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Attorney for Respondent
UNITEK SOLVENT SERVICES, INC.

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

In the Matter of:

Unitek Solvent Services, Inc.

Respondent.

Docket No. RCRA-09-2025-0113

**RESPONDENT’S MEMORANDUM IN
OPPOSITION TO COMPLAINANT’S
MOTION FOR MORE DEFINITE
STATEMENT AND EXTENSION OF
TIME FOR FILING PREHEARING
EXCHANGES**

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COMPLAINANT’S MOTION FOR DEFINITE STATEMENT AND
EXTENSION OF TIME FOR FILING PREHEARING EXCHANGES**

Respondent Unitek Solvent Services, Inc. (“Respondent”) files this memorandum in opposition to the Motion for More Definite Statement and Extension of Time for Filing Prehearing Exchanges (“Motion”) filed by Complainant United States Environmental Protection Agency (“EPA”). This opposition is filed pursuant to 40 C.F.R. § 22.16(b).

Although it opposes EPA’s Motion, respondent does not oppose paragraph 12 of the Motion which proposes an extension of time for prehearing exchanges. Recognizing the unusual circumstances presented by the current federal furloughs, and the likely present absence of a Presiding Officer to rule on EPA’s Motion, Respondent is also willing to stipulate to the

extension of time proposed in paragraph 12. This extension will also allow additional time for Respondent's counsel and EPA's counsel to continue their settlement discussions, which are ongoing.

Respondent strongly opposes the relief in paragraph 11 of EPA's Motion which requests that the Tribunal issue a finding that certain factual allegations in EPA's Complaint have been admitted by Respondent. Respondent was representing itself until present counsel was retained in October 2025, after EPA's Motion was filed. While representing itself, Respondent filed a timely answer to EPA's Complaint to the best of Respondent's ability, not being familiar with the requirements of Rule 22.15(b) of the Consolidated Rules. Given Respondent's good faith effort to answer the Complaint, any finding by this Tribunal that factual allegations in the Complaint have been admitted would be a disproportionately harsh remedy that would determine the outcome of this hearing.

Respondent will move to amend its Answer in this matter pursuant to 40 C.F.R. § 22.15(e) which provides that once an answer has been filed, the answer may be amended upon motion granted by the Presiding Officer. Rule 15(a) of the Federal Rules of Civil Procedure states that "leave [to amend] shall be freely given when justice so requires," and this Tribunal should continue to rely on the persuasive interpretations of the federal rules. The United States Supreme Court explains that absent "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [or] futility of amendment[," leave to amend should be granted. *See Foman v. Davis*, 371 U.S. 178, 182 (1962).

Regarding paragraph 10 of EPA's motion, Respondent's new counsel is familiarizing herself with the background and record in this matter, and will seek leave to file an amended answer to the Complaint in a form that complies with Rule 22.15(b) of the Consolidated Rules, and will serve this amended answer on EPA's counsel on November 17, 2025 whether or not the motion is granted. The amended answer will not be filed until leave is granted by the Tribunal. If the Tribunal extends the deadlines as EPA proposes in paragraph 10 of its Motion, this would allow EPA nearly a month after Respondent's amended answer is filed before EPA's prehearing statement is due. Respondent also respectfully requests that it not be required to complete the check-the-box table attached as Appendix 1 to EPA's motion.

Respondent denies any remaining allegations or requests in EPA's Motion not otherwise addressed above.

DATED: Honolulu, Hawai'i, November 3, 2025.

A handwritten signature in black ink, appearing to read 'Lisa A. Bail', is positioned above a horizontal line.

LISA A. BAIL

Attorney for Respondent
UNITEK SOLVENT SERVICES, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed with the EPA Office of Administrative Law Judges, and that a true and correct copy was served by email on counsel for Complainant, David Kim at kim.david@epa.gov.

DATED: Honolulu, Hawai'i, November 3, 2025.

A handwritten signature in black ink, appearing to read 'Lisa A. Bail', written in a cursive style.

LISA A. BAIL

Attorney for Respondent
UNITEK SOLVENT SERVICES, INC.