

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGION 8
AND THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

2018 DEC 08 PM 4:38
FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

Lincoln Park Superfund Site
Cañon City, Fremont County, Colorado

Colorado Legacy Land, LLC, assignee of
Cotter Corporation (N.S.L.),

Respondent.

U.S. EPA Region 8
CERCLA Docket No. CERCLA-08-2014-0006

Proceeding Under Sections 104, 107 and 122
Comprehensive Environmental Response,
Compensation, and Liability Act, 42 U.S.C.
§§ 9604, 9607 and 9622.

**FIRST AMENDMENT TO ADMINISTRATIVE SETTLEMENT AGREEMENT AND
ORDER ON CONSENT FOR REMEDIAL INVESTIGATION/FEASIBILITY
STUDY**

WHEREAS, on July 15, 2014, Cotter Corporation (N.S.L.) (Cotter), entered into an Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study, CERCLA Docket No. CERCLA-08-2014-0006 (AOC) with the United States Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment, Hazardous Material and Waste Management Division (CDPHE); and

WHEREAS, Cotter notified EPA and CDPHE it was transferring all property it owned within the Lincoln Park Superfund Site to Colorado Legacy Land, LLC (CLL). On March 6, 2018, EPA, CDPHE, Cotter and CLL executed an Acknowledgment and Assignment and Assumption of Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study, whereby CLL acknowledged it became the assignee and successor to Cotter pursuant to paragraph 17 of the AOC, and that the AOC applies to and is binding on CLL; and

NOW, THEREFORE, pursuant to paragraph 105 of the AOC, EPA, CDPHE and CLL (the Parties) hereby modify and amend the AOC (Amendment) to add the following Sections.

XXX. ADDITIONAL REMOVAL ACTIONS

109. CLL may request authorization to perform additional removal actions (Other Work) prior to approval of the Remedial Investigation/Feasibility Study. Upon such request, EPA will determine, after consulting with CDPHE and considering the factors set forth in Section 300.415 (b)(2) of the National Contingency Plan (NCP), whether such work: (1) is necessary

to protect the public health, welfare, or the environment; (2) is consistent with the NCP, as provided in Section 300.700(c)(3)(ii); and (3) is consistent with future remedial actions. EPA shall notify CLL of such determination. EPA's determination under this Paragraph shall not be subject to dispute resolution. CLL shall submit a work plan for such Other Work (Removal Work Plan) concurrent with its request to perform Other Work. The Removal Work Plan shall comply with the applicable requirements set forth in Section VIII (Work to Be Performed) of the AOC. Upon the Agencies' approval of the Removal Work Plan pursuant to Section IX of the AOC (Approval of Plans and Other Submissions), CLL shall implement the Other Work in accordance with the Removal Work Plan and the schedule set forth therein.

110. The definition of the term "Work" in Section VII of the AOC is amended to include all Other Work approved pursuant to this Section.

111. Except as specifically provided in the AOC, nothing in this Amendment shall limit the power and authority of EPA, the United States, or CDPHE to take, direct, or order all actions necessary to protect public health, welfare of the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste on, at or from the Site. Nothing in this Amendment shall prevent EPA or CDPHE for seeking legal or equitable relief to enforce the terms of this Amendment, from taking other legal or equitable action as it deems appropriate and necessary or from requiring CLL in the future to perform additional activities pursuant to CERCLA or other applicable law.

XXXI. OPPORTUNITY FOR PUBLIC COMMENT AND EFFECTIVE DATE

112. This Amendment shall be subject to a public comment period of 60 days. The Agencies reserve the right to withdraw this Amendment if any comments regarding this Amendment disclose facts or considerations which indicate that this Amendment is inappropriate, improper or inadequate.

113. The Effective Date of this Amendment shall be the date upon which the Agencies issue written notice to CLL that the public period has closed and that comments received, if any, do not require withdrawal by the Agencies from this Amendment.

114. All other provisions of the AOC remain unchanged.

Agreed this 10th day of Dec, 2018.

For Respondent Colorado Legacy Land, LLC

By: 
Paul Newman
Managing Director, Legacy Land Stewardship, PBC
as Manager of Colorado Legacy Land, LLC

Date: 11-27-18

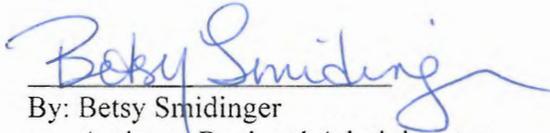
For the State:

By: Jennifer T. Opila, MPA
Director, Hazardous Waste Materials & Waste Management Division
Colorado Department of Public Health and Environment

It is so ORDERED AND AGREED:



By: Suzanne Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice



By: Betsy Smidinger
Assistant Regional Administrator
Office of Ecosystems Protection and Remediation

For the State:

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12/3/18

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