

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 19 CV 1105

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, HAZARDOUS
MATERIALS AND WASTE MANAGEMENT DIVISION,

Plaintiff,

v.

UNITED STATES OF AMERICA; and
UNITED STATES DEPARTMENT OF THE ARMY,

Defendants.

COMPLAINT

Plaintiff, the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division (“the Division” or “the State” or “CDPHE”), through the undersigned counsel, makes the following Complaint pursuant to 42 U.S.C. 9621(e)(2).

INTRODUCTION

1. The Division comes before the Court to compel compliance with requirements of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 to 9674 (“CERCLA,” also known as “Superfund”) remedial action at the Rocky Mountain Arsenal.

PARTIES

2. Plaintiff, the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division, located at 4300 Cherry Creek Drive South, Denver, Colorado, 80246, is the Colorado State agency vested with responsibility for participating in CERCLA activities in Colorado. Colo. Rev. Stat. §§ 25-15-301, 25-16-101 and -103 (2018).
3. Defendant United States of America (“the United States”) is a “person” as that term is defined in CERCLA. 42 U.S.C. § 9601(21).
4. Defendant United States Department of the Army (“the Army”) is a “person” as that term is defined in CERCLA. 42 U.S.C. § 9601(21).

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiff’s claim for relief seeks to enforce 42 U.S.C. § 9621(e)(2). The Court also has jurisdiction pursuant to 28 U.S.C. § 1346(a)(2). Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 9621(e)(2).

GENERAL ALLEGATIONS

Background on the Rocky Mountain Arsenal

6. The Rocky Mountain Arsenal On-Post Operable Unit consists of the contiguous 27 square mile parcel of property located at 5650 Gateway Road, Commerce City, Adams County, Colorado (“the Arsenal”) as shown in **Exhibit 1** attached hereto and incorporated by reference.

7. The Army commenced operations at the Arsenal in 1942 for the manufacture, assembly, demilitarization and disposal of chemical warfare agents, chemical products, incendiary munitions, chemical munitions, chemical agents, and other hazardous substances.
8. From 1946 until 1987, the Army leased portions of the Arsenal to private industry, including to Shell Oil Company (“Shell”).
9. Shell manufactured pesticides at the Arsenal from 1952 to 1982.
10. The Army and Shell stored, treated and disposed of hazardous waste in various hazardous waste units at the Arsenal.
11. In particular, the Army and Shell operated Basin F, a hazardous waste surface impoundment, for the storage, treatment and disposal of liquid and solid listed and characteristic hazardous wastes. Hazardous wastes and hazardous constituents were released into the environment from Basin F. In December 1981, disposal of hazardous waste to Basin F was terminated, but hazardous wastes remained in Basin F and it continued to operate and discharge hazardous wastes into the environment.
12. The Army’s and Shell’s waste management and disposal practices at Basin F and elsewhere resulted in significant levels of contamination across the Arsenal. The principal contaminants include organochlorine pesticides, heavy metals, agent-degradation products and manufacturing by-products, and chlorinated and aromatic solvents. All of these constituents constitute threats to human health and the environment.

**The CERCLA Remedy
and the Creation of the Rocky Mountain Arsenal Wildlife Refuge**

13. In 1987, the United States Environmental Protection Agency (“EPA”) listed the Arsenal on the National Priorities List of the nation’s most contaminated sites to be remediated via CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (“SARA”), Pub. L. No. 99-499; the Community Environmental Response Facilitation Act of 1992 (“CERFA”), Pub. L. No. 102-426; the National Contingency Plan; and other implementing regulations.
14. In 1988, the CERCLA interim response action for Basin F was initiated.
15. The Rocky Mountain Arsenal National Wildlife Refuge Act of 1992, Pub. L. No. 102-402 (“Refuge Act”) created the Rocky Mountain Arsenal National Wildlife Refuge (“the Refuge”) on portions of the Arsenal. The Refuge Act established the process for transfer of management responsibilities and jurisdiction over the portions of the Arsenal that constitute the Refuge from the Army to the United States Fish and Wildlife Service, an agency of the United States Department of Interior (“DOI”).
16. The On-Post Record of Decision (“On-Post ROD”), pursuant to CERCLA, formally established the selected remedy and the cleanup approach for the Arsenal. The On-Post ROD was signed by the Army, the EPA, and CDPHE on June 11, 1996, with concurrence from Shell and DOI. The large volume of contaminated soil present on the site precluded a remedy in which all contaminants could be excavated and cost effectively treated. Pursuant to the On-Post ROD, cleanup of the Arsenal was therefore based on the removal of fixed volumes of contaminated soil from across the Arsenal’s various solid waste

management units (“SWMUs”); consolidation of contaminated soils under RCRA¹-equivalent covers; and disposal in two RCRA subtitle C hazardous waste landfills, approved under the 1996 Compliance Order on Consent No. 96-06-07-01 between the Army and the Division.

17. The On-Post ROD did not require complete characterization of the horizontal and vertical extent of contamination at the Arsenal, including its SWMUs, nor did it involve remediation of these areas to unrestricted use levels. Instead, the On-Post ROD relied on the United States retaining ownership and stated that “continued restrictions on land use or access are included as an integral component of all on-post alternatives” (On-Post ROD, pp. 7-2, 10-4) to protect human health and the environment from undiscovered waste and hazardous constituents both known to exist and as-yet undiscovered and left in place at the Arsenal.
18. The Off-Post Record of Decision (“Off-Post ROD”) was signed on December 19, 1995.
19. The goal of the Off-Post ROD was to prevent citizen exposure to contaminated groundwater above Colorado Basic Standards for Groundwater. This was accomplished in part by establishing and monitoring the areal extent of the off-post groundwater plume from the Arsenal, constructing a water treatment and distribution system to replace affected off-post domestic water wells, and continuing to monitor the off-post groundwater plume for Contaminants of Concern from the Arsenal. The option exists for existing domestic water well users to have their water well replaced by the Army if the

¹ The Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*

well is known to intersect an existing plume and be contaminated with Arsenal chemicals above the relevant standards.

20. On August 24, 2010, Basin F at the Arsenal was certified closed in accordance with 6 Colo. Code Regs. § 1007-3:265.115, with hazardous waste and hazardous constituents left in place, in accordance with the Basin F Closure Plan.

The Defendants' Owner and Operator Liability

21. The United States is an “owner or operator” of the Arsenal, as that term is defined in 42 U.S.C. § 9601(20).
22. Some historic documents indicate the Army is the “owner” of the Arsenal.
23. The Army is an “owner or operator” of the Arsenal, as that term is defined 42 U.S.C. § 9601(20).

Recent Arsenal History

24. On November 5, 2018, the Division issued to the Army a Notice of Non-compliance (“Notice”) concerning the effectiveness of the Arsenal CERCLA remedy.
25. The Notice informed the Army of seven apparent violations of requirements of the CERCLA remedial action and requested the Army submit plans and timetables for meeting its CERCLA remedial obligations.
26. On December 11, 2018, the Army sent CDPHE a letter generally indicating that the Army was addressing the deficiencies in the Notice through the CERCLA process and indicated that the CERCLA dispute resolution process was the forum in which the issues should be addressed.

27. On March 14, 2019, the Division sent the Army a letter requesting Army enter into a stipulated injunction so the Division could enforce the requirements of the CERCLA remedy.
28. On March 29, 2019, the Army sent CDPHE a letter indicating again that the CERCLA dispute resolution process is the correct process for addressing any deficiencies with the Army's management of the remedy.

FIRST CLAIM FOR RELIEF

(An injunction requiring the Army to submit a plan to correct the violation of the On-Post ROD for failing to dewater the Shell Trenches)

29. The above allegations are incorporated herein.
30. CERCLA empowers a state to “enforce any Federal or State standard, requirement, criteria, or limitation to which the remedial action is required to conform.” 42 USC § 9621(e)(2) (2018).
31. The Shell Disposal Trenches (“Shell Trenches”) consisted of trenches used for the disposal of solid and liquid wastes from Shell production facilities. Wastes were buried both in bulk form and in drums from 1952 through 1966. In 1994, an Interim Response Action (“IRA”) was conducted which consisted of the installation of a slurry wall around the Shell Trenches area to reduce the migration of contaminated groundwater away from the site, and a three-foot soil cap was placed over the site to reduce infiltration of rainwater through the contaminated area. In 1999, a final remedy was implemented which consisted of a second slurry wall encircling the IRA slurry wall, and modification of the existing cap/cover to be RCRA-equivalent.

32. Section 9.5 and Table 9.5-1 of the On-Post ROD require the Army and Shell to dewater the Shell Trenches as necessary to ensure containment.
33. Dewatering becomes necessary when groundwater comes into contact with waste remaining in place in the Shell Trenches.
34. Beginning on October 3, 2012, intermittently and as recently as the present day, the measured groundwater level in the Shell Trenches indicates that groundwater is likely coming into contact with the waste remaining in place and subsequently migrating out of the Shell Trenches' containment. These repeated violations indicate the Shell Trenches remedy is not functioning as required by the On-Post ROD.
35. The Army must submit a plan to CDPHE for review and approval that describes the actions it will undertake to actively dewater the Shell Trenches whenever necessary to avoid further contact of groundwater with waste and to prevent further violations of the On-Post ROD. The plan must include a schedule with enforceable dates for each step of the plan from design through implementation through completion.
36. The Army must comply with the approved plan.

SECOND CLAIM FOR RELIEF

(An injunction requiring the Army to submit a plan to correct the violation of the On-Post ROD for failing to comply with the Colorado Basic Groundwater Standard for 1,4-dioxane)

37. The above allegations are incorporated herein.
38. CERCLA empowers a state to “enforce any Federal or State standard, requirement, criteria, or limitation to which the remedial action is required to conform.” 42 USC § 9621(e)(2) (2018).

39. Section 10.1.2.1 and Table 10.1-2 of the On-Post ROD require the Army to comply with Colorado Basic Standards for Groundwater (“CBSG”).
40. The CBGS for 1,4-dioxane in groundwater is 0.35 ppb.
41. On April 6, 2017, the Army and Shell provided a Data Summary Report detailing results of effluent sampling for 1,4-dioxane and indicating intermittent exceedances of the CBSG standard at the North Boundary Containment System (“NBCS”) and North West Boundary Containment System (“NWBCS”).
42. These exceedances at NWBCS are intermittent and were last recorded on July 5, 2016. The exceedances at the NBCS remained as of October 2018 and thus constitute ongoing violations of the On-Post ROD.
43. The Army must submit a plan to CDPHE for review and approval that describes the actions it will undertake to install or modify a treatment system capable of removing 1,4-dioxane groundwater concentrations to below the CBSG at the Arsenal boundaries to prevent further violations of the On-Post ROD. The plan must include a schedule with enforceable dates for each step of the plan from design through implementation through completion.
44. The Army must comply with the approved plan.

THIRD CLAIM FOR RELIEF

(An injunction requiring the Army to submit a plan to correct the violation of the On-Post ROD for dieldrin exceedance at NWBCS)

45. The above allegations are incorporated herein.

46. CERCLA empowers a state to “enforce any Federal or State standard, requirement, criteria, or limitation to which the remedial action is required to conform.” 42 USC § 9621(e)(2) (2018).
47. Section 10.1.2.1 and Table 10.1-2 of On-Post ROD requires the Army to comply with Colorado Basic Standards for Groundwater (“CBSG”).
48. Section 9.5 and Table 9.5-1 of the On-Post ROD require the Army to capture and treat contaminated groundwater to meet the CBSG.
49. The CBSG for dieldrin is 0.002 ppb.
50. On July 30, 2013, the Army submitted the FY2012 Annual Summary Report (“ASR”). The ASR showed concentrations of dieldrin in wells downgradient of the Northwest Boundary Containment System (“NWBCS”) in excess of the CBSG. This constitutes a violation of the On-Post ROD.
51. In October 2018, the Army and Shell committed to replacing its boundary water treatment systems that service the NWBCS and the NBCS, in part to address the elevated dieldrin emanating from the Arsenal.
52. On March 21, 2019, the Army informed the State that should it and EPA not resolve ongoing funding disputes, the Army would be unable to replace its boundary water treatment systems.
53. The Army must submit a plan to CDPHE for review and approval that describes the actions it will undertake to install or modify a treatment system capable of removing dieldrin groundwater concentrations to below the CBSG at the Arsenal boundaries to prevent further violations of the On-Post ROD. The plan must include a schedule with

enforceable dates for each step of the plan from design through implementation through completion.

54. The Army must comply with the approved plan.

FOURTH CLAIM FOR RELIEF

(An injunction requiring the Army to submit a plan to comply with the Off-Post ROD requirements for long-term monitoring downgradient of NWBCS)

55. The above allegations are incorporated herein.
56. CERCLA empowers a state to “enforce any Federal or State standard, requirement, criteria, or limitation to which the remedial action is required to conform.” 42 USC § 9621(e)(2) (2018).
57. The Off-Post ROD requires the Army to replace domestic water wells that are contaminated above standards by Arsenal contaminants and to update and provide a copy of the Containment System Remediation Goals exceedance map to the State Engineer’s Office for the Well Notification Program. These requirements are accomplished by adequate monitoring of the off-post contaminant plume to establish where the contaminated groundwater exists.
58. During the period of the last CERCLA Five-Year Review, the detection methodology for dieldrin was improved, therefore bringing the Army’s ability to detect dieldrin closer to the applicable standard. It was discovered that dieldrin exists above the applicable standard in several wells downgradient from the Northwest Boundary Containment System (“NWBCS”).
59. The 2015 Five-Year Review determined that the Off-Post Long-Term Monitoring Plan, which includes the exceedance monitoring network downgradient of the NWBCS, does

not adequately determine the source of the dieldrin and determine if the system is bypassed. It is further inadequate to delineate the areal extent of the groundwater plume in that direction and hence, inadequate to determine whether any domestic well users in the area should have their wells tested and/or replaced, or a hookup to South Adams County Municipal Water be provided, in order to fulfill the requirements of the Off-Post ROD.

60. The Army must submit a plan to CDPHE for review and approval that describes the actions it will undertake to expand the off-post exceedance monitoring network to comply with the Off-Post ROD. The plan must include a schedule with enforceable dates for each step of the plan from design through implementation through completion.
61. The Army must comply with the approved plan.

FIFTH CLAIM FOR RELIEF

(An injunction requiring the Army to submit a plan to comply with the On-Post ROD requirements concerning surface water standards in former Basin E)

62. The above allegations are incorporated herein.
63. CERCLA empowers a state to “enforce any Federal or State standard, requirement, criteria, or limitation to which the remedial action is required to conform.” 42 USC § 9621(e)(2) (2018).
64. Basin E is a former disposal basin for chemical wastes at the Arsenal. It received overflow of chemical wastes destined for storage in nearby basins. The known areas of contaminated soil were addressed during the course of the remedy.
65. Surface water sampling conducted in 2013, 2015 and 2017 has consistently shown that surface water in the former Basin E at the Arsenal exceeds Colorado Basic Standards and

Methodologies for Surface Water (“CBSM”) for some inorganic chemicals in excess of Colorado Aquatic Life Standards, in violation of the On-Post ROD.

66. Section 10.1.2.1 and Table 10.1-2 of the On-Post ROD require the Army to comply with the CBSM for inorganic chemicals.
67. The Army must submit a plan to CDPHE for review and approval that describes the actions it will undertake investigate and correct exceedances of CBSMs in the former Basin E. The plan must include a schedule with enforceable dates for each step of the plan from design through implementation through completion.
68. The Army must comply with the approved plan.

PRAYER FOR RELIEF

THEREFORE, the Division requests that this Court:

1. Issue a mandatory injunction requiring Defendants to, within sixty (60) days:
 - (a) Submit a plan to CDPHE for review and approval that describes the actions it will undertake to actively dewater the Shell Trenches whenever necessary to avoid further contact of groundwater with waste and to prevent further violations of the On-Post ROD. The plan must include a schedule with enforceable dates for each step of the plan from design through implementation through completion. The Army must comply with the approved plan.
 - (b) Submit a plan to CDPHE for review and approval that describes the actions it will undertake to install or modify a treatment system capable of removing 1,4-dioxane groundwater concentrations to below the CBGS at the Arsenal boundaries to prevent further violations of the On-Post ROD. The plan must

include a schedule with enforceable dates for each step of the plan from design through implementation through completion. The Army must comply with the approved plan.

(c) Submit a plan to CDPHE for review and approval that describes the actions it will undertake to install or modify a treatment system capable of removing dieldrin groundwater concentrations to below the CBGS at the Arsenal boundaries to prevent further violations of the On-Post ROD. The plan must include a schedule with enforceable dates for each step of the plan from design through implementation through completion. The Army must comply with the approved plan.

(d) Submit a plan to CDPHE for review and approval that describes the actions it will undertake to expand the off-post exceedance monitoring network to comply with the Off-Post ROD. The plan must include a schedule with enforceable dates for each step of the plan from design through implementation through completion. The Army must comply with the approved plan.

(e) Submit a plan to CDPHE for review and approval that describes the actions it will undertake investigate and correct exceedances of CBSMs in the former Basin E to comply with the On-Post ROD. The plan must include a schedule with enforceable dates for each step of the plan from design through implementation through completion. The Army must comply with the approved plan; and

2. Grant any other relief deemed appropriate.

Respectfully submitted April 15, 2019 by the undersigned counsel:

PHILIP J. WEISER
Attorney General

/s/ David Banas

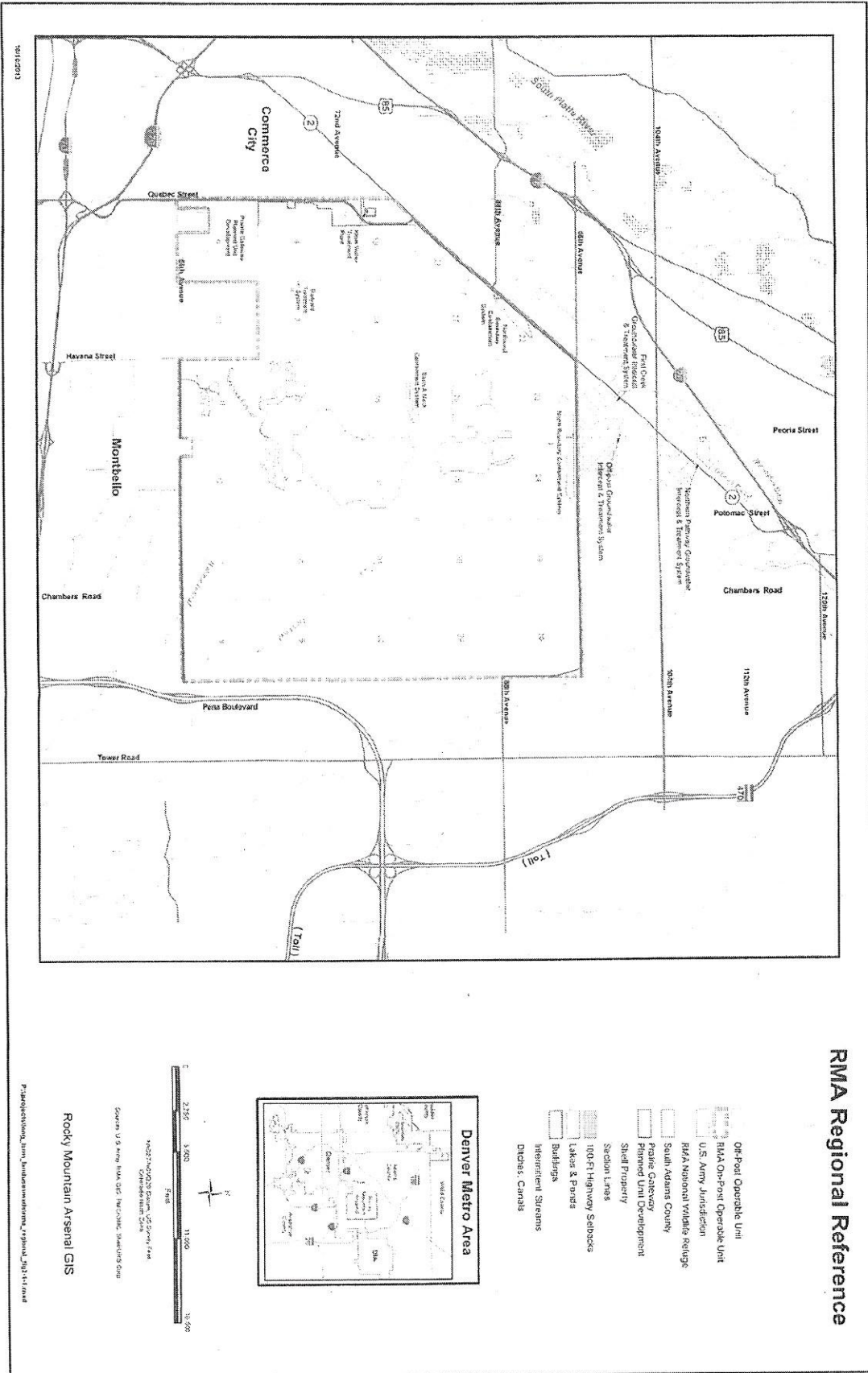
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*Counsel of Record

Attorneys for Colorado Department of Public
Health and Environment

EXHIBIT 1

Figure 1



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of Colorado

Colorado Department of Public Health and
Environment, Hazardous Materials and Waste
Management Division

Plaintiff(s)

v.

United States of America; and United States
Department of the Army

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Defendant: UNITED STATES OF AMERICA
Address: U.S. Attorney Jason R. Dunn, United States Attorney's Office - District of
Colorado, 1801 California Street, Suite 1600, Denver, CO 80202
- and -
Attorney General William P. Barr, U.S. Dept. of Justice, 950 Pennsylvania Ave.,
Washington, DC 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

David Banas
Senior Assistant Attorney General
Colorado Department of Law
Natural Resources and Environment Section
1300 Broadway, 7th Floor
Denver, CO 80203

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of Colorado

Colorado Department of Public Health and
Environment, Hazardous Materials and Waste
Management Division

Plaintiff(s)

v.

United States of America; and United States
Department of the Army

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Defendant: UNITED STATES DEPARTMENT OF THE ARMY
Address: Office of the Army General Counsel, 104 Army Pentagon, Washington, DC
20301-0104
- and -
U.S. Department of Defense, Office of the General Counsel, 1600 Defense Pentagon,
Washington, DC 20301-1600.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

David Banas
Senior Assistant Attorney General
Colorado Department of Law
Natural Resources and Environment Section
1300 Broadway, 7th Floor
Denver, CO 80203

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division</p> <p>(b) County of Residence of First Listed Plaintiff <u>City and County of Denver</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) David Banas, Senior Assistant Attorney General (720-508-6284) Lukas B. Staks, Assistant Attorney General (720-508-6251) Colorado Dept. of Law, 1300 Broadway, 7th Fl., Denver, CO 80203</p>	<p>DEFENDANTS United States of America; and United States Department of the Army</p> <p>County of Residence of First Listed Defendant <u>n/a</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) U.S. Dept. of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530-0001; ph: 202-353-1555</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY - Product Liability</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
		<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
			<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District (specify)
 6 Multidistrict Litigation - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. section 9621(e)(2)

Brief description of cause:
Enforcement of federal environmental law.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE Raymond P. Moore DOCKET NUMBER 1:17-cv-02223-RM-SKC

DATE 04/15/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ David Banas

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____