



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

IN THE MATTER OF)

Chem-Solv, Inc., formerly trading as)
Chemicals and Solvents, Inc.)

and)

Austin Holdings-VA, L.L.C.,)

RESPONDENTS.)

DOCKET NO. RCRA-03-2011-0068

ORDER ON RESPONDENTS' MOTION FOR ISSUANCE OF SUBPOENAS

The hearing in this matter is scheduled to commence on March 20, 2012. On March 1, 2012, the undersigned received a Motion for Issuance of Subpoenas ("Motion" or "Mot.") from Respondents along with draft subpoenas. Respondents request the issuance of six subpoenas to non-party witnesses listed in the parties' Prehearing Exchange. Respondents state that they are prepared to pay the fees as set forth in 40 C.F.R. § 22.19(e)(4). Five of the individuals named in the subpoenas are listed as witnesses for Respondents. The sixth individual, Ms. Elizabeth A. Lohman, is listed as Complainant's witness.^{1/}

Respondents argue, with respect to Ms. Lohman, that a subpoena is necessary because her prior affidavits allegedly conflict with statements made by Respondents' witnesses, particularly with regard to the sampling event on May 23, 2007. Mot. at 3. Respondents further state that although they have sent letters to these individuals requesting their presence at trial, Respondents cannot guarantee the attendance of Ms. Lohman or any of the other five non-party witnesses without subpoenas. During a subsequent conference call with the undersigned's staff attorney, Complainant stated that it does not object to the issuance of subpoenas for Respondents' five listed witnesses. With respect to Ms. Lohman, Complainant does not object to the issuance of the subpoena, but reserves the right to object to the scope of examination to which Respondents subject Ms. Lohman at hearing. The Motion is hereby **GRANTED** and the original subpoenas are provided to counsel for Respondents, as identified in the draft subpoenas, for proper service. Respondents are directed to verify the proper agent for service for each of these witnesses and to ensure delivery of the subpoenas as soon as practicable.



Susan L. Biro
Chief Administrative Law Judge

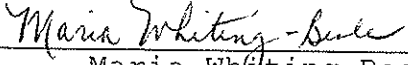
Dated: March 2, 2012
Washington, DC

^{1/} In their Prehearing Exchange, however, Respondents reserved the right to call any of the witnesses identified by Complainant in its Prehearing Exchange.

In the Matter of Chem-Solv, Inc., formerly trading as Chemicals and Solvents, Inc., and Austin Holdings-VA, L.L.C., Respondents
Docket No. RCRA-03-2011-0068

CERTIFICATE OF SERVICE

I certify that the foregoing **Order On Respondent's Motion For Issuance of Subpoenas**, dated March 2, 2012 was sent this day in the following manner to the addressees listed below.



Maria Whiting-Beale
Staff Assistant

Dated: March 2, 2012

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