

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3

In the Matter of: :
: :
TUROG PROPERTIES, LIMITED : Docket No. CERCLA 03-2019-0111LL
: :
Chem-Fab Corporation Superfund Site, :
Doylestown, Bucks County, :
Pennsylvania :
:

U.S. EPA-REGION 3-RHC
FILED-17SEP2019AM9:23

ORDER OF ASSIGNMENT


Regional Judicial Officer Joseph Lisa (hereinafter "Presiding Officer") is hereby designated as the "neutral official" to preside over this proceeding relating to the perfection of a lien on property pursuant to Section 107(l) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9607(l), in accordance with procedures outlined in EPA's "Supplemental Guidance on Federal Superfund Liens" (OSWER Directive No. 9832.12-1a (July 29, 1993)).

The property owner's written response to EPA's offer of opportunity to show that EPA did not have a reasonable basis to perfect the lien is provided to the Presiding Officer herewith. I have determined, after consultation with the Region 3 staff, that it is appropriate to proceed in this matter.

The Region 3 Office of Regional Counsel will file with the Regional Hearing Clerk and serve on the Presiding Officer and the property owner a copy of the Lien Filing Record and a written reply to the property owner's response on or before twenty (20) calendar days or such later time as the Presiding Officer may permit if he deems appropriate.

SEP 17 2019

September 17, 2019
Date


Cecil Rodrigues
Regional Counsel
EPA Region 3

Turog Properties, Limited

POST OFFICE BOX 180
CARVERSVILLE, BUCKS COUNTY
PENNSYLVANIA
18913-0180

215.933.9250

July 17, 2019

Mr. Andrew S. Goldman, Esq.
Sr. Asst. Regional Counsel
US EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

*Re: Chem-Fab Superfund Site, Doylestown, PA 18901
On Your Notice Of Intent To Perfect Federal Superfund Lien
Your Letter Dated July 1, 2019 and Received July 8, 2019*

Dear Mr. Goldman:

We hereby request a meeting with a neutral EPA official to present information that indicates that EPA has no reasonable basis to perfect a lien on the subject property. We have defenses against such a lien, based upon 42 U.S.C. Section 9607(b)(3).

The undersigned, Heywood Becker, our agent at the Bucks County Upset Tax Sale in 1998, and at which sale, our successful bid resulted in a deed being issued to us, 300 N. Broad Street, Ltd., and Turog Properties, Ltd. considered by us to be alter ego entities, having the same close ownership, and the same management.

We had no contractual relationship with Chem-Fab Corp., the prior owner of the subject Site, or with any of their employees, principals or agents, whose actions caused the present release or threat of release of a hazardous substance at the subject Site, and we exercised due care with respect to the subject hazardous substance or substances, taking into consideration their characteristics, in light of all relevant facts and circumstances, and took such precautions against foreseeable acts or omissions of Chem-Fab Corp., and the consequences that could foreseeably result therefrom.

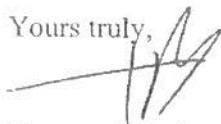
Described below are some of our reasons for believing that EPA does not have a reasonable basis to perfect such a lien.

1. On information and belief, the EPA had obtained court orders and/or search warrants to enter, investigate and remediate the Site prior to the said tax sale.
2. On information and belief, the EPA spent considerable sums of money, perhaps as much as a million dollars, in their remediation of the Site. During one such investigation/remediation, news reports placed as many as 50-75 federal personnel at the Site.
3. We relied on the public declarations and/or statements of and from the EPA that the subject Site, after the EPA had twice investigated, and removed, pursuant to search warrants obtained from the relevant court, had been remediated, and that all of the hazardous materials/contaminants/chemicals at the Site had been removed, and that the Site no longer contained such hazardous materials/chemicals/contaminants.
4. The EPA could have core-drilled and sampled the concrete slab underneath the 11,000 sf Main Building on the Site, looking for the VOC's which were much later found by the PADEP, but the EPA did not deem it reasonable or necessary to perform such work.
5. No mention was made by EPA in the public record, which we were able to access at the offices of Doylestown Borough and at the EPA Regional Headquarters in Philadelphia, of any discovered leak of Chromic Acid in the one UST discovered by EPA at the Site.
6. No mention was made by EPA in the public record which we were able to access, of any deep-aquifer Chromate contamination of the Site.
7. If the EPA did not know about it, we could have had no ability to learn or know of the alleged deep-aquifer Chromate contamination, or the VOC sub-slab contamination of or under the subject Site, prior to our purchase of the Site at the county upset tax sale in 1998, despite our due diligence.
8. Prior to the county tax sale in 1998, the Site was completely fenced on all four sides by a high and opaque chain-link steel fence, so that no physical examination could have been lawfully conducted by us, or anyone, for that matter, with an interest in purchasing the Site.
9. No potential auction bidder had a right to enter the Site, prior to the county tax sale, due to state law.

10. After our purchase of the Site, we entered into a settlement and release agreement with the PADEP for their testing and future remediation of the Site wherein PADEP represented to us that it was in a partnership with the EPA for all such work to be done by them at the subject Site.

Our research into the possible contamination of the subject Site prior to our purchase at the county tax sale included our study of the reports and statements of the EPA, and their officials and agents, regarding the subject Site as published in newspapers, and in the documents lodged in the Doylestown Borough offices, and the EPA records room in the Regional Offices in Philadelphia.

Yours truly,

A handwritten signature in black ink, appearing to read "HB", written over a horizontal line.

Heywood Becker

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the documents identified below were provided to the following persons:

By Certified Mail (Return Receipt Requested) and Email:

Turog Properties, Limited
c/o Heywood Becker
5382 Wismer Road
Pipersville, PA 18947

By Hand Delivery:

Joseph Lisa (3RC00)
Regional Judicial Officer
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103

Documents Provided	
1	Order of Assignment
2	Letter from Heywood Becker to Andrew S. Goldman (July 17, 2019); and
3	EPA's "Supplemental Guidance on Federal Superfund Liens" (OSWER Directive No. 9832.12-1a (July 29, 1993))



Andrew S. Goldman, Esquire
Sr. Assistant Regional Counsel

9/17/19

Date