

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:09-cv-00269-JD
)	
PULP OF AMERICA LLC, and)	
PULP & PAPER OF AMERICA LLC,)	
)	
Defendants.)	
_____)	

ORDER IN AID OF IMMEDIATE ACCESS

Having considered the United States’ Motion for an Order in Aid of Immediate Access, and good cause appearing therefor,

IT IS HEREBY ORDERED THAT:

The United States Environmental Protection Agency, its officers, employees, agents, contractors and other representatives, shall be allowed access to, through, over and under the Cell House Parcel, as provided herein.

The “Cell House Parcel” comprises approximately 4.6 acres along the east bank of the Androscoggin River just downstream of the Sawmill Dam in Berlin, New Hampshire. The subject property is defined on Map # 128, Parcel 262 of the City of Berlin, New Hampshire Tax Assessor and also in the Coos County, New Hampshire, Registry of Deeds as:

certain real property, together with all buildings, improvements and conditions thereon situate in the City of Berlin, County of Coos, New Hampshire shown as 4.9 acres, more or less, on a plan entitled ‘Minor Subdivision, Activity & Use Restriction Area Cell House Site, Pulp & Paper of America, LLC [sic], Berlin, New Hampshire’ said plan prepared by York Land Services Co. dated February 21,

2002, said plan having been approved by the Berlin Planning Board on February 28, 2002, and recorded as Plan # 1785.

Coos County, New Hampshire, Registry of Deeds Book 0996 Page 0398 (“[sic]” in original).

The Cell House Parcel is part of the Chlor-Alkali Superfund Site.

The access granted by this Order shall extend from the date of issuance of this Order through completion of the Remedial Investigation for the Chlor-Alkali Superfund Site. This access shall be for purposes of conducting activities at the Cell House Parcel associated with the preparation and finalization of the Remedial Investigation for the Chlor-Alkali Superfund Site and associated activities.

The activities to be performed pursuant to the access permitted by this Order include the following: (1) development of a topographic map and other non-invasive and non-destructive surveys to determine the presence of surface contaminants; (2) subsurface investigations including soil-gas sampling beneath the cap, soil-borings to a depth of up to 26-feet, drilling bedrock wells in excess of 100-feet and digging test-pits; (3) repair of the cap in all cases where it has been penetrated in the course of investigations; (4) collection of samples of air at the Site, soil and ground water from the subsurface at the Site, building debris from under the cap, and surface water from the bank of the Androscoggin River adjacent to the Site; (5) additional investigations that include borehole geophysical surveys and groundwater pump tests to determine the characteristics and behavior of the contaminants and groundwater in the subsurface; (6) installation of temporary facilities that include, dumpsters, portable toilets, and storage containers; (7) testing to determine the stability of the existing retaining wall on the

western side of the property adjacent to the Androscoggin River and reinforcement of the wall to allow the investigation to continue in a safe manner, if necessary; (8) taking any additional plant, animal, soil, groundwater, surface water and air samples as may be necessary; (9) sampling any solids or liquids stored or disposed of on the Cell House Parcel; (10) drilling or excavating additional holes and installing monitoring wells for subsurface investigation; and (11) taking other actions related to the investigation of surface or subsurface contamination.

By this Order, the Court enjoins any interference with the United States' right of entry to the Cell House Parcel, pursuant to 42 U.S.C. § 9604(e)(5), and specifically, EPA's performance of the above-listed activities on the Cell House Parcel associated with the Remedial Investigation for the Chlor-Alkali Superfund Site.

ENTERED this 11th day of August, 2009.

BY THE COURT:

/s/ Joseph A. DiClerico, Jr.
JUDGE JOSEPH A. DICLERICO, JR.
UNITED STATES DISTRICT COURT JUDGE