

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

In the Matter of:	)	Answer of Chemsolv, Inc. and Austin Holdings-VA, L.L.C.
	)	
CHEMSOLV, 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)
	)	
Chemsolv, Inc. 1111 Industrial Avenue, S.E. 1140 Industrial Avenue, S.E. Roanoke, VA 24013	)	
	)	
	)	
Facility.	)	

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COME NOW Respondents, Chemsolv, Inc. ("Chemsolv") and Austin Holdings-VA, L.L.C. ("Austin Holdings") (collectively, "Respondents"), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance and Corrective Action Orders and the Revocation, Termination or Suspension of Permits (the "Consolidated Rules of Practice"), 40 C.F.R. Part 22, and in response to the Administrative Complaint, Compliance Order and Notice of Opportunity for a Hearing (the "Complaint") represent as follows:

1. With regard to the unnumbered paragraphs in Section I, such paragraphs state legal conclusions to which no response is required. To the extent that a response is required, Respondents deny the allegations in Section 1.
2. Paragraph 1 states legal conclusions, to which no response is required. To the extent that a response is required, Chemsolv denies the allegations in Paragraph 1.
3. Paragraph 2 states legal conclusions, to which no response is required. To the extent that a response is required, Chemsolv denies the allegations in Paragraph 2.

4. With regard to the allegations in Paragraph 3, Respondents admit that Chemsolv operates a chemical distribution business on certain real property located in Roanoke, Virginia known as Tax Parcel 4240104 and with street addresses of 1111 and 1140 Industry Avenue, S.E., Roanoke, Virginia. The remainder of Paragraph 3 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 3.

5. With regard to the allegations in Paragraph 4, Respondents admit that Austin Holdings owns certain real property located in Roanoke, Virginia known as Tax Parcels 4170102 and 4240103. The remainder of Paragraph 4 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 4. In further response to the allegations in Paragraph 4, Respondents state that Austin Holdings is not responsible for the acts and/or omissions at issue and, therefore, denies any liability for any civil penalty whatsoever.

6. Respondents deny the allegations in Paragraph 5 and demand strict proof thereof.

7. With regard to the allegations in Paragraph 6, Respondents admit that the United States Environmental Protection Agency ("EPA") and the Virginia Department of Environmental Quality ("VA DEQ") conducted an inspection at Respondents' property on May 15, 2007.

8. With regard to the allegations in Paragraph 7, Respondents admit that EPA endeavored to take certain samples during its inspection on May 23, 2007, but challenge the data and conclusions related to such samples.

9. With regard to the allegations in Paragraph 8, Respondents admit that representatives of VA DEQ conducted inspections at Respondents' property on May 15, 18 and 23, 2007.

10. Respondents admit the allegations in Paragraph 9.

11. Respondents admit the allegations in Paragraph 10.

12. Respondents admit the allegations in Paragraph 11.

13. With regard to the allegations in Paragraph 12, Respondents admit that Chemsolv is engaged in the business of distributing chemicals. Respondents deny the all other allegations in Paragraph 12.

14. Respondents deny the allegations in Paragraph 13 as written.

15. With regard to the allegations in Paragraph 14, Respondents admit that EPA took samples of water contained in a rinsewater holding tank located on Tax Parcel 4240104 on May 23, 2007. The remaining allegations in Paragraph 14 state legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 14. In further response to the allegations in Paragraph 14, Respondents state that

the samples of water taken from the rinsewater tank on May 23, 2007 were flawed for the following reasons: (1) they were not collected in compliance with EPA's prescribed sample collection requirements; and (2) the materials sampled were not representative of any waste stream at the point of generation, because they were collected from an intermediate process tank.

16. Paragraph 15 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 15.

17. With regard to the allegations in Paragraph 16, Respondents admit that EPA took samples of settled solids from the rinsewater holding tank on May 23, 2007. Respondents deny all other allegations in Paragraph 16. In further response to the allegations in Paragraph 16, Respondents state that the samples collected by EPA were flawed for the following reasons: (1) they were not collected in compliance with EPA's prescribed sample collection requirements; and (2) the materials sampled were not representative of any waste stream at the point of generation, because they were collected from an intermediate process tank.

18. Paragraph 17 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 17.

19. Paragraph 18 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 18.

20. With regard to the allegations in Paragraph 19, Respondents admit that EPA collected samples of settled solids from the rinsewater holding tank on May 23, 2007. Respondents deny the remaining allegations in Paragraph 19 and demand strict proof thereof. In further response to the allegations in Paragraph 19, Respondents state that the samples collected by EPA were flawed for the following reasons: (1) they were not collected in compliance with EPA's prescribed sample collection and analysis requirements; and (2) the materials sampled were not representative of any waste stream at the point of generation, because they were collected from an intermediate process tank

21. With regard to the allegations in Paragraph 20, Respondents admit and state that the rinsewater holding tank was constructed of carbon steel with a ceramic interior lining, that Chemsolv removed settled solids from the rinsewater holding tank on or about February 1, 2008 and removed the rinsewater holding tank on or about March 27, 2008. Respondents deny all other allegations in Paragraph 20.

22. Paragraph 21 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 21. In further response to the allegations in Paragraph 21, Respondents state that such allegations are premised on the faulty assumption that contents of the rinsewater holding tank were a waste. They were not. The rinsewater was not a waste because it was a useable product with market value that Chemsolv used on a regular basis to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent. Moreover, under the Resource Conservation and Recovery Act ("RCRA"), these settled solids were not a waste until they were removed from the rinsewater holding tank for disposal purposes.

23. Paragraph 22 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 22.

24. Paragraph 23 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 23.

25. Paragraph 24 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 24.

26. Respondents deny the allegations in Paragraph 25 and demand strict proof thereof.

### COUNT I

27. With regard to the allegations in Paragraph 26, Respondents incorporate their responses to Paragraphs 1 through 25 of the Complaint by reference.

28. Paragraph 27 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 27.

29. Paragraph 28 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 28.

30. Paragraph 29 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 29.

31. With regard to the allegations in Paragraph 30, Respondents admit that EPA observed a drum of sodium hydrosulfide on Tax Parcel 4170102 during its inspection on May 23, 2007. However, Respondents deny that the sodium hydrosulfide drum observed by EPA on May 23, 2007 was shipped off site for disposal on February 20, 2008. In fact, the sodium hydrosulfide drum referenced by EPA was not a waste, but a useable product that was sold to a customer. The remaining allegations in Paragraph 30 are legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny these allegations in Paragraph 30.

32. With regard to the allegations in Paragraph 31, Respondents admit that Chemsolv shipped certain settled solids that had been removed from the rinsewater holding tank off site for disposal on or about February 20, 2008. Respondents deny the remaining allegations in Paragraph 31.

33. Paragraph 32 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 32. In further response to the allegations in Paragraph 32, Respondents state that such allegations are premised on the flawed assumption that settled solids in the rinsewater holding tank were a waste. Under

RCRA, these settled solids were not a waste until they were removed from the rinsewater holding tank for disposal purposes.

34. Respondents deny the allegations in Paragraph 33 and demand strict proof thereof.

35. With regard to the allegations in Paragraph 34, Respondents admit that they have never had a permit or interim status for Chemsolv's chemical distribution business located in the City of Roanoke, Virginia. Respondents further state, however, that they were not required to obtain a permit or acquire interim status because 9 VAC 20-60-270.A did not apply, since they were not generating hazardous waste.

36. Paragraph 35 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 35. In further response to the allegations in Paragraph 35, Respondents state that such allegations are premised on the erroneous assumption that the contents of the rinsewater holding tank and the sodium hydrosulfide drum observed by EPA were wastes. They were not. To the contrary, the sodium hydrosulfide drum referenced by EPA was a useable product that Chemsolv sold to a customer. Moreover, under RCRA, the contents of the rinsewater holding tank are and were not a waste until they were removed from the tank for disposal purposes.

37. Paragraph 36 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 36. In further response to the allegations in Paragraph 36, Respondents state that these allegations are premised on the faulty assumption that 9 VAC 20-60-262.A applies. This regulation does not apply because the sodium hydrosulfide drum and the contents of the rinsewater holding tank were not wastes. The drum of sodium hydrosulfide observed by EPA during its inspection on May 23, 2007 was not a waste because it was a useable product that Chemsolv sold to a customer. Moreover, under RCRA, the contents of the rinsewater holding tank are and were not a waste until they were removed from the tank for disposal purposes.

38. Paragraph 37 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 37. In further response to the allegations in Paragraph 37, Respondents deny any violation of 9 VAC 20-60-270.A and any liability for any civil penalty.

## COUNT II

39. With regard to the allegations in Paragraph 38, Respondents incorporate their responses to Paragraphs 1 through 37 by reference.

40. Paragraph 39 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 39.

41. Paragraph 40 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 40.

42. Paragraph 41 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 41. In further response to the allegations in Paragraph 41, Respondents state that such allegations are premised on the erroneous assumption that the rinsewater in the rinsewater holding tank was a waste and that Chemsolv failed to make a hazardous waste determination. The rinsewater was not a waste because it was a useable product with market value that Chemsolv used on a regular basis to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent. Moreover, at certain points in time, whenever Chemsolv decided to dispose of certain rinsewater, Chemsolv performed hazardous waste determinations. Respondents further state in response to Paragraph 41 that the samples of rinsewater collected by EPA were flawed, because they were not collected in compliance with EPA's prescribed sample collection requirements and the materials sampled were not representative of any waste stream at the point of generation, since they were collected from an intermediate process tank.

43. Paragraph 42 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 42. In further response to the allegations in Paragraph 42, Respondents state that such allegations are premised on the faulty assumptions that the settled solids in the rinsewater holding tank were a waste and that Chemsolv failed to make a hazardous waste determination. Under RCRA, the settled solids were not a waste until they were removed from the rinsewater holding tank for disposal purposes. At the points in time when the settled solids were removed from the rinsewater holding tank and became a waste, Chemsolv made a waste determination based on generator knowledge and analytical results of and from this waste stream and analytical results generated at the time of removal and disposal. Respondents further state in response to Paragraph 42 that the samples collected by EPA were flawed, because they were not collected in compliance with EPA's prescribed sample collection requirements and the materials sampled were not representative of any waste stream at the point of generation, since they were collected from an intermediate process tank.

44. With regard to the allegations in Paragraph 43, Respondents admit that used aerosol cans were in storage for disposal with regular trash and further state that they were stored lawfully.

45. Respondents deny the allegations in Paragraph 44. In further response to the allegations in Paragraph 44, Respondents state that Chemsolv disposed of used aerosol cans that had been characterized by Respondents and determined to be non-hazardous waste.

46. Paragraph 45 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 45. In further response to the allegations in Paragraph 45, Respondents state that the allegations in Paragraph 45 are premised on the flawed assumption that 9 VAC 20-60-262.A applies. This regulation does not apply because the liquid and settled solids in the rinsewater holding tank were not wastes. The rinsewater was a useable product with market value that Chemsolv used on a regular basis to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent. Moreover, under RCRA, the settled solids and the rinsewater in the

rinsewater holding tank were not wastes until they were removed from the rinsewater holding tank for disposal purposes. Respondents further state that the allegations in Paragraph 45 are also premised on the erroneous assumption that the aerosol cans observed by EPA on May 18, 2007 and May 23, 2007 were not subject to a hazardous waste determination. To the contrary, the aerosol cans observed by EPA had been determined by Chemsolv to be a non-hazardous waste.

47. Paragraph 46 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 46. In further response to the allegations in Paragraph 46, Respondents state that such allegations are premised on the faulty assumption that 9 VAC 20-60-262.A applies. This regulation does not apply because the liquid and the settled solids in the rinsewater holding tank were not wastes. The rinsewater was a useable product with market value that Chemsolv used on a regular basis to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent. Moreover, the settled solids and the rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes. The allegations in Paragraph 46 are also premised on the flawed assumption that the aerosol cans observed by EPA on May 18, 2007 and May 23, 2007 were not subject to a hazardous waste determination. To the contrary, the aerosol cans observed by EPA had been determined by Chemsolv to be a non-hazardous waste. Therefore, Respondents deny any violation of 9 VAC 20-60-262.A and any liability for any civil penalty whatsoever.

### COUNT III

48. With regard to the allegations in Paragraph 47, Respondents incorporate their responses to Paragraphs 1 through 46 by reference.

49. Paragraph 48 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 48.

50. Paragraph 49 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 49.

51. Paragraph 50 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 50.

52. Paragraph 51 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 51. In further response to the allegations in Paragraph 51, Respondents state that such allegations are premised on the erroneous assumption that the rinsewater holding tank was regulated by 9 VAC 20-60-264.A. This regulation does not apply because the rinsewater holding tank is not considered a hazardous waste storage tank since the rinsewater was a useable product with market value that Chemsolv used to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, the settled solids and the rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes.

53. Paragraph 52 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 52. In further response to the allegations in Paragraph 52, Respondents state that such allegations are premised on the faulty assumption that the rinsewater holding tank is regulated by 9 VAC 20-60-264.A. This regulation does not apply because the rinsewater holding tank is not considered a hazardous waste storage tank. However, the rinsewater holding tank was not a hazardous waste storage tank since the rinsewater was a useable product with market value that Chemsolv regularly used to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, the settled solids and the rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes. Therefore, Respondents deny any violation of 9 VAC 20-60-264.A and any liability for any civil penalty whatsoever.

#### COUNT IV

54. With regard to the allegations in Paragraph 53, Respondents incorporate their responses to Paragraphs 1 through 52 by reference.

55. Respondents lack sufficient information to admit or deny the allegations in paragraph 54.

56. Paragraph 55 states a legal conclusion, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 55.

57. Paragraph 56 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 56.

58. Paragraph 57 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 57. In further response to the allegations in Paragraph 57, Respondents state that such allegations are premised on the erroneous assumption that the rinsewater holding tank was regulated by 9 VAC 20-60-264.A. This regulation does not apply because the rinsewater holding tank was not considered a hazardous waste storage tank since the rinsewater was a useable product with market value that Chemsolv used on a regular basis to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, the settled solids and the rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes. Therefore, the Respondents deny any violation of 9 VAC 20-60-264.A and any liability for any civil penalty whatsoever.

#### COUNT V

59. With regard to the allegations in Paragraph 58, Respondents incorporate their responses to Paragraphs 1 through 57 by reference.



60. Paragraph 59 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 59.

61. Paragraph 60 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 60.

62. Paragraph 61 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 61. In further response to the allegations in Paragraph 61, Respondents state that such allegations are premised on the faulty assumption that the rinsewater holding tank is regulated by 9 VAC 20-60-264.A. This regulation does not apply because the rinsewater holding tank is not considered a hazardous waste storage tank because the rinsewater was a useable product with market value that Chemsolv regularly used to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, under RCRA, the settled solids and the rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes. The areas subject to these allegations were, however, inspected.

63. Paragraph 62 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 62. In further response to the allegations in Paragraph 62, Respondents state that such allegations are premised on the flawed assumption that the rinsewater holding tank is regulated by 9 VAC 20-60-264.A. This regulation does not apply because the rinsewater holding tank is not considered a hazardous waste storage tank since the rinsewater was a useable product with market value that Chemsolv used to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, under RCRA, the settled solids and the rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes. Therefore, the Respondents deny any violation of the requirements of 9 VAC 20-60-264.A and any liability for any civil penalty whatsoever.

#### COUNT VI

64. With regard to the allegations in Paragraph 63, Respondents incorporate their responses to Paragraphs 1 through 62 by reference.

65. Paragraph 64 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 64.

66. Paragraph 65 states a legal conclusion, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 65.

67. Paragraph 66 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 66.

68. With regard to the allegations in Paragraph 67, Respondents admit that EPA took samples of settled solids from the rinsewater holding tank on May 23, 2007. Respondents lack

sufficient information to admit or deny the remaining allegations in Paragraph 67. Therefore, Respondents deny the remaining allegations in Paragraph 67 and demand strict proof thereof.

69. Paragraph 68 states a legal conclusion, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 68.

70. Paragraph 69 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 69.

71. Paragraph 70 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 70. In further response to the allegations in Paragraph 70, Respondents state that such allegations are premised on the erroneous assumption that the rinsewater holding tank is regulated by 9 VAC 20-60-264.A. This regulation does not apply because the rinsewater holding tank is not considered a hazardous waste storage tank since the rinsewater was a useable product with market value that Chemsolv regularly used to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, under RCRA, the settled solids and the rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes.

72. Paragraph 71 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 71. In further response to the allegations in Paragraph 71, Respondents state that such allegations are premised on the faulty assumption that the rinsewater holding tank is regulated by 9 VAC 20-60-264.A. This regulation does not apply because the rinsewater holding tank is not considered a hazardous waste storage tank since the rinsewater was a useable product with market value that Chemsolv regularly used to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, the settled solids and the rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes. Therefore, Respondents deny any violation of 9 VAC 20-60-264.A and any liability for any civil penalty whatsoever.

## COUNT VII

73. With regard to the allegations in Paragraph 72, Respondents incorporate their responses to Paragraphs 1 through 71 by reference.

74. Paragraph 73 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 73.

75. Paragraph 74 states a legal conclusion, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 74.

76. Paragraph 75 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 75.

77. Paragraph 76 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 76.

78. Paragraph 77 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 77.

79. Paragraph 78 states a legal conclusion, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 78. In further response to the allegations in Paragraph 78, Respondents state that such allegations are premised on the flawed assumption that the rinsewater holding tank is regulated under 9 VAC 20-60-264.A and 40 C.F.R. § 264.193 and § 264.197. These regulations do not apply because the rinsewater holding tank is not considered a hazardous waste storage tank since the rinsewater was a useable product with market value that Chemsolv regularly used to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, under RCRA, the settled solids and rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes.

80. Paragraph 79 states a legal conclusion, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 79. In further response to the allegations in Paragraph 79, Respondents state that such allegations are premised on the erroneous assumption that the rinsewater holding tank is regulated by 9 VAC 20-60-264.A and 40 C.F.R. § 264.112. These regulations do not apply because the rinsewater holding tank is not considered a hazardous waste storage tank since the rinsewater was a useable product with market value that Chemsolv regularly used on an ongoing basis to rinse containers and as feed stock for making a marketable product called, a conditioning agent, and not a waste. Moreover, under RCRA, the settled solids and rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes.

81. Respondents deny the allegations in Paragraph 80 as written. However, Respondents state that Chemsolv removed the rinsewater holding tank on or about March 27, 2008.

82. Respondents admit the allegations in Paragraph 81.

83. Respondents deny the allegations in Paragraph 82.

84. Paragraph 83 states a legal conclusion, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 83. In further response to the allegations in Paragraph 83, Respondents state that such allegations are premised on the flawed assumption that the rinsewater holding tank is regulated by 40 C.F.R. Part 264. This regulation does not apply because the tank is not considered a hazardous waste storage tank since the rinsewater, which was a useable product with market value that Chemsolv regularly used to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, under RCRA, the settled solids and rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes.

85. Paragraph 84 states legal conclusions, to which no response is required. To the extent that a response is required, Respondents deny the allegations in Paragraph 84. In further response to the allegations in Paragraph 84, Respondents state that such allegations are premised on the faulty assumption that the rinsewater holding tank is regulated by 9 VAC 20-60-264.A. This regulation does not apply because the rinsewater holding tank is not considered a hazardous waste storage tank since the rinsewater was a useable product with market value that Chemsolv regularly used to rinse containers and as feed stock for making a marketable product, a freeze conditioning agent, and not a waste. Moreover, under RCRA, the settled solids and rinsewater in the rinsewater holding tank were not wastes until they were removed from the tank for disposal purposes. Therefore, Respondents deny any violation of 9 VAC 20-60-264.A and any liability for any civil penalty whatsoever.

86. With respect to Paragraphs 85 through 90 of Section III, such paragraphs state legal conclusions or demands, to which no response by Answer is required. To the extent that Paragraphs 85 through 90 of Section III contain any factual allegations, Respondents deny these allegations set forth in Section III and demand strict proof thereof.

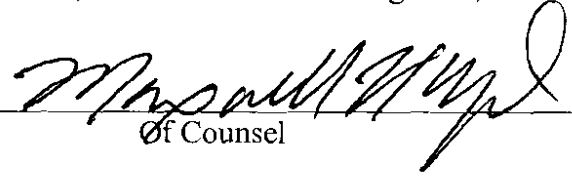
87. With regard to the allegations in Paragraphs 91 through 94 of Section IV, such paragraphs state legal conclusions, or proposals, to which no response by Answer is required. To the extent that Paragraphs 91 through 94 of Section IV contain factual allegations, Respondents deny these allegations set forth in Section IV and demand strict proof thereof. Respondents assert that the characterization of the alleged violations regarding "potential for harm" and "deviation from the regulatory requirements" is without basis.

88. With regard to Section IV, Respondents deny any liability for any civil penalty whatsoever. Respondents further deny any and all characterizations of the alleged potential for harm or the alleged deviation from regulatory requirements set forth in Section IV.

**Respondents request a hearing on all matters set forth in the Complaint and further request a settlement conference. Respondents request that all evidentiary proceedings be conducted in Roanoke, Virginia pursuant to 40 C.F.R. § 22.19(d).**

Dated: April 29, 2011

Chemsolv, Inc. and Austin Holdings-VA, L.L.C.

By   
of Counsel

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**BEFORE THE UNITED STATES  
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REGION III**

In the Matter of:

CHEMSOLV, INC., formerly trading as  
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AUSTIN HOLDINGS-VA, L.L.C.

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

Respondents.

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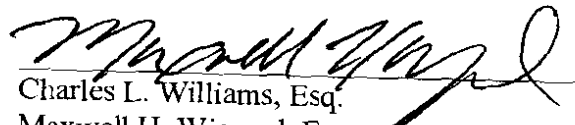
Chemsolv, Inc.  
1111 Industrial Avenue, S.E.  
1140 Industrial Avenue, S.E.  
Roanoke, VA 24013

Facility.

**CERTIFICATE OF SERVICE**

I certify that, on April 29, 2011, I sent by Federal Express, next day delivery, a copy of the Answer to the Administrative Complaint, Compliance Order and Notice of Opportunity for a Hearing to the addressees listed below.

Joyce A. Howell  
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