

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**IN THE MATTER OF:**

Belgrade Transformer Superfund Site  
2818-2820 East Belgrade Street  
Philadelphia, PA 19134

John F. Joyce, Jr.,  
Owner

EPA DOCKET NO.  
CERCLA-03-2018-0110LL

U.S. EPA-REGION 3-RHC  
FILED-28FEB2020PM5:06

PROCEEDING UNDER SECTION  
107(I) OF THE COMPREHENSIVE  
ENVIRONMENTAL RESPONSE,  
COMPENSATION, AND  
LIABILITY ACT OF 1980,  
AS AMENDED, 42 U.S.C. § 9607(I)

**U.S. Environmental Protection Agency’s Status Report Concerning the Hearing on the United States’ Superfund Lien and Motion for a Continuance of the Hearing on the United States’ Superfund Lien**

The U.S. Environmental Protection Agency (“EPA”) respectfully files this Status Report and Fourth Request for a Continuance of the informal hearing on the United States’ Superfund lien, which EPA perfected on the real property owned by John F. Joyce, Jr. at 2818-20 East Belgrade Street in Philadelphia, Pennsylvania. This real property is also known as the Belgrade Transformer Site (“Site”). In 2018-19, under Section 104(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9604(a), EPA conducted a Superfund removal action at the Site to mitigate a release or threatened release of polychlorinated biphenyls (“PCBs”). On May 14, 2018, EPA perfected the United States’ lien on the Site pursuant to Section 107(l) of CERCLA, 42 U.S.C. § 9607(l). On May 17, 2018, Mr. Joyce requested an opportunity for a hearing on the lien before an agency neutral as provided for in EPA’s *Supplemental Guidance on Federal Superfund Liens* (July 29, 1993). The requested continuance will allow the parties additional time to finalize negotiation of

a settlement of the United States' claims for response costs under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

As previously reported, Mr. Joyce expressed an interest in pursuing a settlement of the United States' claims under EPA's *Policy on Superfund Ability-to-Pay Determinations* ("*ATP Policy*"). A settlement of these claims would include a release of the Superfund lien at issue in the current case. The Superfund and Emergency Management Division, Cost Recovery Branch of EPA Region III ("R3-CRB") has informed Mr. Joyce that they will need certain additional financial information from him to complete the ability-to-pay analysis that is required under the *ATP Policy*. Once Mr. Joyce provides R3-CRB with the required financial information, EPA will be able to propose a settlement based on Mr. Joyce's ability to pay and consistent with the *ATP Policy*. Without this information, EPA cannot comply with the requirements of the *ATP Policy* and would not be able to make a settlement offer that could be approved by Agency senior management and the Department of Justice.

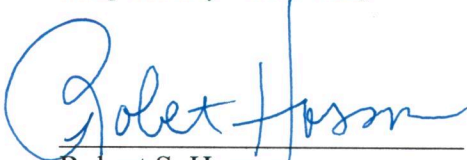
Mr. Joyce has been cooperative and has pledged to provide the missing financial information. However, recent attempts by EPA's financial analyst, Harry Steinmetz, to contact Mr. Joyce's accountant, Richard Volpe, have gone unanswered. EPA acknowledges that there is a lot of time-consuming work for Mr. Volpe to complete in this case because he must review eight years of records and reconstruct Mr. Joyce's income and losses for each of these years. In the spirit of good-faith negotiations, EPA has been patient, but will need an update on Mr. Volpe's progress soon.

On the cleanup front, the parties have nearly completed their negotiations of an Environmental Covenant for the Site property under the Pennsylvania Uniform Environmental Covenants Act, Act No. 68 of 2007, 27 Pa. C.S. §§ 6501-6517 ("*UECA*"). EPA views the

Environmental Covenant as a necessary part of any final settlement of the United States' CERCLA claims. The Environmental Covenant will provide notice to a prospective purchaser or future owner that the Site has been used for PCB waste disposal and that, in its current condition, the Site can only be used for low occupancy purposes under 40 C.F.R. § 761.61(a)(4). The notice would be consistent with the requirements of 40 C.F.R. § 761.61(a)(8), which EPA identified as an applicable or relevant and appropriate requirement ("ARAR") in its March 5, 2018 Action Memorandum for the Site. In addition, the Environmental Covenant will provide for several activity-and-use limitations required at the Site, including, among others, some disposal and upkeep requirements set forth in 40 C.F.R. Part 761. EPA anticipates that the Environmental Covenant will be ready to record by or before March 31, 2020.

EPA respectfully proposes a continuance of 90 additional days from the date of this Status Report and Motion for Continuance to allow EPA to complete its ability-to-pay analysis and to provide the parties with time to negotiate a settlement based on EPA's ability-to-pay determination.

Respectfully submitted,



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Date: February 28, 2020



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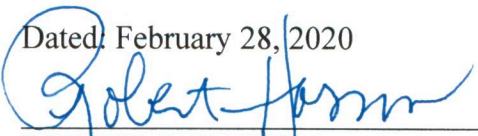
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 ENVIRONMENTAL RESPONSE,  
 COMPENSATION, AND  
 LIABILITY ACT OF 1980,  
 AS AMENDED, 42 U.S.C. § 9607(l)

**CERTIFICATE OF SERVICE**

I hereby certify that the attached U.S. Environmental Protection Agency's Status Report Concerning the Hearing on the United States' Superfund Lien and Motion for a Continuance of the Hearing on the United States' Superfund Lien was served by email (return receipt requested), on the following counsel for Owner, Mr. John F. Joyce, Jr:

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Dated: February 28, 2020



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