996