

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

2018 MAR -6 PM 2:57

RECEIVED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF:

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

Lincoln Park Superfund Site  
Cañon City, Fremont County, Colorado

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

Cotter Corporation (N.S.L.)

Respondent.

**ACKNOWLEDGEMENT OF ASSIGNMENT AND ASSUMPTION OF  
ADMINISTRATIVE SETTLEMENT AGREEMENT AND  
ORDER ON CONSENT FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

Respondent, Cotter Corporation (N.S.L.) has notified the U.S. Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment (CDPHE) that it is transferring all property it owns within the Lincoln Park Superfund Site (Property) to Colorado Legacy Land, LLC (Colorado Legacy). Upon such transfer, Respondent and Colorado Legacy represent that Colorado Land is a successor and assign under Paragraph 17 of the Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study dated July 15, 2014 (Settlement Agreement). Upon such transfer, the parties hereto further acknowledge and agree as follows.

1. The Settlement Agreement applies to and is binding upon Colorado Legacy.
2. Colorado Legacy shall within the next thirty (30) days or prior to the commencement of any on-site Work, whichever first occurs, provide to EPA and CDPHE the following:
  - a. Notice of Colorado Legacy's project manager in accordance with the provisions of Paragraph 37 of the Settlement Agreement.
  - b. Notice of any contractors to be used to carry out Work under the Settlement Agreement.
  - c. Certificates of commercial general liability insurance in accordance with Paragraph 83 of the Settlement Agreement.
  - d. A request to change the form of financial assurance in accordance with Paragraph 82 of the Settlement Agreement.

3. Colorado Legacy shall effective immediately provide the Agencies and their representatives, including contractors, access at all reasonable times to the Property and any other property owned or controlled by Colorado Legacy for the purpose of conducting any activity related to the Settlement Agreement.
4. Pursuant to Paragraph 79 of the Settlement Agreement, EPA should send future billing notifications to the following email address:

paul@legacy.land

The billing notification will include a standard regionally-prepared cost report with the direct and indirect costs incurred by EPA and its contractors. Colorado Legacy shall make payments using one of the payment methods set forth in the electronic billing notification.

Colorado Legacy may change its email billing address by providing notice of the new address to:

Financial Management Officer  
US EPA Region 8 (TMS-FMP)  
1595 Wynkoop Street  
Denver, Colorado 80202

If the electronic billing notification is undeliverable, EPA will mail a paper copy to the billing notification to Colorado Legacy at the following address:

Colorado Legacy Land, LLC  
4601 DTC Blvd., Suite 130  
Denver, Colorado 80237

5. EPA and CDPHE acknowledge that in consideration of the actions that will be performed and the payments that will be made by Colorado Legacy under the terms of the Settlement Agreement, and except as otherwise specifically provided in the Settlement Agreement and subject to the terms and conditions set forth in the Settlement Agreement, the covenants not to sue or to take administrative action set forth in Paragraph 84 of the Settlement Agreement apply to Colorado Legacy.
6. Colorado Legacy covenants not to sue and agrees not to assert any claims or causes of action against the United States, the State or their contractors or employees with respect to the Work, Future Response Costs or the Settlement Agreement under the terms set forth in Paragraph 88 of the Settlement Agreement subject to the limitations set forth in Paragraph 90 of the Settlement Agreement.

7. EPA and CDPHE acknowledge that Colorado Legacy is entitled to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), or as may be otherwise provided by law, to the same extent afforded Respondent as set forth in Paragraph 96 of the Settlement Agreement.
8. Unless otherwise provided herein or in the Settlement Agreement, whenever, under the Settlement, notice is required to be given by one Party to another, it must be directed to the person(s) specified below at the address(es) specified below. Any Party may change the person and/or address applicable to it by providing notice of such change to all Parties. Except as otherwise provided, notice to a Party by email (if that option is provided below) or by regular mail in accordance with this Section satisfies any notice requirement of the Settlement regarding such Party.

**As to EPA:**

C. Mark Aguilar  
 Remedial Project Manager  
 Mail Code: 8EPR-SR  
 U.S. Environmental Protection Agency  
 Region 8  
 1595 Wynkoop Street,  
 Denver, Colorado 80202  
 Aguilar.mark@epa.gov  
 (303) 312-6251

**As to the State:**

Jennifer Opila  
 State Project Manager  
 Colorado Department of Public Health &  
 Environment  
 HMWMD-RP-B2  
 4300 Cherry Creek Drive South  
 Denver, Colorado 80246  
 jennifer.opila@state.co.us  
 303-692-3403

**As to Colorado Land:**

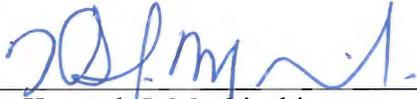
Colorado Legacy Land, LLC  
 c/o Paul Newman  
 Managing Director  
 Legacy Land Stewardship, PBC  
 4601 DTC Blvd., Suite 130  
 Denver, CO 80237  
 paul@legacy.land  
 303-808-8492

9. Respondent continues to be responsible for any noncompliance with the Settlement Agreement, and subject to the terms and conditions set forth in the Settlement Agreement, all of Respondent's rights and protections set forth in the Settlement Agreement remain in force.
10. The terms used herein that are defined in the Settlement Agreement shall have the meaning assigned to them in the Settlement Agreement.
11. Colorado Legacy and CDPHE acknowledge that concurrently with assignment of the Settlement Agreement, and as acknowledged in that certain CDPHE Notice of Assignment, Colorado Legacy also is Cotter's successor in title to the Property and successor in interest under and for purposes of: (a) that certain Consent Decree entered by the United States District Court, District of Colorado (Civil Action No. 83-C-2389), on April 4, 1988, between Respondent and the State of Colorado (CD), which requires implementation of a Remedial Action Plan (RAP); (b) Radioactive Materials License #369-01 (License); (c) that certain Settlement Agreement and Amendment to Remedial Action Plan between Cotter and the State of Colorado dated January 12, 2012 (2012 Settlement Agreement); and (d) that certain Agreement Regarding Licensing and Remedial Requirements between Respondent and the State of Colorado of the same date as the Settlement Agreement (Remedial Agreement).
12. In any subsequent proceeding, other than any proceedings to implement or enforce the Settlement Agreement, Colorado Legacy hereby reserves the right to assert that it qualifies as a bona fide prospective purchaser in accordance with the provisions of CERCLA sections 101(40)(A)-(H) and 107(r)(1), 42 U.S.C. §§ 9601(A)-(H) and 9607(r)(1).

For Respondent Cotter Corporation (N.S.L.)

[Signature pages follow]

By:

  
Kenneth J. Mushinski  
President, Cotter Corporation (N.S.L.)

5

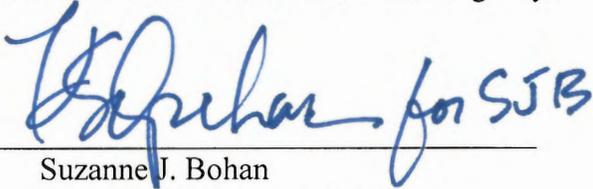
Date: February 20, 2018

For Assignee Colorado Legacy Land, LLC

By:  Date: \_\_\_\_\_

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

For the U.S. Environmental Protection Agency

By:  Date: 1/29/2018  
Suzanne J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

By:  Date: 1/25/18  
Bill Murray  
Director, Superfund Remedial Program, Region 8

For the Colorado Department of Public Health and Environment

By: 

Gary Baughman  
Division Director  
Hazardous Materials and Waste Management Division  
Colorado Department of Public Health and Environment

Date: 2/22/2018