

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Mercury Vapor Processing)
Technologies, Inc. a/k/a River Shannon)
Recycling)
13605 S. Halsted)
Riverdale, IL 60827)
EPA ID No: ILD005234141, and)
)
Laurence Kelly)
)
Respondents)

Docket No. RCRA-05-2010-0015

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USEPA
REGION 5

RESPONDENTS' AMENDED REQUEST FOR EXECUTION OF SUBPOENAS

Pursuant to Section 22.21(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, Respondents request that the Honorable Judge Gunning execute subpoenas for the attendance and testimony of the witnesses identified below. If executed, Respondents will serve the subpoenas.

I. Legal Standard

Section 22.21(b) of the Consolidated Rules of Practice provide that the Presiding Judge "may require the attendance of witnesses...by subpoena, if authorized under the Act, upon a showing of the grounds and necessity therefor, and the materiality and relevancy of the evidence to be adduced." Section 3008(b) of the resource Conservation and recovery Act authorizes the issuance of subpoenas.

II. Witnesses

The witnesses identified below have been identified in the Respondents Supplemental Prehearing Exchange. The witnesses identified below may be reluctant to testify without the issuance of a subpoena. The materiality and relevancy of the witness's testimonies are discussed below.

1. Mr. Gary Westefer, Illinois Regulatory Specialist, RCRA programs Section of the RCRA Branch, Land and Chemicals division, USEPA Region 5.

Mr. Westefer has previously been identified by the Complainant as a potential witness. Respondents would also like to name Mr. Westefer as a potential witness in the event that Complainant chooses not to call him to testify.

Respondents expect Mr. Westefer to testify to the his knowledge of the Illinois Universal Waste Rule, the status of the Illinois Universal Waste Rule and any agreements he may be aware of between the USEPA and Illinois regarding the Illinois Universal Waste Rule.

2. Ms. Mary Allen, Recycling and Education Director, Solid Waste Agency of Northern Cook County, 2700 Patriot Blvd., Suite 110, Glenview, IL 60026.

On October 5, 2007 Ms. Mary Allen of the Solid Waste Agency of Northern Cook County (SWANCC) had scheduled a site visit to RSR's Riverdale warehouse. She is SWANCC's Recycling and Education Director. SWANCC represents over 20 municipalities in Northern Cook County. They manage waste streams including municipal general garbage pick up to various types of recycling programs including spent lamps for their member communities.

She came to the warehouse for the purpose of reviewing RSR's transportation, Handling and Consolidation protocols. She also reviewed RSR's site specific Health and Safety program, emergency response plan, and general housekeeping methods.

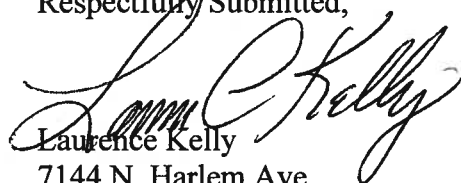
She arrived at RSR's warehouse about 10:30 AM walked the site and left around 11:30 AM. That was one day prior to the beginning of the 55 day siege by the Village of Riverdale. She will testify to RSR's general housekeeping, methods of staging spent lamps and batteries and methods of maintaining our inventories.

Respondents expect Ms. Allen to testify to the condition of the building at the time of her visit. She will offer her opinion and testify to RSR housekeeping practices and its methods of managing large quantities of spent lamps RSR generated and staged at its warehouse.

III. Conclusion

Respondents' request for the execution of the attached subpoenas for the attendance and testimony of the above identified witnesses is necessary to the Respondents' case and should be granted. If executed, Respondents will serve the subpoenas.

Respectfully Submitted,



Laurence Kelly
7144 N. Harlem Ave.
Suite 303
Chicago, IL 60631

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CERTIFICATE OF SERVICE

I certify that the foregoing Respondents' Amended Request for Execution of Subpoenas, dated July 13, 2011, was sent this day in the following manner to the addressees listed below:

Original by US Registered Mail to: Regional Hearing Clerk
U.S. EPA - Region 5
77 W. Jackson Blvd.
Mail Code: E-19J
Chicago, IL 60604

Copy by fax and
US Registered Mail to: Jeffery Cahn
Associate Regional Counsel
US Environmental Protection Agency - Region 5
77 W. Jackson Blvd.
Mail Code: C-14J
Chicago, IL 60604

The Honorable Judge Gunning
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mail Code 1900L
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460



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