

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, IL 60827 )  
EPA ID No: ILD005234141, and )  
)  
Laurence Kelly )  
)  
Respondents )

RECEIVED  
JUL 08 2011  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**RESPONDENTS' 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.

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.

### 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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)  
Laurence Kelly )  
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Respondents )

SUBPOENA FOR TRIAL TESTIMONY

TO: Mary Allen  
Solid Waste Agency of Northern Cook County  
2700 Patriot Boulevard  
Suite 110  
Glenview, IL 60026

YOU ARE HEREBY ORDERED, pursuant to Section 3008(b) of the Resource Conservation and Recovery Act, 42 U.S.C. §6928(b), and 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, 40 C.F.R. § 22.21(b), to personally appear and give testimony under oath at the following place and time:

DATES: Monday July 25<sup>th</sup>, 2011 to continue as necessary through Friday, July 29<sup>th</sup>, 2011

TIMES: 9:30 AM to 4:30 PM each day

PLACE: Circuit Court of Cook County  
Juvenile Justice Division  
Courtroom Calendar 2B  
1100 South Hamilton  
Chicago, IL 60612

Issued under my authority this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

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

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**EPA ID No: ILD005234141, and** )  
 )  
**Laurence Kelly** )  
 )  
**Respondents** )

**SUBPOENA FOR TRIAL TESTIMONY**

TO: Gary Westefer  
Illinois Regulatory Specialist  
USEPA Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

YOU ARE HEREBY ORDERED, pursuant to Section 3008(b) of the Resource Conservation and Recovery Act, 42 U.S.C. §6928(b), and 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, 40 C.F.R. § 22.21(b), to personally appear and give testimony under oath at the following place and time:

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Respondents )

CERTIFICATE OF SERVICE

I certify that the foregoing Respondents' Request for the Execution of Subpoenas, dated July 7, 2011, was sent this day in the following manner to the addressees listed below:

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

Copy by Overnight Delivery 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  
1099 14<sup>th</sup> Street, N. W.  
Suite 350  
Washington, DC 20005

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Laurence Kelly  
7144 N. Harlem Ave.  
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