

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of: )  
 ) Docket No. TSCA-10-2021-0009  
GREENBUILD DESIGN & )  
CONSTRUCTION, LLC. ) RESPONSE ON COMPLAINANT’S  
 ) MOTION TO ACCEPT AN AFFIDAVIT  
 ) IN LIEU OF TESTIMONY  
Respondent )  
\_\_\_\_\_ )

COMES NOW, GreenBuild Design & Construction, LLC (“Respondent”) in Response to Complainant's Motion to Accept an Affidavit in Lieu of Testimony, hereby, OPPOSE, any and all Affidavits that the Complainant would like to file in lieu of Testimony.

Respondent considers any Affidavit filed by Complainant in lieu of Testimony to be deemed an unfair advantage as it prevents Respondent from thoroughly cross-examining Complainant’s witnesses. A right and privilege both parties are entitled to. Respondent sympathizes with the witness as he recovers from his health condition as Mr. von Marees continues to suffer with great discomfort and pain after his surgery, he is still required to testify and be cross-examined.

Complainant had ample time to file said motion but chose to hold off on doing so until a few weeks before the date of trial. The Court in turn shortened the time allowed for the Respondent to reply to the Complainant’s Motion.

If the Witness is unable to testify perhaps it would be in the best interest of all parties involved to change the trial date to a date when all witnesses are more capable of testifying under oath and cross-examined.

Respondent therefore Request the Court to DENY Complainant's Motion to Accept An Affidavit in Lieu of Testimony.

Respectfully submitted on April 15, 2022  
GreenBuild Design & Construction LLC  
Rodrigo von Marees  
Respondent



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#### CERTIFICATE OF SERVICE

I hereby certify that the foregoing Respondent's Response on Complainant's Motion to Accept An Affidavit in Lieu of Testimony, dated April 15, 2022, was served on the following parties in manner indicated below:

Original by OALJ Electronic Filings System:  
Ms. Mary Angeles  
Headquarters Hearing Clerk  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, Washington DC 20460

Copy via Electronic Mail:  
Mr. Andrew Futerman  
Environmental Protection Agency Counsel  
Futerman.Andrew@epa.gov



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GreenBuild Design & Construction LLC  
Rodrigo von Marees  
Respondent