

5/29/96

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of)
)
 Linda Cottrill and Daniel) Docket No. CAA-016-1994
 Cottrill, d/b/a Cottrill)
 Trucking and Wrecking Co.,)
 and Asberry-Chambers)
 Asbestos, Inc.,)
)
 Respondents)

ORDER DENYING DELAY IN HEARING

Complainant has filed a Motion for a Delay of Hearing Date, dated May 24, 1996, received in this office on May 28. The hearing in this matter is scheduled for June 11-12, 1996 in Canton or Massillon, Ohio.

The motion does not show good cause for postponing the hearing as required by 40 C.F.R. §22.21(c). With reference to paragraph 3 of the motion, this proceeding is already concluded as against the co-respondent Asberry-Chambers Asbestos, Inc. ("Asberry-Chambers"), by the Default Order and Initial Decision issued on February 21, 1996. Asberry-Chambers is now liable for the full amount of the penalty imposed in that Decision, \$17,000. Complainant's efforts to collect or negotiate with that party have no relevance to the pending enforcement proceeding against the remaining co-respondents, Linda Cottrill and Daniel Cottrill, d/b/a Cottrill Trucking and Wrecking Company ("Cottrill").

Cottrill has denied liability and contested the amount of the proposed penalty in this proceeding. Prehearing exchanges have been filed and the issues are fully joined. There is no indication the parties are not available and prepared to proceed to hearing on the scheduled date. The motion (¶4) only asserts that settlement negotiations with Cottrill have "intensified" and settlement "may occur within the coming 60 days." The fact that settlement negotiations are ongoing and settlement may occur are assumed in any enforcement proceeding. There has been ample time to reach a settlement since Cottrill's Answer was filed over a year ago.

Therefore, unless this matter is actually settled by June 7, 1996, the hearing will proceed as scheduled, beginning at 9:30 A.M. on June 11, 1996, continuing if necessary on June 12, 1996, in Massillon or Canton, Ohio.

The Regional Hearing Clerk is reminded to promptly secure appropriate accommodations for the hearing for those dates and the

services of a stenographic reporter to transcribe the proceedings. The parties will be notified of the exact location of the hearing when those arrangements are completed.

Andrew S. Pearlstein

Andrew S. Pearlstein
Administrative Law Judge

Dated: May 29, 1996
Washington D.C.

IN THE MATTER OF LINDA COTTRILL AND DANIEL COTTRILL, D/B/A COTTRILL
TRUCKING AND WRECKING CO., AND ASBERRY-CHAMBERS ASBESTOS, INC.,
Respondents
Docket No. CAA-016-1994

CERTIFICATE OF SERVICE

I certify that the foregoing Order Scheduling Hearing was sent
in the following manner to the addressees listed below:

Fax and Regular Mail:

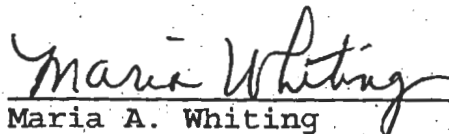
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Dated: May 29, 1996
Washington, D.C.