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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

IN THE MATTER OF:)
)
Mercury Vapor Processing) **DOCKET NO. RCRA-05-2010-0015**
Technologies Inc., a/k/a/ River Shannon)
Recycling)
13605 S. Halsted)
Riverdale, Illinois 60827)
U.S. EPA ID No.: ILD005234141)
)
Respondent.)
_____)

**AFFIDAVIT OF GARY WESTEFER IN SUPPORT OF
MOTION FOR PARTIAL ACCELERATED DECISION ON
APPLICABLE REGULATIONS AND LIABILITY**

State of Illinois)
) SS
Cook County)

I, Gary Westefer, being first duly sworn, on oath state as follows:

1. I am the Illinois Regulatory Specialist, with the RCRA Programs Section of the RCRA Branch in the Land & Chemicals Division of U.S. EPA, Region 5.
2. I am assigned to monitor the U.S. EPA authorization status of RCRA-related regulations of the State of Illinois.
3. I maintain and am familiar with the Region 5 documents relating to the authorization status of the Illinois RCRA rules, including the Universal Waste Rules, and have reviewed and am aware of the documents in the Region 5 files regarding the authorization status of the Illinois Universal Waste Rules.
4. I have reviewed information summarized in the U.S. EPA's "State Authorization Tracking System" database regarding the authorization status of the Illinois Universal Waste Rules.
5. Based on my knowledge and review of the relevant documents, files and databases, as of the date of this declaration, I have made the following determinations.
6. Illinois's authorized RCRA Subtitle C program became effective on January 31, 1986.

7. The federal Universal Waste regulations for spent lamps were not in effect in Illinois at the time they were promulgated, and Illinois was not required to adopt the regulations because they are less stringent than the federal Subtitle C program.
8. Illinois adopted the basic Universal Waste Rules effective August 1, 1996 (60 FR 25492, 5/11/1995).
9. Since the effective date of August 1, 1996, the Universal Waste Rules have been enforceable under state law in Illinois.
10. The Universal Waste Rules were subject to a technical amendment effective July 26, 1999 (63 FR 71225, December 24, 1998), and were again amended to include universal waste lamps, effective June 20, 2000 (64 FR 36466, July 6, 1999).
11. Illinois has sought U.S. EPA authorization of its Universal Waste Rules. The state submitted an application for authorization of the basic Universal Waste Rules on October 30, 1996. For reasons having to do with other aspects of Illinois laws, the authorization was not approved by U.S. EPA.
12. On October 20, 2010, Illinois completed a revised draft application for authorization of more than 60 rules including the Universal Waste Rules. U.S. EPA has not yet made a determination on the revised application. As of the date of this affidavit, U.S. EPA has not authorized the Illinois Universal Waste Rules.

Gary H. Westfer

Gary Westfer
Illinois Regulatory Specialist
RCRA Programs Section
RCRA Branch
Land & Chemicals Division
U.S. EPA - Region 5
Chicago, IL 60604

Subscribed and sworn to before me, the undersigned Notary Public, this 20th day of January, 2011.

Mary Ortiz

Notary Public
My commission expires 3/18/2013.



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**AFFIDAVIT OF TODD BROWN IN SUPPORT OF
MOTION FOR PARTIAL ACCELERATED DECISION ON
APPLICABLE REGULATIONS AND LIABILITY**

State of Illinois)
) SS
Cook County)

I, Todd Brown, first being duly sworn, on oath state as follows:

1. I am employed as an Environmental Scientist by the U.S. Environmental Protection Agency in its Region 5 Offices in Chicago, Illinois. My current position is in the Land & Chemicals Division, RCRA Branch, RCRA Compliance Section 1. I have held this position since August 10, 2003.
2. In the course of my duties, I conduct compliance evaluation inspections under the Resource Conservation and Recovery Act (RCRA) at facilities that generate, store, treat or dispose of hazardous waste. I also assist in preparing requests for information under Section 3007 of RCRA, and review the responses when they are received. I also participate in the development of enforcement actions against persons and entities who are found to have violated RCRA.
3. I was assigned to the Mercury Vapor Processing Technologies, Inc. (MVPT) matter in October 2007, following EPA's receipt of a notice of a proposed RCRA citizen's suit from the Village of Riverdale, Illinois.
4. On October 30, 2007, I traveled to the MVPT facility in Riverdale and conducted an inspection there. During the inspection, I noted the condition of the premises and its contents, and conducted an interview with Mr. Larry Kelly, who appeared to be in charge of the facility when I was there. I also took photographs of the premises.

5. After completing the inspection, I prepared a Compliance Evaluation Inspection (CEI) Report summarizing my observations and my interview with Mr. Kelly. The CEI Report, along with the photographs I took, were included in Complainant's Prehearing Exchange as Complainant's Prehearing Exchange Exhibit (CPX) 1, with enlarged versions of the photographs as CPX P1 through P47.
6. I returned to the facility on November 14, 2007, and collected twelve samples of spent lamps that appeared to be typical of Respondent's spent lamp inventory. I delivered these samples to our Central Regional Laboratory for analysis. I later received a report containing the results. This report appears in Complainant's Prehearing Exchange as CPX 2, along with photographs A-P-1 through A-P-22.
7. I participated in the preparation and issuance of three requests for information under Section 3007 of RCRA. These were executed by delegated officials and mailed to Respondent MVPT on or about November 5, 2007, May 20, 2008 and October 3, 2008. They were included in Complainant's Prehearing Exchange as CPX 3, 5 and 7, respectively.
8. In the course of my duties, I received and reviewed documents purporting to be responses to these requests. The responses were dated November 26, 2007, June 3, 2008, and October 20, 2008. They were included in Complainant's Prehearing Exchange as CPX 4, 6 and 8, respectively.
9. In the course of my duties, I have access to an informational database known as RCRAInfo, which EPA employees engaged in activities relating to the implementation and enforcement of RCRA can use in the course of their work. It contains information regarding, among other things, the permitted status of facilities that treat, store or dispose of hazardous waste in the United States.
10. In the course of investigating the MVPT matter, I reviewed RCRAInfo on several occasions to determine whether there was a RCRA hazardous waste management permit for the premises at 13605 South Halsted Street in Riverdale, Illinois and at 1750 West 75th Street in Chicago, Illinois. I last reviewed RCRAInfo for this purpose on January 24, 2010. On each occasion, I found no information showing that EPA or the Illinois Environmental Protection Agency had issued permits for facilities at those addresses.
11. In the early stages of my investigation of the MVPT matter, I performed an internet search for a company named River Shannon Recycling using the computer at my EPA workstation. As a result of that search, I recovered a web address of www.rsrecycling.com. I then accessed that website and was directed to a web page consisting of several pages. On March 4, 2008, I printed out those pages, and copies of them were included as CPX 10.

I make this affidavit in support of Complainant's Motion for Accelerated Decision as to the

Applicable Regulations and Liability.



Todd Brown
Environmental Scientist
RCRA Compliance Section 1
RCRA Branch
Land & Chemicals Division
U.S. EPA - Region 5
Chicago, IL 60604

Subscribed and sworn to before me, the undersigned Notary Public, this 24th day of January, 2011.



Notary Public

My commission expires _____.



