

For example, the EPA stated that the Appellants' brief was "vague as to what it was about EPA's sampling procedures they claim rendered the results unreliable." (Br. at 24.) The Appellants seek leave to clarify why the deeply flawed sampling procedures used by the EPA failed to generate representative samples of the Pit water and settled solids, due to the inspectors' failure to use appropriate equipment and missing critical steps in the sampling process. Moreover, in its response brief, the EPA raises certain issues concerning the authoritative value of certain guidance documents in the record, which the EPA's inspectors failed to follow. The Appellants seek leave to file a reply brief in order to address the question of the authoritative value of the guidance documents found in the record.

Another example is the EPA's conclusory statement that the Appellants "admitted that they intermittently used the Pit as a hazardous waste treatment unit." (Br. at 40.) The Appellants seek leave to clarify the record on this issue and show that they have made no such admission. Evidence that Chem-Solv neutralized some Pit water after deciding to dispose of a certain quantity of Pit water and before such Pit water was disposed does not constitute an "admission" that the Pit was a hazardous waste treatment unit, nor that neutralization was a prerequisite to reuse. The Appellants seek leave to file a reply brief clarifying what this evidence really shows and addressing certain confusion over the basis for the Appellants' argument that neither the Pit water or the settled solids contained in the pit were regulated wastes at the time they were

sampled by the EPA's inspectors that arises on account of certain statements made by the EPA in its response brief.

The EPA also stated, in its response brief, that the Appellants' evidence does not support their position that a certain drum of sodium hydrosulfide was a usable product in Chem-Solv's inventory, and, therefore, that the ALJ correctly determined that drum was a waste. (Br. at 41.) The Appellants seek leave to file a reply brief addressing the EPA's burden of proof to establish that the drum was a waste, and clarifying that it was not the Appellants' burden of proof to establish it wasn't. Furthermore, while the "condition and handling of a drum is a relevant factor in determining whether the drum's contents is product or waste," the Appellants seek leave to address why the EPA cannot meet its burden of proof with this evidence alone in a reply brief.

Additionally, the EPA stated that the Appellants "are unable to identify the person or persons who performed the supposed generator knowledge analysis, when the analysis was performed, and the substantive elements of the analysis which [led] to the supposed generator knowledge conclusion." (Br. at 43.) The Appellants seek leave to clarify the basis for their generator knowledge and to draw the Board's attention to the testimony and exhibits in the record that establish the basis for their generator knowledge, upon which Chem-Solv made waste determinations related to the Pit water and the settled solids in a reply brief.

CONCLUSION

For the reasons stated above, the Appellants respectfully request that the Board grant their motion for leave to file a reply brief.

Dated: August 8, 2014

Chem-Solv, Inc. and Austin Holdings-VA, L.L.C.

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CERTIFICATE OF SERVICE

I certify that, on August 8, 2014, I e-filed the Appellants' Motion for Leave to File Reply Brief with the Environmental Appeals Board, and mailed copies by Federal Express to the address listed below:

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A handwritten signature in blue ink, appearing to be 'M. Whiting-Beale', written over a horizontal line.