

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
Charlotte DIVISION
DOCKET NO. 3:17-cv-00149-FDW-DCK

CARLSON ENVIRONMENTAL)
CONSULTANTS, PC,)
)
Plaintiff,)
)
vs.)
)
SEAN SLAYTON,)
)
Defendant.)

AMENDED
PRELIMINARY INJUNCTION

THIS MATTER is before the Court on Defendant’s Motion for Reconsideration (Doc. No. 34) on this Court’s ordered Preliminary Injunction (Doc. No. 32). Plaintiff responded in opposition, Defendant replied, and this matter is now ripe for consideration. For the reasons that follow, the Court GRANTS the motion for reconsideration with modification.

In short, the Court is persuaded by Defendant’s arguments and supporting evidence that demonstrate the Preliminary Injunction improperly limits Defendant’s ability to perform his job as a Landfill Gas Well Driller in a safe manner. The Court, however, is not persuaded that Defendant should be permitted to manage, schedule, supervise, or be the lead coordinator for services associated with a Drilling Manager or Drilling Superintendent.

IT IS THEREFORE ORDERED that Defendant’s Motion for Reconsideration (Doc. No. 34) is GRANTED in part and the Court modifies its prior Preliminary Injunction (Doc. No. 32) as follows:

Specifically, IT IS ORDERED that the Defendant Sean Slayton, is immediately restrained and enjoined from the following within the Restricted Territory, defined to mean the United States, during the pendency of this action:

1. Developing, marketing, soliciting, selling, or otherwise providing or performing services identical to those services that he developed, marketed, solicited, sold, provided or performed while employed with CEC, except that Slayton will be permitted to remain employed with Landmarc so long as he is only providing services of a Landfill Gas Well Driller.
 - a. As defined herein, and as set forth in the affidavit of Sean Slayton (¶21) submitted in this matter, a Landfill Gas Well Driller “simply operate[s] the drill rig to drill the hole in the location identified and to the depth instructed by the engineering firm.”
 - b. A Landfill Gas Well Driller is further defined as follows: a heavy equipment operator that specializes in the operation of drill equipment such as, but not limited to, Caterpillar IMT, Soilmec SR and Bauer-Pileco Drill Rigs. A driller is a non-manager operating a drill rig. The driller is responsible for drilling a bore hole to a specified depth. Drilling activities typically occur as a part of oil & gas wellfield drilling, bridge pier drilling, water well drilling and other well drilling that would not violate the other parts of this injunction. The driller is typically managed by an onsite Drilling Manager/Drilling Superintendent or Onsite Engineer.
 - c. A Landfill Gas Well Driller is further defined as someone who performs the following functions:
 - i. Moving the drill rig and drill equipment from well location to well location;
 - ii. Attending pre-construction meetings, progress meetings, and other project-related meetings, including safety meetings;
 - iii. Assisting with, but not managing, the drill completion team as needed with the installation of the well-case pipe, installation of the well aggregate/well back fill material, and installation of the well bore seal(s);
 - iv. Assisting with, but not managing, the pad construction team to build drill pads and defining the set up location, construction sequence, and timing prior to drilling the well; and
 - v. Assisting with, but not managing, the preparation, review, and signing of the well drill schedule.
2. Performing any services associated with a Drilling Manager or Drilling Superintendent, including, at a minimum, the following:

- Preparing bids, proposals, and responses to Requests for Proposal
- Coordinating with Client/Site Owner prior to mobilization
- Serving as the main point of contact to client while onsite, although a Landfill Gas Well Driller is not excluded from having client contact while onsite regarding safety issues
- Scheduling of the drill rig and drill equipment transport from landfill to landfill
- Scheduling the moving of drill rig and drill equipment from well location to well location, although a Landfill Gas Well Driller is permitted to transport or move the drill rig and drill equipment from well location to well location
- Scheduling pre-construction meetings, progress meetings and conducted other project related meetings
- Contacting vendors, clients, site owners for parts, materials, and equipment repairs/maintenance/service prior to mobilization or throughout a project; although a Landfill Gas Well Driller may request an appropriate supervisor to perform this function if the Landfill Gas Well Driller identifies a need for equipment repair/maintenance/service prior to mobilization or throughout a project
- Managing and Scheduling the drill completion team which includes heavy equipment operators and helpers for the following;
 - Supervising installation of the well casing pipe
 - Supervising installation of the well aggregate/well backfill material
 - Supervising installation of the well bore seal(s)
- Managing pad construction team which includes heavy equipment operators and helpers for the following;
 - Supervising laborers and equipment operators to build drill pads
 - Supervising setup location, construction sequence, and timing prior to drilling the well
- Scheduling mechanics for routine services and repair of the drill rig
- Scheduling of rental equipment
- Contacting vendors for drill tools, drill buckets and Kelly bars
- Arranging hotel rooms and accommodations for crew on a project
- Overseeing or managing the preparation, reviewing and signing the well drill schedule, although a Landfill Gas Well Driller may assist with this
- Completing material inventory of parts available for the project
- Managing and completing DOT paperwork for company vehicles and drivers
- Managing or leading any safety meetings, although a Landfill Gas Well Driller may attend safety meetings and provide input as necessary

IT IS FURTHER ORDERED that all other provisions in this Court's previous Order and Preliminary Injunction (Doc. No. 32) shall remain unchanged.

IT IS FURTHER ORDERED that this Amended Preliminary Injunction shall remain in effect until further order of this Court or a final determination of this matter after a hearing on the merits.

IT IS SO ORDERED.

Signed: October 30, 2017

A handwritten signature in black ink, reading "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

