



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

**VIA FIRST CLASS MAIL**  
**ADVANCE COPY VIA ELECTRONIC MAIL**

**MAR - 7 2016**

Ms. Cynthia M. Rote, Esq.  
Delaney Law, PC  
444 North Wabash Avenue  
Chicago, Illinois 60611

Re: Authentication of Proposed Group Exhibit RX14  
In the Matter of LHP, LLC, Docket No. TSCA-07-2014-0029

Dear Cindy:

During the EPA's review of LHP, LLC's Motion to Supplement Prehearing Exchange, reasonable doubts arose in my mind as to the authenticity of the document offered as Proposed Group Exhibit RX14. The EPA addressed this concern in Complainant's Response to LHP, LLC's Motion to Supplement Prehearing Exchange by requesting authenticating documentation from LHP, LLC. This letter serves as a follow-up request for a written reply to Complainant's Response to LHP, LLC's Motion to Supplement Prehearing Exchange, filed in this matter on February 25, 2016.

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, LHP, LLC's reply to the EPA's written response must be filed within ten days after service of such response. 40 C.F.R. § 22.16(b). As such, if by Thursday, March 10, 2016, LHP, LLC, has not served EPA with its reply to Complainant's Response to LHP, LLC's Motion to Supplement Prehearing Exchange, including in such reply the authenticating and foundational information requested in Complainant's Response, the EPA intends to file the enclosed motion to compel production of the same.

As you are certainly aware, Rule 3.3(a)(3) of the Model Rules of Professional Conduct warns that "[a] lawyer shall not knowingly . . . offer evidence that the lawyer knows to be false." Rule 3.3(a)(3) further provides that "[i]f a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal." Importantly, the Model Rules make clear that "knowledge may be inferred from the circumstances." MODEL RULES OF PROF'L CONDUCT R. 1.0(f).

It is my hope to preempt any ethical, even criminal,<sup>1</sup> consequences at trial by bringing this concern to your attention now. I believe that cooperative steps to substantiate Proposed Group Exhibit RX14 prior to hearing will dispel the concerns described here and in EPA's most recent court filing.

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<sup>1</sup> Title 18, Section 1623 of United States Code states: "Whoever under oath (or in any declaration, certificate, verification, or statement under penalty of perjury . . . ) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information, including any book,

If you would like to discuss this matter further, please do not hesitate to contact me at (913) 551-7288.

Sincerely,



Anne Rauch  
Assistant Regional Counsel

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Enclosure