



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

EC-G-1998-94

JUL 29 1993

MEMORANDUM

SUBJECT: Supplemental Guidance on Federal Superfund Liens

FROM: William A. White *[Signature]*  
Enforcement Counsel  
Office of Enforcement/Superfund

Bruce M. Diamond *[Signature]*  
Director  
Office of Waste Programs Enforcement

TO: Regional Counsels, Regions I-X  
Directors, Waste Management Divisions,  
Regions I-X

The purpose of this guidance document is to supplement the "Guidance on Federal Superfund Liens" issued on September 22, 1987, by memorandum signed by Thomas L. Adams, Jr., Assistant Administrator of the Office of Enforcement and Compliance Monitoring (now Office of Enforcement). This Supplement is in addition to, and does not supersede the 1987 document, which provided criteria for the decision to file liens under Section 107(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9607(1). This Supplement outlines procedures for Regional staff to follow to provide notice and opportunity to be heard to potentially responsible parties on whose property liens are to be perfected.

I. SUMMARY

The Agency should provide notice to property owners who are potentially responsible parties ("PRPs") under CERCLA that the Agency intends to perfect a lien on their property prior to filing papers to perfect. The Agency will give such property owners<sup>1</sup> the opportunity to be heard through their submission of documentation or through appearing before a neutral EPA official, or both. In exceptional circumstances, EPA may perfect a lien

<sup>1</sup> For purposes of this guidance, owner means persons possessing title to real property or rights to such real property, as set forth in Section 107(1)(1) of CERCLA, 42 U.S.C. § 9607(1).

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prior to giving notice to a property owner of EPA's intention to perfect the lien, but the Agency should concurrently notify the owner and offer an opportunity to be heard at the earliest practicable time.

The Agency should send a letter by certified mail notifying property owners of the Agency's intention to perfect a lien, or, if appropriate, immediately upon perfection. The letter should summarize the factual basis for EPA's reason to believe that the statutory criteria for perfecting a lien are satisfied. The letter should inform the recipient property owner of his or her opportunity to be heard, either by submitting documentation or by obtaining a meeting conducted by a neutral official. The meeting will consist of an informal proceeding in which the property owner may provide EPA with information as to why EPA's assumptions require reconsideration.

## II. PROCEDURES

### Record of Decision to File

After consulting the 1987 Guidance on Federal Superfund Liens to determine whether the perfection of a Superfund lien is of value, staff designated by the Region should assemble a Lien Filing Record, bringing together in one place all the documents relating to the decision to perfect.

Provisions for maintenance of the Lien Filing Record are at the discretion of the Region, and it may choose to maintain the record in the same manner that it maintains other Superfund records. At a minimum, however, the Region should ensure that certain personnel are designated to add relevant documents, maintain the integrity of the record, and make the record reasonably available, upon request, to the property owner. The Region may wish to have the Regional Hearing Clerk maintain the Lien Filing Record once a property owner requests a meeting.

The following categories of documents should be assembled:

1. Documentation that the potentially responsible party is the owner of the property, e.g., the file contains a deed, legal description from a survey or tax record, a title search, etc.
2. Documents showing that EPA has actually incurred costs at the site (a summary report of costs is sufficient for this purpose; underlying documentation is not necessary).
3. Documents showing that the property owner was provided (by certified mail) written notice of potential liability, pursuant to CERCLA Section 107(1).

4. Documents describing the property showing that the property or that part of a property is contaminated and showing that the property has been subject to or affected by a removal or remedial action. Examples include action memoranda, removal response reports, Preliminary Assessment or Site Inspection forms, or National Priorities List listing documents. (The Region may choose to include a declaration by the On-Scene Coordinator or Remedial Project Manager ("RPM") incorporating these elements.)
5. Where applicable, any documents describing exceptional circumstances which support EPA's decision to perfect a lien prior to offering an opportunity to be heard. Such circumstances include instances in which the property owner is about to take some action that would render the property unavailable to satisfy a judgment for clean-up costs or where EPA's interest in the property would be impaired. Examples include, but are not limited to, imminent bankruptcy of the property owner, imminent transfer of all or part of the property, or imminent perfection of a secured interest which would have priority under applicable state law, or indications that these events are about to take place. Where the Regional staff are depending on factual information that is not a matter of public record, they should include in the file a supporting statement (a) from someone with first hand knowledge of the facts, or (b) indicating the factual basis on which the Agency proposes to act, and the source of the Agency's information.

The Region should continue to add relevant documents to the Lien Filing Record, such as the following:

1. EPA's notice of intent to file a lien (see below) sent to the property owner, with proof of receipt (or proof of mailing to the last known address).
2. Any documentation submitted by the property owner to show that EPA did not satisfy the statutory criteria for perfection of a lien or that EPA was in error when it concluded that the criteria were satisfied. This documentation may include correspondence, or documents submitted at or after any meeting request by the property owner.
3. Any responses by the Region to the property owner's submissions.
4. Any correspondence between the Region and the property owner relating to the filing of a lien.

5. Any form of record of a meeting held regarding the perfection of the lien.

The Region should maintain the Lien Filing Record and, upon request made to the Regional Attorney, make it reasonably available to the property owner.

#### The Notice of Intent to Perfect a Superfund Lien

This guidance includes a model notice letter (See Attachment 1) to inform the property owner of the Region's intention to file and perfect a notice of lien. A notice letter should be mailed to the owner by certified mail, return receipt requested. The letter should state that EPA intends to perfect its lien after a set number of calendar days, e.g., 14 days, from mailing. In the letter, the Region should also notify the property owner of the location and availability for review and copying of the Lien Filing Record.

The notice of intent to perfect should contain the following elements:

1. A statement that land records of the appropriate state or county indicate that the recipient is the owner of the subject property, with a citation to those records.
2. A precise identification of the property, using the street address and a deed, or reference to a deed or other legal description in land records.
3. Statements that: EPA has a reasonable basis to perfect its lien; the property is a facility as defined in CERCLA Section 101(9); the Agency has reason to believe that the owner "owns" the facility and that the owner is a liable person pursuant to CERCLA Section 107(a); the property is subject to or affected by a removal or remedial action; and costs have been incurred by the United States with respect to a response action at the property.
4. In satisfaction of CERCLA Section 107(1)(2)(B), reference to previous written notice of potential liability furnished to the property owner, or notice via this letter, if notice has not already been furnished.
5. Notice that the lien shall remain in effect until liability for the costs is satisfied or the lien becomes unenforceable through operation of the statute of limitations in CERCLA Section 113.

6. A statement that the property owner may submit any documents or information relevant to the issues raised by the lien in writing to the Regional attorney assigned to the site prior to the expiration of the time period stated in the notice.
7. An invitation for the recipient to request, prior to the expiration of the time period stated in the notice, an opportunity to be heard before a neutral EPA official. This request should be in writing and addressed to the named Regional attorney.
8. A statement that the subject of any requested meeting shall be whether EPA has [or had] a reasonable basis to perfect a lien upon the property based upon the statutory elements.
9. A statement that neither EPA nor the property owner waives or is prohibited from asserting any claims or defenses by the submission of information, a request for and participation in a meeting, or a recommended decision by the neutral official whether or not EPA has a reasonable basis to perfect a lien.
10. Where EPA has perfected its lien prior to sending this notice of intent, a statement describing the circumstances that led the Agency to perfect the lien in order to protect EPA's interest in the property and how those interests were about to be impaired. The statement should further indicate that the property owner may still make a timely request for a meeting to demonstrate that the EPA had no reasonable basis to perfect its lien.

#### Perfection of a Lien Prior to a Meeting

The Agency may, in exceptional circumstances, perfect a lien prior to offering or providing a property owner with a meeting. Thus, even where the Region has notified a property owner that he or she has an opportunity to request a meeting, under certain exceptional circumstances, the Region may perfect a lien prior to providing that meeting. The Region shall send notice to the property owner, return receipt requested, immediately upon perfection. A model letter for post-perfection notification is included as Attachment 2. Exceptional circumstances for this course of action include, but are not limited to, instances in which EPA's interest in the property could be impaired, such as imminent bankruptcy of the property owner, imminent transfer of all or a portion of the property, imminent perfection of a secured interest which would have priority under applicable state

law, or indications that these events are about to take place. As noted in the section on the Lien Filing Record, Regional staff should document any such circumstances in the Lien Filing Record.

While the procedures and standards to be followed for a post-perfection meeting are similar to those for a pre-perfection meeting, the Region should expedite to the extent possible the holding of a post-perfection meeting, if one is requested.

#### Property Owner's Response

- Failure of Property Owner To Timely Respond

If a property owner does not respond within the period set for response, the Region may proceed to perfect the lien. At the time of perfection, the Region should send a letter notifying the owner of the date the lien was perfected.

- Timely response: Written Response and No Request for Meeting

If a property owner presents written documentation in a timely manner purporting to show that the lien should not be perfected, but does not request a meeting, the Regional site attorney should review the documentation furnished. If the Region agrees that the property owner has produced facts to alter EPA's determination that it has a reasonable basis to file the lien, EPA should so notify the property owner.

If the Regional attorney determines that EPA still has a reasonable basis to perfect its lien, the Region should select a neutral official in accordance with the process described below to review the documentation furnished. At the conclusion of the neutral official's review, he or she should provide the property owner and Regional staff with a brief written recommended decision on whether EPA has a reasonable basis to perfect a lien. The document should set out the informational basis upon which the recommended decision is made, and should be placed in the Lien Filing Record, with a copy forwarded to the official in the Region delegated with the authority to sign liens for action.

- Timely Response: Request for Meeting

If a property owner requests a meeting, the Region shall select a neutral official in accordance with the process described below to conduct the meeting. The neutral official shall set up the time and location of the meeting, or offer the property owner a meeting via teleconference.

## Meeting Procedures

- Selection of Neutral Official

The neutral official selected by the Region should be an attorney who is a permanent or temporary employee of the Agency and who may perform other duties within the Agency. The person selected should not have performed any prosecutorial, investigative, or supervisory functions in connection with the case or site involved.

Regions may have judicial or presiding officers already appointed pursuant to other EPA programs who possess the qualifications outlined above. Where the Regions do not wish to select separate neutral officials to hear lien matters on a case-by-case basis, they may allow these hearing officers to conduct lien meetings.

Upon selection of the neutral official, the designated keeper of the Lien Filing Record should provide the official with a copy of the Lien Filing Record, which includes any written response by the property owner and any subsequent supporting documentation submitted by the property owner.

- Factors to Review

The neutral EPA official should consider all facts relating to whether EPA has a reasonable basis to believe that the statutory elements have been satisfied for the perfection of a lien. In particular, the neutral official should consider whether:

- The property owner was sent notice of potential liability by certified mail.
- The property is owned by a person who is potentially liable under CERCLA.
- The property is subject to or affected by a removal or remedial action.
- The United States has incurred costs with respect to a response action under CERCLA.
- The record contains any other information which is sufficient to show that the lien notice should not be filed.

The property owner may present information or submit documents purporting to establish that EPA has erred in believing that it has a reasonable basis to perfect a lien based on the above factors, or has made a material error with respect to the

above factors. In making his or her decision, the neutral EPA official should consider all facts in the Lien Filing Record established for the perfection of a lien and all presentations made at the meeting, which will be made part of the Lien Filing Record.

- Nature of the Meeting

The persons at the meeting normally should include the property owner (and/or an attorney, at the property owner's option); Regional enforcement staff (RPM and Regional attorney and any other appropriate Region officials); and the neutral official.

The meeting ordinarily should be held at the EPA Regional office. As stated above, the neutral official may offer to conduct the meeting by telephone for the convenience of the property owner. The neutral official should also ensure that a record of the meeting is made. If a summary of the meeting is prepared as a record, it should indicate who was in attendance, what information was presented, and what issues were discussed. Any such summary should be provided to the property owner. The record of the meeting, and any comments submitted by the property owner on the summary should be included as part of the Lien Filing Record.

The neutral official should conduct the meeting as an informal exchange of information, not bound by judicial or administrative rules of evidence. Because of the informal nature of these proceedings, EPA will not apply the Administrative Procedure Act provisions for formal adjudication.

The neutral official should begin the meeting by making an opening statement, containing the following elements:

1. The proceeding is informal, and not bound by rules of evidence nor provisions of the Administrative Procedure Act.
2. Neither EPA nor the property owner waives any claims or defenses by the conduct of the meeting or the outcome.
3. The sole issue at the meeting is whether EPA has (or had, in the case of a post-filing meeting) a reasonable basis to believe that the statutory elements for perfecting a lien were satisfied. The meeting will not be concerned with issues not relating to the proposed perfection of the lien, including, but not limited to, EPA's selection of a remedy or contents of remedy selection documents, such as records of decision or action memoranda.



4. The neutral official will make a recommended decision, based on the Lien Filing Record and any new information presented at the meeting, whether EPA has (or had) a reasonable basis to perfect the lien.
5. The recommended decision is not admissible as evidence in any future proceeding.

The neutral official should conduct an orderly and fair meeting. Regional staff may present EPA's reason to believe that a lien may be perfected upon the property. The property owner or his or her counsel shall have a reasonable opportunity to address relevant issues and present his or her views. The neutral official may also allow discussions and interchanges between the parties, including responses to questions to the extent deemed appropriate. It is not the Agency's intent to provide EPA or the property owner an opportunity to engage in direct examination or cross-examination of witnesses. The neutral official may address questions to the property owner or his or her counsel or to EPA's representatives during the meeting.

While the neutral official should place no limitations other than reasonableness on the type or volume of information presented or issues discussed, he or she may caution that only information and issues which are relevant or material to EPA's decision as to whether it has a reasonable basis to perfect the lien will be ultimately considered.

#### Recommended Decision

In a timely manner, the neutral official should issue a written recommended decision. The recommended decision should state whether the property owner has established any issue of fact or law to alter EPA's decision to file a notice of lien and the informational basis upon which the decision is based. The recommended decision should contain a statement that neither EPA nor the property owner is barred from any claims or defenses by the recommended decision. The recommended decision should be placed in the Lien Filing Record, with a copy forwarded to the official in the Region delegated with the authority to sign liens for action, and a copy sent to the property owner.

Because of the preliminary and informal nature of the proceedings under this guidance, and the fact that the neutral officer's recommended decision is limited to whether EPA has a reasonable basis to perfect the lien, the neutral official's recommended decision is not a binding determination of ultimate liability or non-liability. No preclusive effect attaches to any decisions made in the course of any proceeding pursuant to the guidance, nor shall any such decisions be given deference or otherwise constitute evidence in any subsequent proceeding.

The Agency may subsequently provide notice of intent to perfect a lien with an opportunity to be heard with respect to the same property under these procedures if new information indicates that a previous decision not to file is in error.

Except as provided by CERCLA Section 113(h), property owners may not obtain judicial review or reconsideration of the Agency's decision that it has a reasonable basis to perfect a lien.

### III. DISCLAIMER

This memorandum and any internal procedures adopted for its implementation are intended solely as guidance for employees of the U.S. Environmental Protection Agency. They do not constitute a rulemaking by the Agency and may not be relied upon to create a specific right or a benefit, substantive or procedural, enforceable at law or in equity, by any person. The Agency may take action at variance with this memorandum or its internal implementing procedures.

### IV. FURTHER INFORMATION

For further information concerning this policy, please contact Patricia Mott in the Office of Enforcement at (202) 260-3733 or Gary Worthman in the Office of Waste Programs Enforcement at (703) 603-8951.

Attachments (2)

Attachments (2)

----- ATTACHMENT -----

ATTACHMENT 1

MODEL: PRE-PERFECTION NOTICE

[REGIONAL LETTERHEAD]  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION [ ]  
[ADDRESS]

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Date]

[Name and address of owner of property]

RE: [Name and location of the site]

Dear [Name of property owner]:

This letter informs you that the United States Environmental Protection Agency ("EPA") intends to perfect a lien upon property located at [street address], the exact legal description of which is contained in Attachment 1 to this letter. The Property is part of the [ ] Superfund Site. EPA has determined that you are the owner of this property (the "Property"). The lien which EPA intends to perfect against the Property arises under Section 107(l) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), commonly known as the "Superfund," 42 U.S.C. Section 9607(l). The lien is intended to secure payment to the United States of costs and damages for which you, as the owner of the Property, would be liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a).

Under CERCLA Sections 107(a) and 101(9), 42 U.S.C. Sections 9607(a) and 9701(9), liable persons include persons who own any "facility," including a site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located. EPA has determined that a release or threat of release of hazardous substances pursuant to CERCLA Section 101(22) has occurred at or from the Property. The Property is part of the [ ] Superfund Site, at which [hazardous substances] came to be located, and is subject to or affected by a removal or remedial action. As the owner of a facility, you are a person liable for all costs of removal or remedial action at the site. Costs and damages include the costs incurred by the United States in responding to a release or threat of release at the [ ] Superfund Site.

The lien arising in favor of the United States on the Property continues until the liability for the costs is satisfied or until the liability for the costs becomes unenforceable through operation of the statute of limitations in CERCLA Section 113.

On [date], EPA notified you by certified or registered mail of your potential liability under CERCLA [or EPA hereby furnishes notice, if notice has not already been furnished.] You may avoid the perfection of a lien upon your property by paying all costs and damages for which you are liable.

EPA has assembled a Lien Filing Record consisting of documents relating to its decision to perfect the lien. This record is kept at the following address, and may be reviewed and copied at reasonable times by arrangement with:

[Regional Attorney]  
[Address and Telephone Number]

EPA has reviewed the information in the Lien Filing Record and believes that the Agency has a reasonable basis to believe that the statutory elements for perfecting a lien are satisfied. After [14 calendar days or other period, set by the Region] from the date of this letter, EPA intends to transmit a notice of lien to [the appropriate office within the state (or county or other governmental subdivision), as designated by State law, where the real property is located, or with the District Court of the United States for the district in which the real property is located]. The effect of this filing is to perfect the lien upon your property.

You may notify EPA within [14 calendar days or other period, set by the Region] from the date of mailing of this letter in writing if you believe EPA's information or determination is in error. You may also request to appear before a neutral EPA official to present any information that you have indicating that EPA does not have a reasonable basis to perfect a lien. You should describe in your letter or written request your reasons for believing that EPA does not have a reasonable basis to perfect its lien, because EPA may, as described below, agree with your reasons and reconsider its intention to perfect a lien without further review or a meeting. Any written submissions or requests for a meeting should reference the Superfund Site, be addressed to the above referenced Regional Attorney, and may include documents or information which support your contentions.

If EPA receives a written submission or a request for a meeting from you within [14 calendar days or other period, set by the Region] from the date of mailing of this letter, Agency staff will review your submission or request for a meeting. If, after review and consultation, EPA agrees that the Agency does not have a reasonable basis upon which to perfect a lien, EPA will not perfect its lien, and will so notify you. If EPA disagrees, the written submission or request will be referred to a neutral EPA official selected for the purpose of reviewing the submission or for conducting the meeting, along with the Lien Filing Record.

If you have requested an opportunity to appear, a meeting will be scheduled. You may choose to attend this meeting via teleconference. The Agency will be represented by its enforcement staff, including a representative from the Office of Regional Counsel. You may be represented by counsel at this meeting.

The meeting will be an informal hearing in which you may provide EPA with information as to why the Agency's assumptions require reconsideration. The meeting will not be conducted using rules of evidence or formal administrative or judicial procedures. The sole issue at the meeting would be whether EPA has a reasonable basis to perfect a lien based upon CERCLA Section 107(1).

After reviewing your written submissions, or conducting a meeting, if one is requested, the neutral EPA official will issue a recommended decision based on the Lien Filing Record. The recommended decision will state whether EPA has a reasonable

basis to perfect the lien and will be forwarded to the Agency official delegated to execute liens for action. You will be notified of the Agency's action (whether perfection or the decision not to perfect) and furnished a copy of the recommended decision.

Neither you nor EPA waives or is prohibited from asserting any claims or defenses in any subsequent legal or administrative proceeding by the submission of information, a request for and participation at a meeting, or recommended decision by the neutral EPA official that EPA has a reasonable basis to perfect a lien.

If you have any questions pertaining to this letter, please contact [ORC attorney] at [ ].

Sincerely,

Waste Management Division Director/Regional Counsel/Regional Administrator

----- ATTACHMENT -----

ATTACHMENT 2

MODEL: POST-PERFECTION NOTICE

[REGIONAL LETTERHEAD]  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION [ ]  
[ADDRESS]

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Date]

[Name and address of owner of property]

RE: [Name and location of the site]

Dear [Name of property owner]:

This letter informs you that the United States Environmental Protection Agency ("EPA") has perfected a lien upon property located at [street address], the exact legal description of which is contained in Attachment 1 to this letter. The Property is part of the [ ] Superfund Site. EPA has determined that you are the owner of this property (the "Property"). The lien which EPA has perfected against the Property arises under Section 107(1) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), commonly known as the "Superfund," 42 U.S.C. Section 9607(1). The lien is intended to secure payment to the United States of costs and damages for which you, as the owner of the Property, would be liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a).

Under CERCLA Sections 107(a) and 101(9), 42 U.S.C. Sections 9607(a) and 9701(9), liable persons include persons who own any "facility," including a site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located. EPA has determined that a release or threat of release of hazardous substances pursuant to CERCLA Section

101(22) has occurred at or from the Property. The Property is part of the [ ] Superfund Site, at which [hazardous substances] came to be located, and is subject to or affected by a removal or remedial action. As the owner of a facility, you are a person liable for all costs of removal or remedial action at the site. Costs and damages include the costs incurred by the United States in responding to a release or threat of release at the [ ] Superfund Site.

The lien arising in favor of the United States on the Property continues until the liability for the costs is satisfied or until the liability for the costs becomes unenforceable through operation of the statute of limitations in CERCLA Section 113.

On [date], EPA notified you by certified mail of your potential liability under CERCLA. You may satisfy the lien placed upon your property by paying all costs and damages for which you are liable.

EPA has assembled a Lien Filing Record consisting of documents relating to its decision to perfect the lien. This record is kept at the following address, and may be reviewed and copied at reasonable times by arrangement with:

[Regional Attorney]  
[Address and Telephone Number]

EPA has reviewed the information in the Lien Filing Record and believes that the Agency has a reasonable basis to believe that the statutory elements for perfecting a lien are satisfied. EPA has perfected its lien by filing a notice of lien with [the appropriate office within the state (or county or other governmental subdivision), as designated by State law, where the real property is located, or with the District Court of the United States for the district in which the real property is located]. EPA perfected its lien prior to notifying you of its intention because [ ].

You may notify EPA within [14 calendar days or other period, set by the Region] from the date of mailing of this letter in writing if you believe EPA's information or determination is in error. You may also request to appear before a neutral EPA official to present any information that you have indicating that EPA did not have a reasonable basis to perfect a lien. You should describe in your letter or written request your reasons for believing that EPA did not have a reasonable basis to perfect its lien, because EPA may, as described below, agree with your reasons and release its lien without further review or a meeting. Any written submissions or requests for a meeting should reference the Superfund Site, be addressed to the above referenced Regional Attorney, and may include documents or information which support your contentions.

If EPA receives a written submission or a request for a meeting from you within [14 calendar days or other period, set by the Region] from the date of mailing of this letter, Agency staff will review your submission or request for a meeting. If, after review and consultation, EPA agrees that the Agency did not have a reasonable basis upon which to perfect a lien, EPA will release its lien, and will so notify you. If EPA disagrees, the written submission or request will be referred to a neutral EPA official selected for the purpose of reviewing the submission or for conducting the meeting, along with the Lien Filing Record.

If you have requested an opportunity to appear, a meeting will be scheduled. You may choose to attend this meeting via teleconference. The Agency will be represented by its enforcement staff, including a representative from the Office of Regional Counsel. You may be represented by counsel at this meeting.

The meeting will be an informal hearing in which you may provide EPA with information as to why the Agency's assumptions require reconsideration. The meeting will not be conducted using rules of evidence or formal administrative or judicial procedures. The sole issue at the meeting would be whether EPA had a reasonable basis to perfect its lien based upon CERCLA Section 107(1).

After reviewing your written submissions, or conducting a meeting, if one is requested, the neutral EPA official will issue a recommended decision based on the Lien Filing Record. The recommended decision will state whether EPA had a reasonable basis to perfect the lien and will be forwarded to the Agency official delegated to execute liens for action. You will be notified of the Agency's action (whether the lien will stay in place or be released) and furnished a copy of the recommended decision.

Neither you nor EPA waives or is prohibited from asserting any claims or defenses in any subsequent legal or administrative proceeding by the submission of information, a request for and participation at a meeting, or recommended decision by the neutral EPA official that EPA has a reasonable basis to file a lien.

If you have any questions pertaining to this letter, please contact [ORC attorney] at [     ].

Sincerely,

Waste Management Division Director/Regional Counsel/Regional Administrator

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