

IN THE IOWA DISTRICT COURT FOR IOWA COUNTY

<p>STATE OF IOWA ex rel. IOWA DEPARTMENT OF NATURAL RESOURCES,</p> <p>Plaintiff,</p> <p>vs.</p> <p>C6-ZERO IOWA LLC, C6-ZERO HOLDINGS, LLC and HOWARD BRAND,</p> <p>Defendants.</p>	<p>CASE NO. EQCV024854</p> <p>CONSENT ORDER GRANTING TEMPORARY INJUNCTION</p>
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The Court is presented with Plaintiff's Application for Temporary Injunction pursuant to Iowa Code sections 455B.388(2) and 455B.391(1). The Court has reviewed the Application and being otherwise advised by the parties which stipulate to entry of this Consent Order Granting Temporary Injunction, finds the Order should be granted as follows:

1. On or before February 9, 2023, Defendants shall pay the sum of \$333,580.00 to EcoSource, LLC for assessment and remediation work to be performed in response to the hazardous conditions caused by the December 8, 2022, explosion and fire occurring at the C6-Zero facility located at 810 E. South Street, Marengo, Iowa County, Iowa ("property"). Defendants shall also deposit \$75,000 into a trust account to be held and used exclusively to fund assessment and remediation work at the property. If at any time the estimated or actual cost of assessment and remediation exceeds the amount of funds in the account, Defendants shall immediately make a deposit to the account to fully fund the estimated or actual assessment and remediation costs. Defendants shall not unreasonably withhold payment for expenses incurred for assessment or remediation work performed. Defendants shall provide a report to the DNR on a

monthly basis certifying the amount of funds remaining in the account and any outstanding assessment and remediation expenses to be paid from the account.

2. Defendants shall immediately comply with the provisions of Department of Natural Resources' (DNR) Emergency Order No. 2022-HC-02, 2022-AQ-25, 2022-SW-20, 2022-WW-32 as directed by the DNR and subject to DNR approval, and continue to fully comply with the Emergency Order until all requirements are satisfied by Defendants as determined by the DNR. Defendants shall have until February 17, 2023, to complete the requirements of the Site Assessment Plan required by the DNR Emergency Order. Defendants shall have until March 3, 2023, to submit a Remedial Action Plan as required by the DNR Emergency Order.

3. Defendants are enjoined from further spillage, leakage, release or other activity causing violations of Iowa air quality, solid waste or water quality laws.

4. By February 17, 2023, and subject to any applicable protective order agreed to by the parties, Defendants shall produce to the DNR a comprehensive list identifying any chemical substance or mixture present at the Marengo C6-Zero facility at the time of the December 8, 2022, explosion and fire, including the chemical constituents of any claimed trade secret or proprietary chemical compound, and the known or estimated concentration and quantity of the chemicals in every chemical substance or mixture.

5. Upon prior and reasonable notice by the DNR, Defendants shall allow the DNR and its representatives access to the property located at 810 E. South Street, Marengo, Iowa County, Iowa, in order to take all lawful, necessary and reasonable actions to assess, investigate or abate the hazardous condition at the property. Defendants shall not refuse entry or access to, or harass, obstruct, or otherwise interfere in any way with the activities of authorized representatives of the DNR who seek entry or access to the property.

6. This Order is binding on Defendants, their employees, agents, successors, assigns, and all other persons, individually and in any business or corporate capacity, acting in concert with or participating with the Defendants, who have actual or constructive notice of the Court's injunction, by personal service or otherwise.

7. Defendants' compliance with this Order does not waive any claims, legal or equitable, that the State of Iowa may have, or ever assert, against Defendants related to the December 8, 2022 explosion and fire at the C6-Zero facility.

8. Willful failure to comply with the terms of this Order may subject Defendants to punishment for contempt of court as well as other penalties and sanctions provided by law.



State of Iowa Courts

Case Number
EQCV024854
Type:

Case Title
STATE EX REL. IDNR V. C6-ZERO IOWA LLC ET AL.
ORDER FOR CONSENT DECREE

So Ordered

Lars G. Anderson, Chief District Court Judge,
Sixth Judicial District of Iowa

Electronically signed on 2023-02-06 10:30:51