

In the Matter of: Lefevre Street Container Superfund Site
EPA Docket No. CERCLA-03-2022-0129LL

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

IN THE MATTER OF: :
Lefevre Street Container Superfund Site : **EPA Docket No. CERCLA-03-2022-0129LL**
: **Proceeding Under CERCLA Section 107(I)**
MAS Management LLC – Owner :

SCHEDULING ORDER

Having been designated to serve as the neutral for the above-captioned matter, I issue this Order setting forth the following schedule and general instructions:

SCHEDULE:

- Friday, November 18, 2022 - EPA to file Lien Brief and Supporting Attachments
- Friday, December 16, 2022 – MAS Management, LLC (“MAS”) to file Lien Brief and Supporting Attachments
- Friday, January 6, 2023 – EPA to file Reply Brief and Supporting Attachments
- Wednesday, January 18, 2023 – Meeting with the Parties (TEAMS – 10:00 AM EST)

GENERAL INSTRUCTIONS:

General Procedural Guidance - This matter, including the scheduled Meeting with the Parties, will be conducted in accordance with the U.S. Environmental Protection Agency’s (EPA’s) *Supplemental Guidance on Federal Superfund Liens* (“Supplemental Guidance”), OSWER Directive No. 9832.12-1a (July 29, 1993).

Filing Instructions- Unless otherwise ordered, all documents are to be filed by 5:00 pm EST with the EPA Region III Regional Hearing Clerk (“RHC”). Filing with the RHC is to be accomplished via email to: R3_Hearing_Clerk@epa.gov. Unless otherwise ordered, the RHC shall add to the Administrative Record for this matter all of the documents that are filed by the parties. Please note that the Administrative Record is available to the public via EPA’s website. If a party believes that material in a document needs to be redacted, they should contact the RHC and a conference call with my office and the parties will be scheduled.

Service - All documents filed with the RHC shall be served by the filing party upon the other parties to this matter. Documents may be served via: email; Commercial Delivery Service; or U.S. Postal Service First Class Certified Mail with Return Receipt. Unless specifically indicated by a party in a written filing, service may be accomplished upon the legal counsel of record for the party.

Certificate of Service – Any document filed with the RHC shall include a Certificate of Service indicating the date and method upon which service was effectuated upon the other parties in this matter.

Legal Briefs - Briefs should cite and make legal argument utilizing relevant facts, documents and caselaw supporting the party’s position as to whether EPA had or did not have a reasonable basis in law and fact to perfect the CERCLA lien on the Property. To the extent practicable, the parties shall endeavor to clarify which issues are in dispute between the parties and which issues are undisputed. It is suggested that the parties use best efforts to limit their legal briefs to 40 pages in length (not including Attachments). Please note that the parties have the discretion to utilize the space and length in their legal briefs that they believe is necessary to state clearly their positions and arguments.

Filed Documents – Once a document has been filed with the RHC, the parties in future filings should reference the document based upon its filing date and identifying reference number. In order to create a clear and functional Administrative Record for this matter, please avoid multiple filings of the same document.

Meeting – The Meeting with the Parties will be conducted via Microsoft TEAMS on the scheduled date and time. The RHC will contact the parties to address the logistics for the Meeting. As indicated in the Supplemental Guidance, the Meeting is of an informal nature. Its purpose is to address questions the Designated Neutral may have concerning the written briefs filed by the parties and to provide each party with the opportunity to be heard. It is recommended that legal counsel prepare for the Meeting as they would prepare for a Motion Hearing in court. A transcript of the Meeting will be prepared utilizing the transcript service of the TEAMS program, served on the parties and added to the Administrative Record of this matter.

Recommended Decision - Pursuant to the Supplemental Guidance, after the Meeting with the Parties has been held, my office will issue a Recommended Decision to the Regional Counsel. The Recommended Decision will be filed and become part of the Administrative Record of this matter. The Recommended Decision also will be served upon the parties.

Contact with Neutral’s Office – The parties shall avoid having *ex parte* contact with the Designated Neutral. It is permissible for a party to contact the RHC with a general question as to process, filing, service or a request to schedule a conference call with the Designated Neutral. Ms. Bevin Esposito, the RHC, can be reached at esposito.bevin@epa.gov or (215) 814-2637.

Joseph J. Lisa
Designated Neutral
EPA Region III Regional Judicial and Presiding Officer