



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
Andrew B. Chase, a/k/a Andy Chase,)
Chase Services, Inc., Chase Convenience) **Docket No. RCRA-02-2011-7503**
Stores, Inc., and Chase Commercial)
Land Development, Inc.,)
)
Respondents.)

**ORDER GRANTING JOINT MOTION TO CANCEL HEARING AND FOR THE
COURT TO ISSUE AN INITIAL DECISION BASED ON THE WRITTEN RECORD**

The hearing in this matter is scheduled to begin on July 17, 2012, in Plattsburgh, New York. By Order on Complainant’s Motion for Partial Accelerated Decision dated June 21, 2012, the undersigned narrowed the issues upon which this matter would proceed to include only: (1) Respondent’s liability as to Counts 17 and 20 of the Complaint, (2) the penalties to assess for violations found, and (3) issues as to the Compliance Order. By Order on Complainant’s Motion to Preclude Documentation and Draw Adverse Inference dated June 28, 2012, the undersigned further limited the matters that may be heard by precluding Respondents from presenting any evidence or information as to inability to pay or financial hardship.

On July 10, 2012, the parties submitted to the undersigned a Joint Motion to Cancel Hearing and for the Court to Issue an Initial Decision Based on the Written Record (“Joint Motion”), which was signed by counsel for Complainant and by counsel for Respondents. In the Joint Motion, the parties state that they “knowingly and willingly relinquish[] and waive[] such right to have a hearing held with regard to the issues remaining in contention in this proceeding,” and move the undersigned to cancel the oral hearing. Joint Motion 1-2. The Joint Motion is made upon the parties’ agreement and acceptance of seven “conditions.” Joint Motion 2-3. Under these conditions, the parties propose a briefing schedule and seek a decision on the written record as to the issues that remain controverted. *Id.*

Each of the parties’ seven requests, stipulations, and conditions listed in the Joint Motion appear reasonable and are accepted. As to the first, the schedule for the filing of briefs is set forth below. All briefs “shall contain adequate references to the record and authorities relied on,” as the rules that govern this proceeding require. 40 C.F.R. § 22.26. As to the parties’ burdens of

proof at this stage in the proceeding, they are the same as would be at an oral hearing, as set forth at 40 C.F.R. § 22.24.

IT IS ORDERED THAT:

1. The Joint Motion is hereby **GRANTED**, the “conditions” in the Joint Motion are incorporated into this Order and shall be in effect for the remainder of this proceeding, and the oral hearing scheduled to take place on July 17, 2012, in this matter is hereby **CANCELLED**.
2. Complainant shall file and serve its Initial Brief (and any accompanying affidavits, declarations, documents and memoranda), on or before **August 6, 2012**.
3. Respondents shall file and serve their Response Brief (and any accompanying affidavits, declarations, documents and memoranda), on or before **August 27, 2012**.
4. Complainant shall file and serve its Reply Brief (and any accompanying affidavits, declarations, documents and memoranda), if any, on or before **September 21, 2012**.

M. Lisa Buschmann
Administrative Law Judge

Date: July 13, 2012
Washington, D.C.