

DOCKET NO: HHD-CV19-6113445-S

KATHERINE S. DYKES,
COMMISSIONER OF ENERGY AND
ENVIRONMENTAL PROTECTION,
Plaintiff,

: SUPERIOR COURT

v.

: JUDICIAL DISTRICT OF HARTFORD

RRR & MAINTENANCE, INC. and
FRANCIS HODGES,
Defendants.

: January 24, 2020

**STIPULATION FOR JUDGMENT AMONG PLAINTIFF COMMISSIONER,
DEFENDANT FRANCIS HODGES, AND DEFENDANT RRR & MAINTENANCE, INC.**

The plaintiff, the Commissioner of the Department of Energy and Environmental Protection ("the Commissioner"; "Department" or "DEEP"), Defendant Francis Hodges ("Hodges"), and Defendant RRR & Maintenance, Inc. ("RRR") stipulate that judgment may enter in the above-captioned case in accordance with the following:

WHEREAS, the Commissioner is charged with the supervision and enforcement of the statutes of the State of Connecticut respecting the environment, including Connecticut General Statutes ("Conn. Gen. Stat.") Ch. 446d, governing solid waste, and Ch. 446k governing water pollution control, and is generally empowered by virtue of Conn. Gen. Stat. § 22a-6(a)(3) to institute legal proceedings necessary to enforce statutes, regulations, permits, or orders administered, adopted, or issued by her;

WHEREAS, Defendant Hodges is an individual residing at 237 Roxbury Road, Washington, CT 06793 (the "Washington Site"); and

WHEREAS, Defendant Hodges is the president of Defendant RRR and is responsible for its day-to-day operations and corporate decisions and is in a position which allows him to influence Defendant RRR's policies and activities; and

WHEREAS, Defendant RRR is a Connecticut corporation registered with the Connecticut Secretary of State with a business address of 8 Chalybes Road, Roxbury, CT 06783 (the "Roxbury Site"); and

WHEREAS, Defendant RRR is, among other things, engaged in the business of renting dumpsters and hauling waste; and

WHEREAS, the Commissioner filed a complaint against Defendant Hodges and Defendant RRR on June 24, 2019, which complaint was amended on August 9, 2019; and

WHEREAS, the amended complaint alleged that Defendant Hodges and Defendant RRR violated the Connecticut General Statutes governing solid waste and water pollution control in the following ways:

- a. Defendant Hodges and Defendant RRR did not have a permit issued by the Commissioner pursuant to General Statute Section 22a-208a to operate a solid waste facility at either the Washington or Roxbury Sites;
- b. Defendant Hodges and Defendant RRR received solid waste at both the Washington and Roxbury Sites in violation of General Statute Section 22a-208c;
- c. Defendant Hodges and Defendant RRR maintained a discharge of untreated waste to the waters of the state in violation of General Statute Section 22a-427 at both the Washington and Roxbury Sites; and
- d. Defendant Hodges and Defendant RRR initiated, created, originated, and/or maintained a discharge to the waters of the state at both the Washington and Roxbury Sites without a permit in violation of General Statute Section 22a-430;

WHEREAS, the Commissioner sought, and was granted, ex parte temporary injunctive relief in this action on June 25, 2019; and

WHEREAS, the Court ordered Defendant Hodges and Defendant RRR to:

- a. Immediately cease transporting or accepting any solid waste (including, but not limited to municipal solid waste, construction and demolition debris, bulky waste, and mixed solid waste), to or at the Washington Site;
- b. Immediately cease operating a solid waste transfer station at the Washington Site and immediately cease allowing other persons or entities to bring any solid waste of any type to the Washington Site;
- c. Immediately arrange for the transportation by a hauler of any solid waste at the Washington Site (including, but not limited to municipal solid waste, construction and demolition debris, bulky waste, and mixed solid waste) to a solid waste facility permitted to receive the type of waste transported;
- d. Cause all solid waste (including, but not limited to municipal solid waste, construction and demolition debris, bulky waste, and mixed solid waste) to be removed from the Washington Site by a hauler and disposed of at a solid waste facility permitted to receive the type of waste transported;
- e. Submit a written report to the Commissioner describing in detail the actions taken to comply with the Court order including the name(s) of the hauler(s) that transported the solid waste, the names of the permitted facilities to which the solid waste was transported, and all bills of lading, receipts, invoices, weigh tickets, and manifests that document the

transportation, receipt, and proper disposal of the solid waste to, by, and at one or more facilities permitted to receive the waste;

- f. Allow representatives and agents of the Commissioner to have access to the Washington Site to monitor progress and compliance with the terms of the Court Order; and
- g. Engage in no conduct that violates Chapter 446d of the Connecticut General Statutes, concerning solid waste, including the burying of solid waste at the Washington Site; and

WHEREAS, Defendant Hodges and Defendant RRR failed to abide by this Court Order and the Commissioner filed a Motion for Contempt against Defendant Hodges and Defendant RRR on July 11, 2019; and,

WHEREAS, Defendant Hodges entered into a Stipulation for Order on July 18, 2019, whereby Defendant Hodges stipulated that he was in contempt; and,

WHEREAS, Defendant Hodges failed to abide by the terms of the Stipulated Order; and

WHEREAS, the Court held a hearing on July 25, 2019; and

WHEREAS, the Court ordered Defendant Hodges and Defendant RRR to removal all solid waste and manure at the Washington Site to permitted facilities and to the satisfaction of the Department; and

WHEREAS, on August 8, 2019, the Court entered additional orders that required Defendant Hodges and Defendant RRR to, among other things, remove all solid waste from the Roxbury Site to a permitted solid waste facility and to cease transporting and accepting solid waste and to cease allowing other persons or entities to bring any solid waste of any type to the Roxbury Site; and

WHEREAS, on August 22, 2019 the Court entered an order that all applicable restrictions of the July 18, 2019 Stipulation Order and all other subsequent court orders shall remain in effect; and

WHEREAS, as of the entry of this Stipulation for Judgement, Defendant Hodges and Defendant RRR removed, or caused to be removed, all of the solid waste at the Washington and Roxbury Sites to the satisfaction of the Department; and

WHEREAS, the parties believe it is in the public interest to resolve this matter without further litigation,

NOW, THEREFORE, the Commissioner, Defendant Hodges, and Defendant RRR agree that judgment may enter in accordance with the following terms:

Permanent Injunctive Provisions

1. A permanent injunction is entered prohibiting Defendant Hodges and Defendant RRR, and each of them, from violating any provisions of the General Statutes or Regulations of the State of Connecticut governing solid waste or water pollution control.
2. A permanent injunction is entered prohibiting Defendant Hodges and Defendant RRR, and each of them, from violating General Statutes Section 22a-208a.
3. A permanent injunction is entered prohibiting Defendant Hodges and Defendant RRR, and each of them, from violating General Statutes Section 22a-208c.
4. A permanent injunction is entered prohibiting Defendant Hodges and Defendant RRR, and each of them, from violating General Statutes Section 22a-427.
5. A permanent injunction is entered prohibiting Defendant Hodges and Defendant RRR, and each of them, from violating General Statutes Section 22a-430.

6. A permanent injunction is entered prohibiting Defendant Hodges and Defendant RRR, and each of them, from transferring, processing, storing, or disposing of any solid waste greater than ten (10) cubic yards, generated elsewhere at the Washington and Roxbury Sites.

7. As to the Roxbury Site, no more than two (2) covered containers equaling less than or equal to eight (8) cubic yards each may be used on the Roxbury site for the purpose of removing for proper disposal (1) miscellaneous solid waste and (2) designated recyclable items, generated exclusively on site. As to the Washington Site, no empty or waste containing commercial containers of or for solid waste shall be stored at the Washington Site.

9. Defendant Hodges and Defendant RRR agree to allow representatives and agents from the Department access, without notice, to any property owned, controlled or operated by them to assess compliance with this Stipulation for Judgment as well as any of the State's General Statutes or Regulations respecting the environment.

Civil Penalty Provisions and Acceleration Clause

10. A civil penalty in the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) is imposed, jointly and severally on Defendant Hodges and Defendant RRR. The civil penalty will be deemed satisfied if the Defendants pay Twenty-Five Thousand Dollars (\$25,000.00) and engage in no conduct that violates the terms of the injunctive provisions of this Stipulated Judgment. The civil penalty shall be paid in accordance with the following terms:

a. Defendant will pay to the Commissioner Five Thousand Dollars (\$5,000.00) simultaneous with the execution of this Stipulated Judgment. Payment shall be by bank check or certified funds made payable to "**Treasurer, State of Connecticut**" and addressed to **Assistant Attorney General Michael W. Lynch at 165 Capital Street, Hartford, Connecticut 06106.**

b. Defendants will pay to the Commissioner Twenty Thousand dollars (\$20,000.00) in Thirty-Six (36) consecutive monthly payments (the "payments") of Five Hundred Fifty Five Dollars and Fifty Five Cents (\$555.55). The payments will be due on the first day of each month and the payments shall begin on the first day of the first full calendar month following the entry of this Stipulation for Judgment by the Court. The payments shall be by bank check or certified funds made payable to "Treasurer, State of Connecticut" and addressed to Assistant Attorney General Michael W. Lynch at 165 Capital Ave, Hartford, Connecticut 06106.

c. In the event that payment of the civil penalty is not paid in accordance with the terms of the provisions of Paragraph 10 (a) and (b), above, then the entire amount of the One Hundred Twenty-Five Thousand dollar (\$125,000.00) civil penalty will be due and payable, less the total amount of payments previously made pursuant to Paragraph 10 (a) and (b). The Defendants can cure noncompliance with Paragraph 10 (b) if, within 10 days after counsel for the Commissioner has sent a demand letter indicating that payments have not been received timely, the Defendant makes the necessary payment to come current and into compliance with Paragraph 10 (b). Payment made under this subparagraph shall be by bank check or certified funds made payable to "Treasurer, State of Connecticut" and addressed to Assistant Attorney General Michael W. Lynch at 165 Capital Ave, Hartford, Connecticut 06106.

d. Defendants have a continuing obligation to comply with the terms of this Stipulation for Judgment, including but not limited to, the injunctive relief as described in Paragraphs 1 through 9 above. Nothing in this Judgment, including but not limited to the payment, or liability for any payment, under Paragraph 10, shall relieve the

Defendants from their injunctive obligations. Should the Defendants fail to comply with any of the terms of this Stipulation for Judgment, regardless of any prior satisfaction of the civil penalty described in Paragraph 10, the remaining balance of the civil penalty as stated in Paragraph 10 will be immediately due and owing, less any payments previously made pursuant to Paragraph 10. Payments under this subsection shall be made payable to "Treasurer, State of Connecticut" and addressed to Assistant Attorney General Michael W. Lynch at 165 Capital Ave, Hartford, Connecticut 06106. Nothing in this paragraph shall be construed as preventing the Commissioner from the filing of any motion or instituting any action to ensure compliance with this Stipulation for Judgment including seeking additional orders or civil penalties.

General Provisions

11. Defendant Hodges' and Defendant RRR's obligations under this judgment shall not be affected by the passage of title of either the Washington or Roxbury Sites to any other person, entity or municipality, or by any occupation of the Washington or Roxbury Sites by any lessee, tenant, or third party.

12. Defendant Hodges' and Defendant RRR's obligations under this judgment shall not be affected by the sale, transfer, or dissolution of Defendant RRR, or by any change in the corporate structure of Defendant RRR.

13. Nothing in this Stipulation for Judgment or in the judgment entered pursuant thereto shall affect the authority of the Commissioner to institute any proceeding to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and seek or assess civil penalties in accordance with law.

14. Nothing in this Stipulation for Judgment shall relieve Defendant Hodges or Defendant RRR from their obligations under applicable federal, state and local law.

15. This Stipulation for Judgment shall resolve all the allegations of the Complaint against Defendant Hodges and Defendant RRR.

16. Defendant Francis Hodges represents that he is fully authorized to sign and enter into the Stipulation for Judgment on behalf of Defendant RRR Maintenance & Inc. and to legally bind Defendant RRR Maintenance & Inc. and its heirs, successors, assigns and agents.

17. This Stipulation of Judgment shall apply both jointly and severally to the Defendants Hodges and RRR and shall bind each Defendant's respective heirs, successors, assigns, and agents, jointly and severally, to the terms and conditions of this Stipulation for Judgment.

PLAINTIFF,

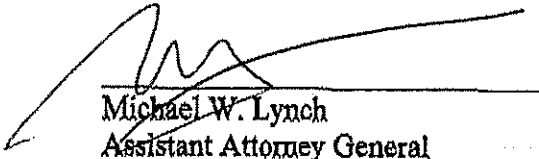
COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION

**WILLIAM TONG
ATTORNEY GENERAL**

DEFENDANTS,

FRANCIS HODGES


Francis Hodges



Michael W. Lynch
Assistant Attorney General
165 Capital Ave.
Hartford, CT 06141-0120
Tel.: (860) 808-5250
Fax: (860) 808-5386
Michael.w.lynch@ct.gov

RRR & Maintenance, Inc.

By: *Francis Hodges*
Francis Hodges

By: 
Steven H. Levy

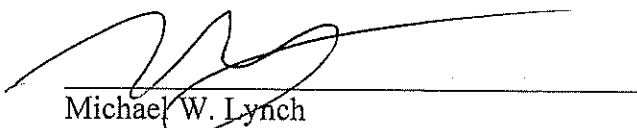
Conti, Levy + Salerno, LLC
Counsel for RRR & Maintenance, Inc.

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on February 21, 2020 to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Mr. Francis Hodges
P.O. Box 137
Roxbury, CT 06783
rrrmaint@msn.com

Steven Levy, Esq.
Conti, Levy & Salerno, LLC
P.O. Box 239
Torrington, CT 06790
slevy@contilevylaw.com
Counsel for RRR & Maintenance, Inc.



Michael W. Lynch
Assistant Attorney General
165 Capitol Ave.
Hartford, CT 06106
michael.w.lynch@ct.gov
860-808-5250