

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNION PACIFIC RAILROAD COMPANY,)
)
Plaintiff,)
)
v.)
)
UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY, and LISA P.)
JACKSON, Administrator, in her official)
capacity,)
)
Defendants.)

8:10-cv-00235-LSC-FG3

MEMORANDUM AND ORDER

On October 7, 2010, upon the parties' joint motion, this case was stayed and referred to mediation pursuant to the court's general orders on court-annexed mediation and the Mediation Plan for this district. Almost two weeks later, Asarco LLC filed a motion for leave to intervene as a plaintiff. That motion is not ripe for decision because the briefing schedule has not yet expired.

On the afternoon of November 4, 2010, Asarco LLC filed a motion (Doc. 84) for permission to participate in the parties' mediation session, and for an expedited telephone hearing on the motion. Having considered the defendants' response in objection (Doc. 86), the court finds that Asarco LLC's motion should be denied for the following reasons: (1) Asarco LLC is not a party to this lawsuit; (2) Asarco LLC's motion for leave to intervene is not ripe for decision; (3) the defendants object to Asarco LLC's participation; and (4) allowing Asarco LLC to participate over the EPA's objection would contravene the confidentiality provisions of the court's mediation plan.

IT IS ORDERED that Asarco LLC's "MOTION FOR PERMISSION TO PARTICIPATE IN MEDIATION AND REQUEST FOR EXPEDITED TELEPHONIC HEARING" (Doc. 84) is denied.

DATED November 5, 2010.

BY THE COURT:

**s/ F.A. Gossett, III
United States Magistrate Judge**