

NO. HHD CV-07-4029333-S

GINA MCCARTHY,
COMMISSIONER OF
ENVIRONMENTAL PROTECTION,

: SUPERIOR COURT

v.

: JUDICIAL DISTRICT OF HARTFORD

PHOENIX SOIL, LLC

: NOVEMBER 19, 2010

JOINT MOTION FOR ENTRY OF JUDGMENT
PURSUANT TO STIPULATION

The plaintiff and the defendant, by their respective attorneys, hereby move that the Court enter judgment in accordance with the parties' Stipulation for Judgment, a copy of which is attached hereto as Exhibit A.

WHEREFORE, the parties pray that the Court enter judgment in accordance with the attached Stipulation for Judgment.

Respectfully submitted,

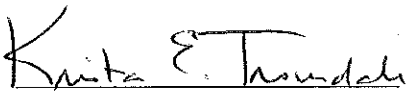
PLAINTIFF

DEFENDANT

COMMISSIONER OF
ENVIRONMENTAL PROTECTION

PHOENIX SOIL, LLC

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ATTORNEY GENERAL

By: 
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CLERK'S OFFICE
SUPERIOR COURT
HARTFORD J.D.
CASEFLOW

ORDER

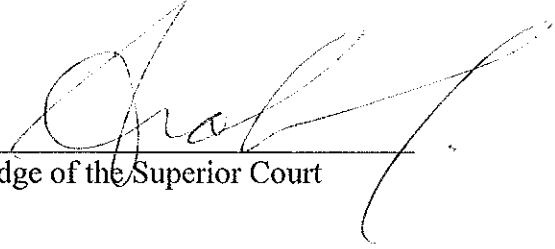
The foregoing motion having been heard, it is hereby ordered:

GRANTED / DENIED.

Date

11/19/10

Judge of the Superior Court



NO. HHD CV-07-4029333-S

GINA MCCARTHY, : SUPERIOR COURT
COMMISSIONER OF
ENVIRONMENTAL PROTECTION,

v. : JUDICIAL DISTRICT OF HARTFORD

PHOENIX SOIL, LLC : NOVEMBER 11, 2010

STIPULATION FOR JUDGMENT

The plaintiff and the defendant hereby stipulate that judgment may enter in this action in accordance with the following:

WHEREAS, on April 9, 2007, the plaintiff, Commissioner of Environmental Protection ("the Commissioner"), commenced this action against the defendant, Phoenix Soil, LLC ("Phoenix Soil"), alleging violations of Phoenix Soil's air Permit No. 192-0123 for soil remediation equipment located at its facility at 130 Freight Street, Waterbury; and

WHEREAS, on April 3, 2008, the Commissioner filed a Revised Complaint that alleged the same violations as the initial complaint; and

WHEREAS, on February 17, 2009, Phoenix Soil filed an answer denying it had violated the law as alleged by the Commissioner; and

WHEREAS, the Commissioner and Phoenix Soil desire to resolve the matters alleged in the revised complaint without further litigation, and believe it is in the public interest to do so,

NOW, THEREFORE, without anything in this Stipulation for Judgment constituting an admission of law or fact by any party, the parties hereto stipulate and agree as follows:

1. Phoenix Soil shall abide by all the terms and conditions of its Permit No. 192-0123 and the statutes and regulations of the State of Connecticut.



2. A civil penalty is levied against Phoenix Soil in the amount of Fifty Thousand Dollars (\$50,000.00). The civil penalty is payable in two (2) installments of Twenty-Five Thousand Dollars (\$25,000.00) each. Payments shall be by a bank cashier's or certified check and shall be delivered to undersigned counsel for the Commissioner. The first payment is due within ten (10) days of entry of Judgment pursuant to this Stipulation and shall be payable to "Treasurer, State of Connecticut." The second payment is due within one hundred (100) days of entry of Judgment pursuant to this Stipulation and shall be payable to "Commissioner of Environmental Protection." and shall state on its face "Phoenix Soil – Waterbury Naugatuck River Greenway SEP Account." It is the parties' intention that the second payment be used by the City of Waterbury for the Waterbury Naugatuck River Greenway; however, if the second payment cannot be used for this purpose, then it may be used for one or more environmentally beneficial projects in the City of Waterbury as approved by the Commissioner in writing. Phoenix Soil shall claim no tax deduction for any portion of the civil penalty assessed or paid pursuant to the Judgment entered pursuant to this Stipulation.

3. Nothing in this Stipulation or the Judgment entered pursuant to it shall relieve Phoenix Soil of any other obligations under applicable federal, state, and/or local law. Nothing contained in this Stipulation or the Judgment entered pursuant to it shall preclude the Commissioner from instituting any action against Phoenix Soil for any violation of law or to institute any proceeding to prevent or abate pollution.

4. In accordance with the principles of *res judicata*, this Stipulation for Judgment shall constitute a full settlement in full satisfaction of all the liabilities of Phoenix Soil arising out of the allegations asserted or that could have been asserted in the Revised Complaint.



5. The Judgment entered pursuant to this Stipulation for Judgment shall enter without the taxation of interest or costs to either party.

PLAINTIFF

DEFENDANT

COMMISSIONER OF
ENVIRONMENTAL PROTECTION

PHOENIX SOIL, LLC

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PHOENIX SOIL, LLC

By: David J. Green
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