

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ASARCO LLC, a Delaware corporation, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Case No. 4:11-CV-00864-JAR  
 )  
 NL INDUSTRIES, INC., et al., )  
 )  
 Defendants. )

**MEMORANDUM AND ORDER**

There are a number of discovery motions pending before the Court. (Doc. Nos. 148, 157, 165, 167, 173, 174, 175, 177, 179, 180, 182, 183, 184) Due to the complex nature of this CERCLA contribution case, the Court entered a “Lone Pine” modified case management order (MCMO) to streamline discovery and make the pre-trial efforts of the parties and the Court more efficient. (Doc. No. 147) The pending motions have raised issues regarding the manner and scope of discovery and the elements applicable to a prima facie case of liability. In an effort to clarify these issues for the parties, the Court held a status conference with counsel on November 15, 2013. At the status conference, the Court stated its intent that limited discovery should go forward on Asarco’s CERCLA liability claim. To establish a prima facie case on its contribution claim under CERCLA § 113(f), Asarco must prove that: (i) Defendants fall under one of four categories of “covered persons;” (ii) the site in question is a “facility;” (iii) there was a “release” or “threatened release” of a “hazardous substance” at the facility; and (iv) the release caused it to incur response costs. See Laidlaw Waste Systems, Inc. v. Mallinckrodt, Inc., 925 F.Supp. 624, 629 (E.D. Mo. 1996). The Court further clarified that the MCMO does not authorize written discovery.

Based on the discussions between the Court and counsel,

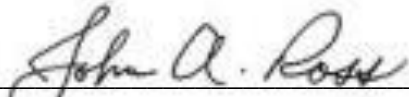
**IT IS HEREBY ORDERED** that the parties shall meet and confer to resolve any remaining discovery disputes. The Court expects the parties to conduct themselves in a responsible and reasonable manner in addressing the scope of discovery.

**IT IS FURTHER ORDERED** that NL Industries, Inc.'s Motion for Protective Order Regarding the Rule 30(b)(6) Deposition of NL [167] is **GRANTED** to the extent the deposition scheduled for November 19, 2013 will be rescheduled to a date to be agreed upon by the parties.

**IT IS FURTHER ORDERED** that Asarco's Partially Unopposed Motion to Extend Certain Deadlines in MCMO [179] is **GRANTED**. The expert disclosure deadline will be extended from December 2, 2013 to **January 27, 2014**, and the expert deposition deadline will be extended from February 7, 2014 to **February 28, 2014**. The deadline for completion of Phase I discovery will likewise be extended, from March 7, 2014 to **March 28, 2014**.

**IT IS FINALLY ORDERED** that the remaining motions [148, 157, 165, 173, 174, 175, 177, 180, 182, 183, 184] are **DENIED** at this time without prejudice as moot.

Dated this 19<sup>th</sup> day of November, 2013.

  
\_\_\_\_\_  
JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE