

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

RECEIVED
2012 FEB 13 AM 10:27
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

In the Matter of:)
)
CHEM-SOLV, INC., formerly trading as)
Chemicals and Solvents, Inc.)
)
and)
)
AUSTIN HOLDINGS-VA, L.L.C.)
)
)
)
)
)
Respondents.)
)
Chem-Solv, Inc.)
1111 Industry Avenue, S.E.)
1140 Industry Avenue, S.E.)
Roanoke, VA 24013,)
)
)
Facility.)

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

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

**RESPONDENTS' RESPONSE TO COMPLAINANT'S MOTION TO
SUPPLEMENT AND CORRECT COMPLAINANT'S PREHEARING EXCHANGE**

COME NOW Respondents, Chem-Solv, Inc. ("Chem-Solv") and Austin Holdings-VA, L.L.C. ("Austin Holdings") (collectively, the "Respondents"), by counsel, pursuant to Section 22.16(b) of the Consolidated Rules of Practice (40 C.F.R. § 22.16(b)), and file their Response to the Complainant's Motion to Supplement and Correct Complainant's Prehearing Exchange in the above-styled matter.

I. BACKGROUND

On January 26, 2012, the Complainant moved this Court for leave to supplement and correct its Prehearing Exchange pursuant to Sections 22.19(a) and (f) of the Consolidated Rules of Practice (40 C.F.R § 22.19(a) and (f)). Generally, Complainant's sought leave to reorganize

certain pages of certain exhibits contained in the Complainant's Prehearing Exchange, and to add several photographs and two exhibits to the Complainant's Prehearing Exchange. Specifically, the Complainant seeks leave to make the following corrections to Complainant's Prehearing Exchange:

- (1) Complainant Exhibit 18: Move certain photographs found at EPA 348 – 52 to Complainant's Exhibit 17 in numbered order;
- (2) Complainant Exhibit 18: Add certain photographs marked EPA 353a – 353e, which were omitted from Complainant Exhibit 18, and copies of which are attached to the Complainant's Motion as Attachment A, to Exhibit 18 in numbered order; and
- (3) Complainant Exhibit 21: Change the order of certain pages in Complainant's Exhibit 21 so that EPA 653 and 654 precede EPA 652.

The Complainant further seeks leave to add the following exhibits to the Complainant's Prehearing Exchange:

- (A) Complainant's Exhibit 65: Certain photographs of sampling instruments, copies of which were attached to the Declaration of Jose Reyna, III submitted in support of the Complainant's Motion for Partial Accelerated Decision; and
- (B) Complainant Exhibit 66: EPA fax back 11782, 9442.1993(02) (October 7, 1993) re: Regulatory Status of Used Residential and Commercial Industrial Aerosol Cans.

II. DISCUSSION

Having reviewed the Complainant's Motion for Leave to Correct and Supplement Complainant's Prehearing Exchange, the Complainant's Exhibits referenced in the Complainant's Motion and the Attachments attached to the Complainant's Motion, the Respondents respond to the Complainant's Motion as follows:

Proposed Correction of Complainant's Prehearing Exchange:

- (1) Complainant's Exhibits 18 and 21: The Respondents do not object to the correction of Complainant's Exhibits 18 and 21 as described in the Complainant's Motion.

Proposed Supplementation of Complainant's Prehearing Exchange:

- (A) Complainant Exhibits 65 and 66: The Respondents do not object to the supplementation of the Complainant's Prehearing Exchange to include Exhibits 65 and 66 attached to the Complainant's Motion as Attachments B and C. However, the Respondents take no position concerning the authenticity or admissibility of said exhibits at this time.

Dated: 2-9-12

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

By 
Of Counsel

Charles L. Williams (VSB No. 1145)
Maxwell H. Wiegard (VSB No. 68787)
GENTRY LOCKE RAKES & MOORE
10 Franklin Road, SE, Suite 800, Roanoke, VA 24011
P. O. Box 40013, Roanoke, VA 24022-0013
Telephone: 540-983-9300
Facsimile: 540-983-9400

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

In the Matter of:)

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.)

CERTIFICATE OF SERVICE

I certify that, on February 9, 2012, I sent by Federal Express, next day delivery, a copy of the Respondents' Response To Complainant's Motion To Supplement and Correct Complainant's Prehearing Exchange to the addressees listed below.

The Honorable Barbara A. Gunning
EPA Office of Administrative Law Judges
1099 14th Street, NW
Suite 350 Franklin Court
Washington, DC 20005

A.J. D'Angelo
Senior Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

