



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TX 75202-2733

SEP 13 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7011 0110 0001 3590 6544

Ms. Betty Kennedy  
Kennedy Sawmills, Inc. *AKA* Benton Creosoting Works  
6695 Louisiana Hwy 3  
Benton, Louisiana 71006

Mr. Timothy W. Hardy  
Lemle Kelleher, L.L.P.  
301 Main Street, Suite 1100  
Baton Rouge, Louisiana 70825

Re: Request for Information pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927,  
regarding Kennedy Sawmills, Inc. *AKA* Benton Creosoting Works

Dear Ms. Kennedy and Mr. Hardy:

Enclosed is an Information Request (Request) issued to Kennedy Sawmills, Inc. *AKA* Benton Creosoting Works. This request is being made pursuant to the authority set forth in Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927. Pursuant to this authority, the U.S. Environmental Protection Agency (EPA) may require persons with information relevant to the generation, storage, treatment, transportation, disposal, or otherwise handling of hazardous wastes to submit information to EPA.

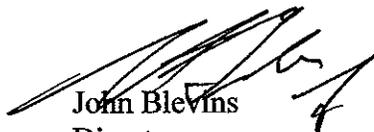
Please respond to this Request within thirty (30) calendar days of receipt of this letter. Compliance with this Request is mandatory. Failure to respond fully and truthfully to the Request or to adequately justify such failure to respond can result in enforcement action by EPA pursuant to Section 3008 of RCRA which permits EPA to seek the imposition of penalties of up to \$37,500 for each day of continued noncompliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under Section 3008(d) of RCRA.

This Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, *et seq.* Your response to this Request should be sent to Frances Verhalen, Compliance Assurance and Enforcement Division (Mail code 6EN-HC) at the above address.

Re: Kennedy Sawmills, Inc. *AKA* Benton Creosoting Works  
Information Request

Please direct technical questions to Frances Verhalen of the Compliance Assurance and Enforcement Division at (214) 665-2172, and legal questions to Mr. Tucker Henson of the Office of Regional Counsel at (214) 665-8148. Thank you for your attention to this matter.

Sincerely,



John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosures

cc: Mr. Tom Harris, Administrator UST-RD  
Louisiana Department of Environmental Quality (LDEQ)  
Galvez Building  
602 North Fifth Street  
Baton Rouge, Louisiana 70802

**ENCLOSURE A**

**INFORMATION REQUEST**

The Environmental Protection Agency (EPA) is investigating Kennedy Sawmills, Inc. AKA Benton Creosoting Works (Kennedy) to determine compliance with the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6921 *et seq.*, at its facility at 6695 Louisiana Highway 3 North in Benton, Louisiana. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, you are hereby required to follow the instructions and provide responses to the questions in this Information Request (Request). You are required to submit this information to EPA within thirty (30) calendar days of receipt of this Request. If you anticipate that you will be unable to fully respond to this Request within thirty (30) calendar days, you must submit a sworn affidavit or declaration by a responsible corporate official within twenty (20) calendar days of receipt of this Request specifying what information will be provided within the time specified, describing what efforts have been/are being made to obtain other responsive information, and providing a detailed schedule of when such other responsive information can be provided. Upon receipt and based on such affidavit or declaration, EPA may extend the time in which responsive information must be provided to it. Furthermore, EPA specifically retains the right to obtain additional information beyond what is listed in this Request.

All information submitted in response to this Request must be certified as true, accurate, and complete by an individual with sufficient knowledge and authority to make such representations on behalf of Kennedy. An affidavit making such representations is provided as Enclosure B. A knowing submittal of false information in response to this Request may be actionable under 18 U.S.C. § 1001, 42 U.S.C. § 6928(d), and 42 U.S.C. § 7413(c). Failure to fully comply with this Request may subject Kennedy to an enforcement action under Section 3008 of RCRA, 42 U.S.C. § 6928.

In accordance with Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), and Section 114(c) of the CAA, 42 U.S.C. § 7414(c), the records, reports, and/or information requested in this Request must be submitted, whether or not you regard part or all of it as a trade secret or confidential. You may, if you desire, assert a business confidentiality claim for all or part of the information submitted (with the exception of emissions data) in accordance with 40 C.F.R. Part 2. The information qualifying as business confidential material will be disclosed by EPA only to the extent and by the procedures set forth in 40 C.F.R. Part 2, Subpart B. Unless you make a claim at the time that you submit the information, it may be made available to the public by EPA without further notice to you. If you do assert a business confidentiality claim, you must follow the procedures set forth in Section I - Instructions.

All information responsive to this Request should be sent to the following:

Ms. Frances Verhalen  
Corrective Action and Compliance Evaluation Section  
Compliance Assurance and Enforcement Division  
Mail code: 6EN-HC  
U.S. EPA - Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

### **I. INSTRUCTIONS**

1. The enclosed Affidavit (Enclosure B) must be filled out and submitted along with your responses to this Request.
2. If information or documents not known or not available to you as of the date of submission of a response to this Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response. There are significant penalties for submitting false information, including the possibility of fine or imprisonment.
3. For each document produced in response to this Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds. Please submit all information for each question in a logically sequenced, bound format.
4. If you wish to assert a claim of business confidentiality, you must clearly mark each page of each document included in your claim with a legend such as "trade secret", "proprietary", or "company confidential." If you claim information submitted in response to this Request as confidential, you must also provide a redacted version of the information with all confidential business information deleted. For any document in which you assert a claim of business confidentiality, please answer the following questions:
  - a. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
  - b. For what period of time do you request that the information be maintained as confidential, *e.g.*, until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you've specified.

- c. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
- d. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
- e. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
- f. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
- g. Is there any other explanation you deem relevant to EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

You must furnish comments to the above questions concurrent with your response to this Request if you have claimed any information as business confidential. See 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1).

## **II. DEFINITIONS**

The following definitions shall apply to the following words as they appear in Enclosure A:

1. The terms "document" and "documents" shall mean any object that records, stores, or presents information, both electronic and tangible, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of imitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other

conversations, including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any hard drive, flash drive, CD, DVD, or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such hard drive, flash drive, CD, DVD, or other type of memory and together with printouts of such hard drive, flash drive, CD, DVD, or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

2. The term "Kennedy Sawmills, Inc. AKA Benton Creosoting Works" (Kennedy) refers to Kennedy Sawmills, Inc. and any parent, subsidiary, successor, predecessor, affiliate, division or related business associated with Benton Creosoting Works, 6695 Louisiana Highway 3 North in Benton, Bossier Parish, Louisiana.
3. The term "you" or "yours" refers to Kennedy.
4. The term "facility" means your property known as Benton Creosoting Works located at 6695 Louisiana Highway 3 in Benton, Bossier Parish, Louisiana. The facility has a RCRA Identification number of LAD008056632.
5. The term "identify" means to provide:
  - a. with respect to an individual, the person's name, job title, business address and business telephone number;
  - b. with respect to a corporation, partnership, sole proprietorship or other business entity, its full name, address, legal status and form (e.g., corporation, partnership, etc.) and a brief description of its business;
  - c. with respect to a document, its customary business description, date, number if any (e.g., invoice or purchase order number), author's identity, address or addressee and /or recipient and the subject matter.
6. All terms used in the Request will have their ordinary meaning unless such terms are defined in RCRA, 40 C.F.R. Parts 260 through 280, and/or the federally authorized Louisiana hazardous waste program. In the event of conflicting definitions, the RCRA definition controls.

7. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Request, any information which might otherwise be construed to be outside its scope.
8. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.
9. The terms "relate to" or "pertain to" (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.
10. The term "any," as in "any documents," for example, shall mean "any and all."

### III. REQUESTS FOR INFORMATION

1. Identify each person(s) answering each Question, or subpart of each Question, and provide their title and a description of their responsibilities.
2. For each and every Question, or subpart of each Question, identify all persons consulted in the preparation of the answer, including their title and responsibilities.
3. For each and every Question contained herein, identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the Question, and provide true and accurate copies of such documents.
4. Please provide an exact copy of Kennedy's corporate income tax returns submitted to the Internal Revenue Service (IRS) during the past ten (10) years, including any and all attachments that would be required by the IRS at the time of filing. If any of the returns provided have been audited, corrected, amended or changed, or if you have been notified of an audit, please describe the circumstances pertaining to that event.
5. Provide copies of any and all of Kennedy's financial statements that apply to the last ten (10) years. This is to include all internal and external audits, balance sheets, income statements and other statements that purport to describe Kennedy's worth and/or income and expenses. In addition, if at any point in the last ten (10) years, you were required to submit financial statements, please provide a copy of what was submitted as well as an explanation which describes the reason for submission; e.g., for loan or for demonstration of the financial capability to deliver on a contract.

6. Provide copies of all rental agreements, easements, exclusive rights to use, options to buy, or other documents that describe interests in real estate possessed by Kennedy or possessed by other entities for Kennedy's benefit, currently in existence or which were in effect within the past ten (10) years. If there are any oral agreements pertaining to these agreements or other unwritten agreements exist, please provide the specifics as to the length of the agreement, the specific requirements of the agreement and the compensation payable regarding the agreement.
  
7. Identify any interest in any real estate, real property and/or other asset(s) currently held by Kennedy, and provide copies of all documentation describing such real estate, property and/or asset(s).

ENCLOSURE B

**STATEMENT OF CERTIFICATION**

Kennedy Sawmills, Inc. AKA Benton Creosoting Works

*I certify that I am authorized to respond to this Information Request on behalf of Kennedy Sawmills, Inc. AKA Benton Creosoting Works. I certify under penalty of perjury that the foregoing is true, accurate and correct. I am aware that there are significant penalties for the submitting of false information, including the possibility of fine and imprisonment for knowing violations. Executed on \_\_\_\_\_, 2011.*

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)