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January 27, 2012

VIA FEDERAL EXPRESS

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: IMO Chem-Solv, Inc., and Austin Holdings-VA, L.L.C.
EPA Docket No.: RCRA-03-2011-0068

Dear Ms. Guy:

Enclosed for filing in this proceeding is an original and one copy of Respondents' Motion to Take Depositions Upon Oral Questions and Respondents' Memorandum in Support of Motion to Take Depositions Upon Oral Questions.

Please let us know if you have any questions concerning the enclosed documents. We appreciate your assistance in this matter.

Very truly yours,

GENTRY LOCKE RAKES & MOORE, LLP



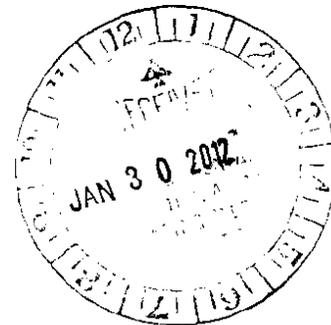
Maxwell H. Wiegard

MHW:lbs

Enclosures

cc: The Honorable Barbara A. Gunning
Joyce A. Howell, Esq., Senior Assistant Regional Counsel
Mr. Jamison G. Austin
Charles L. Williams, Esq.

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**



In the Matter of:)	RESPONDENTS' MOTION
)	TO TAKE DEPOSITIONS
)	UPON ORAL QUESTIONS
)	
)	
CHEM-SOLV, INC., formerly trading as Chemicals and Solvents, Inc.)	
)	
and)	
)	
AUSTIN HOLDINGS-VA, L.L.C.)	U.S. EPA Docket Number
)	RCRA-03-2011-0068
)	
)	
)	Proceeding Under Section 3008(a) of
Respondents.)	the Resource Conservation and
)	Recovery Act, as amended 42 U.S.C.
Chem-Solv, Inc. 1111 Industry Avenue, S.E. 1140 Industry Avenue, S.E. Roanoke, VA 24013,)	Section 6928(a)
)	
)	
)	
Facility.)	

RESPONDENTS' MOTION TO TAKE DEPOSITIONS UPON ORAL QUESTIONS

COME NOW Respondents Chem-Solv, Inc. ("Chem-Solv") and Austin Holdings-VA, L.L.C. ("Austin Holdings") (collectively, the "Respondents"), by counsel, pursuant to Rule 22.19 (e) of the Consolidated Rules of Practice (40 C.F.R. § 22.19(e)) and respectfully request that this Court enter an Order granting leave to take depositions upon oral questions of three witnesses identified by the Complainant in its Initial Prehearing Exchange and its Rebuttal Prehearing Exchange, Kenneth J. Cox, Elizabeth A. Lohman, and Jose Reyna, III (collectively, the "Complainant's Witnesses"). As grounds therefor, the Respondents state as follows:

1. The Complainant filed certain declarations executed by the Complainant's Witnesses in support of its Motion for Partial Accelerated Decision heretofore filed by the Complainant in this proceeding.

2. Certain statements made by the Complainant's Witnesses in their declarations are in conflict with statements made by witnesses identified by the Respondents in their Initial Prehearing Exchange in affidavits submitted to the Court by the Respondents in opposition to the Complainant's Motion for Partial Accelerated Decision.

3. The relevant documentation accessible to the Respondents does not fully convey the Complainant's Witnesses' mental impressions or understanding of the facts at issue. As a result, requiring the Respondents to proceed to hearing without the opportunity to depose the Complainant's Witnesses would be patently unfair, as the Respondents would be deprived of an opportunity to adequately prepare their defense to the Complainant's claims.

4. The requested depositions of Complainant's Witnesses will not unreasonably delay this proceeding or unreasonably burden the Complainant.

5. The Respondents seek information concerning the Complainant's Witnesses' mental impressions and their understanding of the facts at issue that is most reasonably obtained from the Complainant's Witnesses. Such information cannot reasonably be obtained by alternative methods of discovery.

6. The information sought by the Respondents has significant probative value on certain disputed issues of material fact relevant to the issue of liability in this proceeding.

7. The Complainant has refused to make the Complainant's Witnesses available for depositions voluntarily.

8. In light of the numerous violations alleged in the Complaint and the immense civil penalties proposed by the Complainant, the requirements of due process should compel this Court to permit the Respondents to depose the Complainant's Witnesses, in accordance with Rule 22.19(e) of the Consolidated Rules of Practice.

9. Prior to filing this Motion, the undersigned contacted the Complainant as to the relief requested herein and the Complainant indicated that it does oppose the Motion.

WHEREFORE, the Respondents Chem-Solv, Inc. and Austin Holdings-VA, L.L.C. respectfully request that this Court enter an Order granting them leave to take depositions upon oral questions of Kenneth J. Cox, Elizabeth A. Lohman, and Jose Reyna, III, and any further relief as this Court deems just and proper.

Dated: January 27, 2012

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

By 
Of Counsel

Charles L. Williams (VSB No. 1145)
Maxwell H. Wiegard (VSB No. 68787)
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**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:)

CHEM-SOLV, INC., formerly trading as)
Chemicals and Solvents, Inc.)

and)

AUSTIN HOLDINGS-VA, L.L.C.)

U.S. EPA Docket Number
RCRA-03-2011-0068

Respondents.)

Proceeding Under Section 3008(a) of
the Resource Conservation and
Recovery Act, as amended 42 U.S.C.
Section 6928(a)

Chem-Solv, Inc.)
1111 Industrial Avenue, S.E.)
1140 Industrial Avenue, S.E.)
Roanoke, VA 24013.)

Facility.)

CERTIFICATE OF SERVICE

I certify that I sent by FedEx, next day delivery, a copy of Respondents' Motion to Take Depositions Upon Oral Questions to the addressees listed below. The original and one copy of the Respondents' Motion for Depositions to the Regional Hearing Clerk, U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103-2029.

The Honorable Barbara A. Gunning, A.L.J.
EPA Office of Administrative Law Judges
1099 14th Street, N.W.
Suite 350 Franklin Court
Washington, D.C. 20005

Joyce A. Howell, Esq.
Senior Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Date: January 27, 2012

A handwritten signature in black ink, appearing to read "Maxwell H. Wiegard", is written over a horizontal line.

Charles L. Williams, Esq.
Maxwell H. Wiegard, Esq.
Gentry Locke Rakes & Moore, LLP
P.O. Box 40013
Roanoke, VA 24022-0013

Counsel for Respondents