

IN THE COURT OF COMMON PLEAS
BELMONT COUNTY, OHIO

COMMON PLEAS COURT
BELMONT CO. OH
2024 MAY -1 AM 10:51

LAURA A. ZUPKO
CLERK OF COURT

STATE OF OHIO, ex. rel.	:	CASE NO. 24 CV 79
DAVE YOST	:	
OHIO ATTORNEY GENERAL,	:	JUDGE JOHN A. VAVRA
	:	
Plaintiff,	:	
	:	
	:	PLAINTIFF STATE OF OHIO'S
v.	:	FIRST WRITTEN CHARGES IN
	:	CONTEMPT, MOTION TO
	:	SHOW CAUSE, AND REQUEST
AUSTIN MASTER SERVICES, LLC,	:	FOR HEARING
	:	
Defendant.	:	

On April 4, 2024, this Court entered an order (“the Order”) granting Plaintiff State of Ohio’s request for preliminary injunctive relief against Defendant Austin Master Services, LLC (“AMS”), regarding its oil and gas waste facility in Martins Ferry, Ohio (“Facility”). The Order required AMS to, among other things, on or before April 17, 2024, return to compliance with the terms of its permit application and R.C. Chapter 1509 and rules promulgated thereunder. AMS has failed to comply with its obligations under the Order.

Pursuant to R.C. Chapter 2705, the Court’s inherent authority, and Civ.R. 65(D), Plaintiff State of Ohio (“the State”) respectfully requests that this Court issue an order compelling AMS and Brad D. Domitrovitsch, who is in control of AMS, to show cause why they have not complied with the Order and to answer why they should not be held in contempt.

The State respectfully requests that this Court hold a hearing on this motion. In support of its motion, the State submits to the Court the following charges in contempt:

GENERAL ALLEGATIONS

1. On March 25, 2024, the State filed its Complaint in this case against AMS. The Complaint alleged AMS' past and ongoing violations of Ohio's oil and gas laws under R.C. Chapter 1509 and rules promulgated thereunder.
2. AMS is operating its Facility under an oil and gas waste facility permit issued by the Ohio Department of Natural Resources, Division of Oil and Gas Resources Management ("the Division"). The permit is identified as Permit WF-2022-05.
3. On April 3, 2024, this Court held a hearing on the State's request for a preliminary injunction.
4. AMS was represented by counsel at the preliminary injunction hearing and Brad D. Domitrovitsch ("Mr. Domitrovitsch") was also present.
5. Near the conclusion of the April 3 hearing, this Court granted the State's request for a preliminary injunction against AMS. That ruling was memorialized in the Order entered on April 4, 2024.
6. Mr. Domitrovitsch received actual notice of the Order.
7. The parent corporation of AMS is American Environmental Partners, Inc. ("AEPT").
8. Mr. Domitrovitsch is the Chief Executive Officer, Chief Financial Officer, and Chairman of the Board of AEPT.
9. Mr. Domitrovitsch's last known address is 1648 Washington Avenue, Northampton, Pennsylvania 18067.
10. Based on information and belief, Mr. Domitrovitsch is and, at all times relevant to this motion, has been in control of AMS.

11. Based on information and belief, Mr. Domitrovitsch is and, at all times relevant to this motion, has been in active concert or participation with AMS, pursuant to Civ.R. 65(D).

12. Since entry of the Order, the Division has made attempts to create a path forward to help AMS and Mr. Domitrovitsch achieve compliance with the Order.

13. Since the entry of the Order, the only work done on site by or at the direction of AMS and Mr. Domitrovitsch has been the collection of liquid waste from the floor of the facility.

14. Employees working at the direction of AMS and Mr. Domitrovitsch have placed the collected liquid waste in onsite tanks but have not arranged for disposal of those wastes.

15. Because AMS and Mr. Domitrovitsch failed to arrange for the disposal of the liquid waste, and because the liquid waste were filling the onsite tanks to capacity, the Division, via a paid contractor and on three separate occasions, removed a total of 225 barrels (or 4,725 gallons) of liquid waste from the Facility.

16. That removal was performed to ensure that AMS would continue to have a place to store liquid waste collected from the Facility floor.

17. The Order required AMS to remove five railcars with solid waste from the Facility. To date, AMS has not removed any of the railcars containing solid waste; three of the rail cars remain onsite. The only railcars removed were two railcars that were removed and transported back by the nonparty company that shipped them to the Facility in the first place.

18. The allegations contained in paragraphs 1 through 17 are incorporated by reference into the charge below as if fully restated therein.

CHARGE IN CONTEMPT

Failure to return to compliance with the terms of AMS' permit application and Ohio oil and gas laws and rules

19. In Paragraph 3 of the Order, this Court required AMS to, on or before April 17, 2024, return to compliance with the terms of its permit application approved by Permit WF-2022-05 and with Ohio laws in R.C. Chapter 1509 and rules promulgated thereunder.

20. To comply with the broad requirement in Paragraph 3 of the Order, this Court ordered AMS to:

- a. “[C]ontinue to **remove all liquids, including sludges, from the Facility floor and secondary containment** areas at the Facility **and properly dispose of them** in accordance with the requirements of Ohio Adm.Code Chapter 1501:9-4 and all other applicable laws.” Paragraph 3a (emphasis added).
- b. “[O]n or before April 17, 2024, transport all waste contained in railcars at the Facility offsite, and * * * transport the railcars as expeditiously as possible to [lawfully] dispose of the waste. * * *” Paragraph 3b.
- c. “[O]n or before April 17, 2024, or such additional time as is agreed in writing by the chief of the Division, remove all solid waste and other waste substances, as defined in Ohio Adm. Code 1501:9-04-01, from the Facility floor and secondary containment areas at the Facility and lawfully dispose of them. * * *” Paragraph 3c.
- d. “[O]n or before April 17, 2024, or such additional time as is agreed in writing by the chief of the Division, remove and dispose of all liquids, including sludges, all solids, and all other wastes that exceed the maximum volume allowed under the permit application approved by Permit WF-2022-05. [Defendant] AMS shall

properly dispose of them in accordance with the requirements of Ohio Adm.Code Chapter 1501:9-4 and all other applicable laws.” Paragraph 3d.

- e. “[O]n or before April 17, 2024, employ a Radiation Safety Officer for the Facility as identified and described in [Defendant] AMS’ permit application approved in Permit WF-2022-05.” Paragraph 3e.
- f. “[O]n or before April 17, 2024, conduct, and continue to conduct, all inspections required under the permit application approved by Permit WF-2022-05 and all rules contained in Ohio Adm.Code Chapter 1501:9-4 applicable to such inspections. Paragraph 3f.

21. To date, the only action AMS and Mr. Domitrovitsch have taken to attempt to comply with Paragraph 3 of the Order is to “remove all liquids, including sludges, from the Facility floor.”

22. AMS and Mr. Domitrovitsch have failed to comply with all the requirements in Paragraph 3 of the Order.

23. In addition, to the extent that the Order allowed for extensions by the Chief of the Division of Oil and Gas Resources Management, no extension has been requested or granted.

24. Consequently, AMS and Mr. Domitrovitsch are in contempt under R.C. 2705.02.

RELIEF REQUESTED

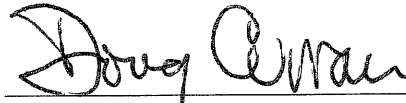
WHEREFORE, the State respectfully moves this Court to:

- A. Schedule a hearing on the State’s First Written Charges in Contempt and Motion to Show Cause, and provide notice to AMS and Mr. Domitrovitsch of the time and place of this hearing;

- B. Find AMS and Mr. Domitrovitsch in contempt for violating the Order of this Court;
- C. Pursuant to R.C. 2705.05(A)(1), and the Court's inherent power to coerce compliant conduct, impose upon AMS and Mr. Domitrovitsch a fine in the amount of two hundred fifty dollars (\$250) per day for each day continue to violate this Court's Order;
- D. Pursuant to R.C. 2705.05(A)(1), and the Court's inherent power to coerce compliant conduct, impose upon Mr. Domitrovitsch an obligation to report to the Belmont County jail each evening no later than 6:00 p.m. and to remain incarcerated until at least 6:00 a.m. the following day until such time as the requirements of the Order have been fully complied with, or until further order of the Court;
- E. Order AMS and Mr. Domitrovitsch to pay all court costs associated with this case, including witness fees, extraordinary enforcement and litigation costs, and attorney fees for prosecution of this contempt motion; and
- F. Order such other relief as the Court deems necessary and appropriate.

Respectfully submitted,

DAVE YOST
OHIO ATTORNEY GENERAL



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Trial Attorney

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Counsel for Plaintiff, the State of Ohio

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing was sent via e-mail to Steven R.R. Anderson, *Counsel for AMS*, at steve@andersonlaw.llc, on this 30th day of April, 2024. I further certify that, on this same day, a true and accurate copy of the foregoing was served upon the following by regular U.S. mail:

Brad D. Domitrovitsch
1648 Washington Avenue
Northhampton, Pennsylvania 18067



Douglas Curran
Assistant Attorney General