

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

**In the Matter of:**

**August Mack Environmental, Inc.,  
  
Requestor.**

**Docket No. CERCLA-HG-2017-0001**

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**REQUESTOR'S MOTION FOR REMOTE HEARING ON MOTION TO  
COMPEL AND MOTION IN LIMINE**

Pursuant to 40 C.F.R. Part 305, Requestor August Mack Environmental, Inc. ("AME") files its Motion for Remote Hearing on AME's motion to compel discovery, for sanctions, and motion to extend case management deadlines ("motion to compel") and EPA's Motion in Limine to Exclude Evidence and Testimony ("motion in limine"). In support of its motion, AME states the following:

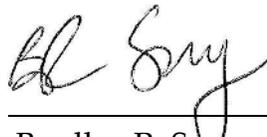
1. On December 23, 2022, AME filed its motion to compel.
2. After receiving an extension of time, EPA filed its Motion in Opposition to EPA's motion to compel on January 28, 2022. Therein, EPA asked the Tribunal to sanction AME. (EPA Mot. in Opp., p. 31.)
3. On January 28, 2022, EPA filed its motion in limine.
4. On February 3, 2022, AME filed its unopposed motion for extension of time to respond to EPA's motion in limine, respond to EPA's request for sanctions, and

for leave to file a reply in support of AME's motion to compel. If granted, AME's deadline to respond and reply will be February 21, 2022.

5. Once the pending motion to compel and motion in limine are fully briefed, AME requests the Tribunal to set a remote hearing where oral argument can be held on the motions. *See* 40 C.F.R. § 305.23(c).
6. There is good cause to grant this motion so that counsel can present arguments on the motions.
7. These motions present significant issues, and the outcome of these motions will materially affect the pending case.
8. Specifically, in its motion to compel, AME argues that EPA's refusal to respond to AME's written discovery and to allow its witnesses and employees to be deposed violates AME's due process rights and conflicts with the Fourth Circuit's Order, EPA's own regulations, and the Prehearing Order.
9. Moreover, in its motion in limine, EPA seeks to exclude all but one of AME's 328 exhibits and all of the witnesses listed on AME's Prehearing Exchange. (Mot. in Limine, pp. 3-8.)
10. Finally, both parties seek sanctions. (AME Mot. Compel, pp. 4, 15-18; EPA Mot. in Opp., p. 31.)
11. Counsel for AME asked EPA's counsel whether EPA objects to a hearing on AME's motion to compel, and EPA's attorney said that EPA objects.

WHEREFORE, Requestor August Mack Environmental, Inc. moves the Tribunal to hold a remote hearing on the pending motion to compel and motion in limine after the motions are fully briefed.

Respectfully submitted,



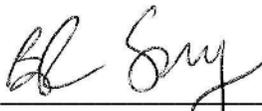
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Inc.*

## Certificate of Service

I certify that the foregoing was filed and served on the Chief Administrative Law Judge Biro on February 3, 2022 through the Office of Administrative Law Judge's e-filing system, and that a copy of this document was also served on opposing counsel at the following e-mail addresses: [cohan.benjamin@epa.gov](mailto:cohan.benjamin@epa.gov) and [Swenson.erik@epa.gov](mailto:Swenson.erik@epa.gov).



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Bradley R. Sugarman

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**ORDER GRANTING REQUESTOR'S MOTION FOR REMOTE HEARING ON  
MOTION TO COMPEL AND MOTION IN LIMINE**

Requestor, August Mack Environmental, Inc. ("AME"), having filed its Motion for Remote Hearing on AME's motion to compel discovery, for sanctions, and motion to extend case management deadlines ("motion to compel") and EPA's Motion in Limine to Exclude Evidence and Testimony ("motion in limine"), and the Tribunal, having reviewed the motion and being duly advised, hereby GRANTS Requestor's motion.

It is therefore ordered that a remote hearing on the motion to compel and motion in limine is scheduled for \_\_\_\_\_.

Information regarding the remote video technology that will be used will be provided before the hearing.

SO ORDERED

Date: \_\_\_\_\_

\_\_\_\_\_  
Susan L. Biro  
Chief Administrative Law Judge

Distribution: All counsel of record.