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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY *10 ed*

REGION III

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Philadelphia, Pennsylvania 19103-2029

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ENVIR. APPEALS BOARD

A.J. D'Angelo (3RC30)
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Via UPS Next Day Air

September 9, 2014

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
WJC East, Room 3332
Washington, DC 20004

Re: In the Matter of: Chem-Solv, Inc. and Austin Holdings-VA, L.L.C.
RCRA (3008) Appeal No. 14-02
Appellee's Response to Order Granting Motion to File Sur-Reply

Dear Ms. Durr:

On August 8, 2014, Appellants Chem-Solv, Inc. and Austin Holdings-VA, LLC (collectively "Chem-Solv") requested leave to file a reply brief in the above-captioned matter with the Environmental Appeals Board ("Board"). *See* Appellant's Motion for Leave to File Reply Brief ("Motion"). In their Motion, Appellants alleged that the Region had raised new issues and misconstrued certain arguments of the Appellants in the Region's July 25, 2014 reply brief. In a response dated August 14, 2014, Appellee, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Region"), disputed Appellants' contentions, opposed Chem-Solv's request to file a reply brief and, alternatively, sought the opportunity of a sur-reply by the Region. *See*, Appellee's Response in Opposition to Appellant's Motion for Leave to File Reply Brief. At that time of its responsive filing, the Region was unaware that the Board, by Order dated August 12, 2014, had already granted the Appellants' Motion. *See* Order Granting Motion to File Reply Brief.

Appellants' Reply Brief Supporting Reversal of Initial Decision was filed with the Board on August 22, 2014 ("Reply Brief"). On August 5, 2014, the Board issued a subsequent Order Granting Motion to File Sur-Reply Brief, thereby affording the Region the opportunity to file a sur-reply brief on or before September 19, 2014.

The Region now has had ample opportunity to review Appellants' Reply Brief and to confirm that it contains no new arguments that merit or warrant a reply by the Region. As a result, and by this correspondence, the Region wishes to thank the Board for the opportunity to file a sur-reply in this matter, advise the Board of the Region's election not to do so and assure the Board that the Region stands ready to brief any issue or issues that the Board may seek to have the Region or the parties further address.

Sincerely,



A.J. D'Angelo
Sr. Assistant Regional Counsel

Attachment

cc: Charles L. Williams, Esq. (via UPS Next Day Air)
Hon. Susan L. Biro (via UPS Next Day Air)
Pete Raack, Esq. (via E-mail)
Mary Andrews, Esq. (via E-mail)

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ENVIRONMENTAL APPEALS BOARD**

In the Matter of:)
)
Chem-Solv, Inc., formerly trading as)
Chemicals and Solvents, Inc.)
)
and) RCRA (3008) Appeal No. 14-02
)
Austin Holdings-VA, L.L.C.)
)
Docket Number RCRA-03-2011-0068)

CERTIFICATE OF SERVICE


I hereby certify that in the above-captioned matter and on the date set forth below, I filed with the Clerk of the Environmental Appeals Board, United States Environmental Protection Agency, an original correspondence containing **Appellee's Response to Order Granting Motion to File Sur-Reply**, via United Parcel Service, Next Day Air Delivery, at the address set forth below. I further certify that on such date I caused true and correct copies of the same correspondence to be mailed to Respondents' counsel, Charles L. Williams, Esq., and to Chief Administrative Law Judge Susan L. Biro via United Parcel Service, Next Day Air Delivery, at the following addresses:

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
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Washington, DC 20004

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Roanoke, VA 24011

Hon. Susan L. Biro
Chief Administrative Law Judge
c/o Maria Whiting-Beale, Staff Assistant
U.S. Environmental Protection Agency
EPA Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Avenue, NW
Washington, DC 20460

Dated: September 9, 2014


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