

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY



BEFORE THE ADMINISTRATOR

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JAN 24 2011

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, )  
)  
)  
RESPONDENT )

ORDER GRANTING COMPLAINANT'S MOTION FOR LEAVE  
TO AMEND COMPLAINT AND COMPLIANCE ORDER

On April 23, 2010, the United States Environmental Protection Agency, Region 5 ("Complainant"), initiated this proceeding by filing a Complaint and Compliance Order ("Complaint") against Mercury Vapor Processing Technologies, Inc., a/k/a River Shannon Recycling ("Respondent Mercury Vapor"). The Complaint alleges in one count that Respondent Mercury Vapor violated certain provisions of the Illinois Administrative Code ("IAC"), promulgated pursuant to Section 3006(b) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act of 1976, as amended (collectively referred to as "RCRA"), 42 U.S.C. § 6928(a), and codified at 35 IAC Part 703 *et seq.*, by operating a hazardous waste storage and treatment facility in Riverdale, Illinois, without a RCRA permit.

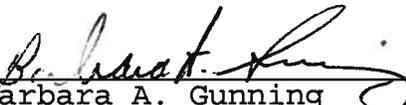
On December 22, 2010, Complainant filed a Motion for Leave to Amend Complaint and Compliance Order ("Motion to Amend"), in which Complainant moves for leave to amend the Complaint to 1) add Laurence C. Kelly as a Respondent in this matter; and 2) replace citations to 35 IAC § 720.110 with citations to 35 IAC § 702.110. Complainant also filed a Proposed Amended Complaint and Compliance Order ("Proposed Amended Complaint") as an attachment to the Motion to Amend.<sup>1/</sup> On January 10, 2011, the undersigned received from Mr. Kelly a Memorandum in Support of

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<sup>1/</sup> A review of the Proposed Amended Complaint reveals that Complainant included additional paragraphs and an additional count to set forth allegations against Mr. Kelly. The parties are reminded that, in any motion for leave to amend the pleadings, every proposed change should be identified in the motion.

Complainant's Motion for Leave to Amend the Complaint and Compliance Order ("Memorandum"), in which Mr. Kelly states that he does not object to the amendments proposed by Complainant and describes the factual circumstances underlying his denial of the allegations set forth in the Proposed Amended Complaint. Mr. Kelly simultaneously filed a Response to Motion to Add Laurence C. Kelly as Respondent, which, upon review, appears to be a proposed answer to the Proposed Amended Complaint. Complainant subsequently filed a Reply Memorandum in Support of Motion for Leave to Amend Complaint and Compliance Order, in which Complainant points out that Mr. Kelly does not oppose the proposed amendments and denies certain statements made by Mr. Kelly in the narrative portion of his Memorandum.

Upon consideration, the unopposed Motion to Amend is hereby **GRANTED**. Although Mr. Kelly has already filed a proposed answer, such answer is deemed to have been filed as of the date of filing of the Amended Complaint and Compliance Order.

  
\_\_\_\_\_  
Barbara A. Gunning  
Administrative Law Judge

Dated: January 19, 2011  
Washington, D.C.

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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Complainant's Motion For Leave To Amend Complaint And Compliance Order**, dated January 19, 2011, was sent on this 20<sup>th</sup> day of January 2011, in the following manner to the addressees listed below.

  
Mary Angeles  
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

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

One Copy by Pouch Mail to:

Kasey Barton, Esq.  
Associate Regional Counsel  
Thomas Williams, Esq.  
Assistant Regional Counsel  
ORC, U.S. EPA / Region V / C-14J  
77 West Jackson Blvd.  
Chicago, IL 60604-3490

One Copy by Regular Mail to:

Laurence Kelly  
MVP Technologes, Inc.  
a/k/a River Shannon Recycling  
7144 N. Harlem Ave., Ste. 303  
Chicago, IL 60631

**Dated: January 20, 2011**  
**Washington, D.C.**

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