

**OFFICE OF ADJUDICATIONS**

**IN THE MATTER OF**

**: SPILL CASE NO. 90-00040  
(NOTICE OF INTENT  
TO FILE LIEN)**

**:**

**1209-1213 FOXON ROAD  
(SEBMAP REALTY, LLC)**

**: JUNE 12, 2003**

**FINAL DECISION**

The parties have agreed to resolve the appeal of the above-captioned matter by issuance of the attached Consent Order. The parties have confirmed their review, understanding and assent to the terms of this consent order. I hereby adopt it as my Final Decision in this matter.

June 12, 2003

Date

/s/ Jean F. Dellamarggio

Jean F. Dellamarggio  
Hearing Officer

*P A R T Y L I S T*

Final Decision in the matter of: 1209-1213 Foxon Road (Sebmap Realty, LLC)

*PARTY*

Sebmap Realty, LLC

*REPRESENTED BY*

Kathleen Conway, Esq.  
385 Orange Street  
New Haven, Connecticut 06511

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Department of Environmental Protection  
General  
Waste Planning & Standards Division

David Wrinn, Assistant Attorney  
  
Office of the Attorney General  
55 Elm Street  
Hartford, Connecticut 06106

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**STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**OFFICE OF ADJUDICATIONS**

IN MATTER OF 1209-1213 FOXON ROAD           :           SPILL CASE NO.  
90-00040  
NORTH BRANFORD, CONNECTICUT

*a.k.a.* Property of SEBMAP Realty, LLC.   :           APRIL 29, 2003

**DISPOSITION BY AGREEMENT**

In accordance with Section 22a-3a-6(l) and subsection (2)(A)(ii) thereof, of the Rules of Practice of the Department of Environmental Protection, the following consent order is proposed to the hearing officer by the parties to the above-captioned certificate of lien proceeding for review and further recommendation to the Commissioner of Environmental Protection.

The parties recite and agree to the following findings of fact:

1. The real estate constitutes all that certain parcel of land known as 1209-1213 Foxon Road, Town of North Branford, County of New Haven, State of Connecticut, more particularly described as follows:

all that certain piece or parcel of land, together with the improvements thereon, situated in the Town of North Branford, County of New Haven and State of Connecticut, shown as Lot 3 on that certain map entitled 'An Arrangement of Lots on a Parcel of Property of Kenneth Bunnell located in the Town of North Branford, Connecticut, 1<sup>st</sup> Revision July 24, 1958' Scale 1"=40 ft. T.M. Russell, Jr., Reg. Eng. No. 420, on file in the North Branford Town Clerk's Office, bounded and described as follows:

*North:* By land of State of Connecticut (Route 80) as shown on said map, 150 ft., or less;  
*East:* By Lot 4 and a portion of Lot 8 as shown on said map, 347 ft.;  
*South:* By a portion of Lot 8 as shown on said map, 101 ft.;  
*West:* By Lot 2 as shown on said map, 326 ft.

2. By Notice of Intent to File a Certificate of Lien, dated July, 2000, in accordance with the provisions of Section 22a-452a(c)(1) of the General Statutes, the Commissioner of Environmental Protection gave notice to the owner of the above-described property, SEBMAP Realty, LLC., of his intention to claim a lien for expenses and costs incurred on or after June 3, 1985, by the State of Connecticut pursuant to Section 22a-451(b) of said General Statutes. The Notice of Intent to File a Certificate of Lien alleged that the above-referenced expenses and costs were necessary inter alia to contain and remove or mitigate the effects of a discharge, spillage, loss, seepage or filtration of solid, liquid or gaseous products that the Commissioner deemed to constitute a threat to human health or the environment, and that such discharge, spillage, loss, seepage or filtration occurred on or emanated from the property of SEBMAP Realty, LLC.

3. The Commissioner further alleged for the purposes of a probable cause determination, as necessary, that the contaminant found to be on or emanating from the SEBMAP property was perchlorethylene, a dry cleaning chemical, and that this material, disposed of from a dry cleaning establishment, a former tenant on SEBMAP's property that had ceased its operations prior to SEBMAP's acquisition of the realty, had come in contact with the ground; had percolated through the soil to the groundwater table; and had flowed down-gradient off-site to other properties.

4. SEBMAP does not deny the existence of the contamination, nor the operation of the former dry cleaner at the site, although it states affirmatively that the aforesaid establishment was no longer in business at the time that SEBMAP acquired the 1209-1213 Foxon Road realty.

5. SEBMAP, having received notice of the Commissioner's intent to file a lien, timely requested a probable cause hearing pursuant to Section 22a-452a(c)(2) of the General Statutes.

The parties agree to the following Disposition by Agreement:

6(a). The total lien amount is hereby compromised to the sum of \$ 77,760.20 (seventy-seven thousand, seven-hundred sixty and 20/100 U.S. dollars).

(b). The lien shall not accrue any interest for a period of one year from the date that this consent order is issued as a final order of the Commissioner of Environmental Protection.

(c). After the one-year grace period for discharge of the lien described above in paragraph 6(b) has expired, and upon the anniversary date of the entry of the Commissioner's final order, interest shall accrue on any remaining balance at a rate of eight (8%) percent per annum.

(d). A certificate of lien pursuant to Section 22a-452a of the General Statutes shall be filed for the total amount of expenses and costs stated above in paragraph 6(a), and may be filed immediately upon approval of this consent order by the Commissioner of Environmental Protection. A revised Certificate of Lien, the terms of which are consistent with this consent order, is appended hereto and incorporated herein as if more fully set forth.

(e). In accordance with Section 22a-452a(h), SEBMAP may request that the Commissioner issue a certificate of partial discharge, in addition to any request for a certificate of discharge upon payment of any remaining sums owed and due on the above-cited lien. The respondent, however, shall waive its right to further hearing pursuant to Section 22a-452a(e). The Commissioner agrees to provide SEBMAP with one hundred twenty (120) days notice of his intention to request foreclosure upon the lien by the Attorney General in the name of the state, in order to afford SEBMAP the opportunity to discharge the underlying obligation in avoidance of any such foreclosure proceeding.

This agreement, when executed by the parties and issued by the Commissioner of Environmental Protection, shall constitute a final, non-appealable order.

**DEPARTMENT OF  
ENVIRONMENTAL  
PROTECTION  
WASTE MANAGEMENT  
BUREAU**

BY: RICHARD BLUMENTHAL  
ATTORNEY GENERAL

DATE 5/27/03

/s/ David H. Wrinn  
David H. Wrinn  
Assistant Attorney General

**SEBMAP REALTY, LLC**  
**Rosalind Schwartz, Sole Member**

DATE 5/19/03

/s/ Daniel V. Gervasi  
BY: Daniel V. Gervasi  
601 Boston Post Road  
Milford, CT 06560  
**Her Attorney in Fact**

Entered as a final order of the Commissioner of Environmental Protection this 9<sup>th</sup>  
day of June, 2003.

/s/ Arthur J. Rocque, Jr.  
ARTHUR J. ROCQUE, JR.,  
COMMISSIONER OF  
ENVIRONMENTAL  
PROTECTION

Spill Case No. 90-00040.

cc: Kathleen M. Conway, Attorney at Law  
385 Orange Street  
New Haven, CT 06511

David H. Wrinn, Assistant Attorney General  
55 Elm Street, P.O. Box 120  
Hartford, CT 06141-0120

Elsie Patton, Acting Director Planning and Standards  
DEP Waste Management Bureau



**STATE OF CONNECTICUT**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**CERTIFICATE OF LIEN**

DEP Spill Case No. 90-00040

I hereby certify and give notice that the Connecticut Department of Environmental Protection, Arthur J. Rocque, Jr., Commissioner, hereby claims a LIEN, pursuant to Conn. Gen. State. § 22a-452a and § 22a-452e(b) on the real estate described below in the amount of seventy-seven thousand seven hundred sixty and 00/100 dollars (\$77,760.20).

THE REAL ESTATE is all that certain piece or parcel of land known as 1209-1213 Foxon Road in the Town of North Branford, County of New Haven, State of Connecticut, recorded in the name of SEBMAP Realty, LLC, in the Land Records of the Town of North Branford, and further described in a Certificate of Foreclosure on a mortgage from Russell W. Hartt and Katherine G. Hartt to SEBMAP Realty, LLC, recorded May 18, 1998 at Volume 270 Page 012 of the Land Records of the Town of North Branford as follows:

“all that certain piece or parcel of land, together with the improvements thereon, situated in the Town of North Branford, County of New Haven and State of Connecticut, shown as Lot 3 on that certain map entitled “An Arrangement of Lots On a Parcel of Property of Kenneth Bunnell located in the Town of North Branford, Connecticut, 1<sup>st</sup> Revision July 24, 1958” Scale 1” = 40 ft. T.M. Russell, Jr. Reg. Eng. #420 on file in the North Branford Town Clerk’s Office, bounded and described as follows:

*North:* By land of the State of Connecticut (Route 80) as shown on said map, 150 ft., or less;  
*East:* By Lot 4 and a portion of Lot 8 as shown on said map, 347 ft.;  
*South:* By a portion of Lot 8 as shown on said map, 101 ft.;  
*West:* By Lot 2 as shown on said map, 326 ft.”

THE LIEN is claimed against the interests of SEBMAP Realty, LLC for expenses and costs of the State of Connecticut in the total amount payable, as calculated on March 7, 2003, including principal costs and expenses, of \$67,745.39 and administrative costs of

\$10,014.81, all of which the Department of Environmental Protection, Arthur J. Rocque, Jr., Commissioner, incurred on or after June 3, 1985, pursuant to Conn. Gen. Stat. § 22a-451(b), to contain and remove or mitigate the effects of a discharge, spillage, loss, seepage or filtration of solid, liquid or gaseous products or hazardous wastes that the Commissioner deemed to constitute a threat to human health or the environment and which occurred on or emanated from the above-described real estate.

A photocopy of this Certificate of Lien was mailed by certified mail, return receipt requested pursuant to Conn. Gen. Stat. § 22a-452a(b), this 16<sup>th</sup> day of June, 2003 to:

SEBMAP Realty, LLC  
c/o Daniel V. Gervasi  
601 Boston Post Road  
Milford, CT 06560

Town Clerk  
P.O. Box 287  
1599 Foxon Road  
North Branford, CT 06471

SEBMAP Realty, LLC  
c/o Kathleen M. Conway, Agent for Service  
General  
385 Orange Street  
New Haven, CT 06511

Office of the Attorney General  
c/o David H. Wrinn, Asst. Atty.  
55 Elm Street, P.O. Box 120  
Hartford, CT 06141-0120

Dated at Hartford, Connecticut this 9<sup>th</sup> day of June, 2003.

STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

/s/ Arthur J. Rocque, Jr.  
Arthur J. Rocque, Jr., Commissioner

Certificate of Lien No. \_\_\_\_\_