

DISTRICT COURT, ADAMS COUNTY, COLORADO Court Address: 1100 JUDICIAL CENTER DRIVE, BRIGHTON, CO, 80601	DATE FILED: December 1, 2020 11:44 AM CASE NUMBER: 2020CV31417
Plaintiff(s) CO DEPT OF PUBLIC HEALTH AND ENVIRONMENT v. Defendant(s) JAY H BROWN et al.	<p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2020CV31417 Division: W Courtroom:
Order:Order Granting Stipulated Injunction	

The motion/proposed order attached hereto: SO ORDERED.

Issue Date: 12/1/2020



SHARON D HOLBROOK
 District Court Judge

3. Defendants shall perform the work required by the 2020 CAP Amendment in accordance with the following schedule, which modifies and replaces the schedule in the 2020 CAP Amendment:
 - a. Complete off-site injections for the full areas of OFS-1, -2, and -3 by March 15, 2021;
 - b. Complete off-site injections for the full areas of OFS-4, -5, and -6 by June 1, 2021;
 - c. Continue to submit biweekly (every 14 days) written updates on progress on 2020 CAP Amendment activities to the Department;
 - d. Provide a detailed, written report describing injections, treatment performance monitoring, and an analysis of the BOS-100's initial effectiveness by August 15, 2021; and
 - e. Install four additional off-site groundwater monitoring wells by September 30, 2021 to further delineate the extent of groundwater contamination and provide additional downgradient monitoring points. Groundwater wells must be installed within 200 feet of locations marked with blue stars in the 2019 Rettew map. Exhibit 1 at 7. If installation of wells at any of these locations is infeasible, Defendants will contact the Department by August 30, 2021 to discuss alternate monitoring well locations.
4. All requirements of the 2020 CAP Amendment as approved with modifications in the Department's June 23, 2020 letter that are not specifically referenced in Paragraph 3 are hereby incorporated into this Order, and shall constitute enforceable requirements under this Order. Any requirements in the 2020 CAP Amendment which conflict with Paragraph 3 above are superseded by this Order. This paragraph does not prohibit the Department from requiring additional monitoring and remediation as necessary to ensure compliance with the Colorado Hazardous Waste Act, sections 25-15-101 to 328, C.R.S. ("Act") and the Colorado Hazardous Waste Regulations, 6 C.C.R. 1007-3 ("Regulations").
5. Defendants shall perform the requirements of this Order within the schedules and time limits set forth herein unless the performance is prevented or delayed by events that constitute a force majeure. A force majeure is defined as any event that the parties could not have anticipated or controlled which renders Defendants' compliance with the requirements of this Order impossible or impracticable. If there is a disagreement between the parties on whether a force majeure has occurred, either party may seek the Court's guidance.
6. Within seventy-two (72) hours of the time that Defendants know or have reason to know of the occurrence of any event which Defendants have reason to believe may prevent them from timely compliance with any requirement under this Order,

Defendants shall provide verbal notification to the Division. Within seven (7) calendar days of the time that Defendants know or have reason to know of the occurrence of such event, Defendants shall submit to the Division a written description of the event causing the delay, the reasons for and the expected duration of the delay, and actions which will be taken to mitigate the duration of the delay.

7. Defendants will notify the Department of completion of each task listed in Paragraph 3 in writing within 48 hours of completion. Failure to notify the Department of any such task completion within 48 hours constitutes evidence that Defendants may have failed to perform the task for purposes of enforcing this Order.
8. The Department will determine whether the approved corrective measures were adequately implemented and will notify Defendants in writing of its determination. If the Department determines that Defendants have not adequately implemented all or part of the 2020 CAP Amendment requirements, the Department will specify what additional actions Defendants must take in order to comply with the requirements. Any objections to the Department's determination regarding compliance with the requirements of the 2020 CAP Amendment as approved by the Department and this Court shall be heard before this Court.
9. If ownership of all or any part of the Facility property changes any time after court approval of this Order, Defendants will remain liable for all of the required actions detailed above, unless and until the new property owner submits, and the Department approves, an enforceable remediation agreement or unilateral enforcement action by the Department becomes final agency action.
10. This Order binds the Parties and their successors and assigns.
11. Except as detailed in Paragraph 7, and only upon Defendants' full compliance with the requirements of this Order, the Department and Defendants agree that this Order resolves all matters and claims currently at issue in this case regarding the 2020 CAP Amendment. The Department also agrees that it will not seek further, alternative, or additional relief from the Court regarding the matters and claims from the 2020 CAP Amendment. Defendants need not file an answer, as this Stipulation fully resolves all matters and claims at issue in this case. Notwithstanding this agreement, the Department may seek enforcement of this Order and reserves its right to request contempt sanctions for failure to perform the tasks as required by this Order.
12. The Court retains jurisdiction over both the subject matter of this Stipulation and the Parties until jointly moved by the parties that this case be dismissed.

DATED this ____ day of _____, 2020.

District Court Judge