

GEORGE C. JEPSEN
ATTORNEY GENERAL



55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Office of The Attorney General
State of Connecticut

Tel: (860) 808-5250
Fax: (860) 808-5386

December 20, 2012

Via Electronic Mail and Facsimile

Alan M. Kosloff, Esq.
Law Offices of Alan M. Kosloff
28 North Main Street
West Hartford, CT 06107

Email: akosloff@kosloff.net
Facsimile: 860-521-3352

RE: *Daniel C. Esty, Commissioner of Energy and Environmental Protection v. ASNAT Realty, LLC, Evergreen Power, LLC and Mehboob Shah*

Dear Attorney Kosloff:

I am writing pursuant to Section 4-5 of the Practice Book to notify you that the Attorney General intends to file the attached application for an immediate temporary injunction this afternoon at 4:00 p.m. in the Hartford Superior Court, 95 Washington Street, Hartford, Connecticut against your clients ASNAT Realty, LLC, Evergreen Power, LLC, and Mehboob Shah. Your clients continue to violate the terms of the Cease and Desist Order issued by the Commissioner on February 8, 2012 and affirmed on October 4, 2012 by failing to secure the site located at 510 Grand Avenue, New Haven, Connecticut against unauthorized entry and removal of contaminated materials from the site.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew I. Levine".

Matthew I. Levine
Assistant Attorney General

Cc: Mary McQueeney, Esq. (mmcqueeney@kosloff.net)

Attachments

RETURN DATE: JANUARY 29, 2013

DANIEL C. ESTY, COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION <i>Plaintiff</i>	:	SUPERIOR COURT
	:	JUDICIAL DISTRICT
v.	:	OF HARTFORD
ASNAT REALTY, LLC, EVERGREEN POWER, LLC, MEHBOOB SHAH <i>Defendants</i>	:	DECEMBER 20, 2012

SUMMONS

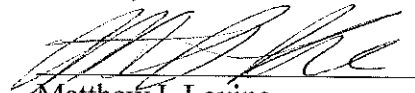
TO ANY PROPER OFFICER:

BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to summon ASNAT REALTY, LLC, 220-46 73rd Avenue, Bayside, New York 11364; EVERGREEN POWER, LLC, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19805; and MEHBOOB SHAH, 1315 Dixwell Avenue, Hamden, Connecticut 06514, to appear before the Superior Court for the Judicial District of Hartford, 95 Washington Street, Hartford, CT 06103, at the place and time specified in the accompanying Order to Show Cause, then and there to show cause why the temporary injunction should not be continued against them as prayed for in the accompanying verified Complaint, Application for Ex Parte Temporary Injunction and as set forth in the accompanying Order of Temporary Injunction, and proceeding thereon, by serving in a manner provided by statute for the service of process a true and attested copy of this Writ and the accompanying verified Complaint, Application for Ex Parte Temporary

Injunction, Order of Temporary Injunction and Order to Show Cause, and proceedings had thereon, on the defendants on or before _____, 2012.

Hereof fail not, but due service and return make.

Dated at Hartford, Connecticut, on this 20th day of December, 2012.

A handwritten signature in black ink, appearing to read "M. I. Levine", written over a horizontal line.

Matthew I. Levine
Commissioner of the Superior Court

Docket No.

RETURN DATE: JANUARY 29, 2013

DANIEL C. ESTY,	:	SUPERIOR COURT
COMMISSIONER OF ENERGY AND	:	
ENVIRONMENTAL PROTECTION	:	JUDICIAL DISTRICT
<i>Plaintiff</i>	:	
	:	
v.	:	OF HARTFORD
	:	
ASNAT REALTY, LLC,	:	
EVERGREEN POWER, LLC,	:	
MEHBOOB SHAH	:	
	:	
<i>Defendants</i>	:	DECEMBER 20, 2012

ORDER TO SHOW CAUSE

WHEREAS, the foregoing Complaint, duly verified, with prayer for a temporary injunction and Application for Ex Parte Temporary Injunction and Order to Show Cause, has been presented to me, and whereas, upon application of the plaintiff it appears that an order should be issued directing the defendants in this action to appear before Superior Court to show cause why the temporary injunction should not be continued in this case, now therefore, it is ordered that the Defendants shall appear before the Superior Court for the Judicial District of Hartford, 95 Washington Street, Hartford, Connecticut in Courtroom _____ on _____, 2013 at _____ in the forenoon/afternoon, then and there to show cause why this temporary injunction should not be continued. Service of this Order and the appended Application for Temporary Injunction and Verified Complaint to be

made in the manner provided by statute for the service of civil process on or before
_____, 2012.

Dated at Hartford, Connecticut this ____ day of December, 2012.

BY THE COURT

Judge of the Superior Court

2. Within one week, secure means of unauthorized access to the English Station Site by land, including enhancing the height and effectiveness of the perimeter fencing at the English Station Site.
3. Take all other actions as are necessary to comply with the laws and Cease and Desist Order that are the subject of this action.

Pursuant to Section 4-5 of the Practice Book, the undersigned counsel for the plaintiff certifies that on December 20, 2012 the undersigned faxed and sent via electronic mail copies of these papers for this application for temporary injunction with the date, time, and place at which the plaintiff would be presenting this application to the court to the Defendants' attorney, Alan Kosloff. A copy of the confirmation receipt for the facsimile copy is attached hereto, together with a copy of the electronic mail that was sent to Attorney Kosloff with the date and time that it was sent.

Further, the plaintiff requests that the defendants be subject to a penalty of up to \$25,000.00 per day for each day that the defendants fail to comply with the terms of this temporary injunction, and/or coercive incarceration until the terms of this injunction are fully satisfied.

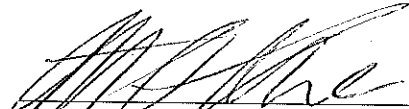
Dated at Hartford, Connecticut, this 20th day of December, 2012.

PLAINTIFF

DANIEL C. ESTY
COMMISSIONER OF ENERGY AND
ENVIRONMENTAL PROTECTION

GEORGE JEPSEN
ATTORNEY GENERAL

BY:



Matthew I. Levine
Assistant Attorney General
Juris No. 414845
Sharon Seligman
Assistant Attorney General
Juris No. 428731
P.O. Box 120
55 Elm Street
Hartford, CT 06141-0120
Tel: (860) 808-5250
Fax: (860) 808-5386

5. I am familiar with the property at 510 Grand Avenue in New Haven, Ct ("the site" or "former English Station site").
6. This site is the location of the former English Station power plant.
7. The site is currently divided into two parcels.
8. Parcel A is on the northern portion of the site along Grand Avenue and includes a building known as Station B.
9. Parcel B is on the southern portion of the Site and includes a building known as the Plant.
10. Evergreen Power, LLC owns the property located at 510 Grand Avenue in New Haven, Connecticut known as Parcel A.
11. The site is unoccupied and no operations have occurred at the site for many years.
12. Asnat Realty, LLC owns the property located at 510 Grand Avenue in New Haven, Connecticut, known as Parcel B.
13. I am familiar with the Cease and Desist Order No.# CDOWSUST 12-001 issued by the DEEP on February 8, 2012.
14. I am familiar with the fact that this Order became final on October 4, 2012.
15. I am familiar with the fact that the site is highly contaminated with Polychlorinated biphenyls, ("PCBs").
16. Polychlorinated biphenyls, ("PCBs"), are a class of human-made chemicals whose manufacture, along with many of its uses, was banned by the United States Environmental Protection Agency, ("EPA"), in 1979. PCBs have been shown to cause cancer in animals. PCBs have been shown to cause other non-cancer health effects in animals including, but not limited to, effects on the immune system, reproductive system, endocrine system, and nervous system. Studies in humans provide supportive evidence

for the potential carcinogenic and non-carcinogenic harmful effects of PCBs on human health.

17. Since October 4, 2012, the Emergency Response Unit of DEEP has responded to at least four emergency incidents of trespass at the site.
18. I have personally responded to three of these incidents.
19. On October 18, 2012, I responded to a report of possible PCB contamination as a result of theft of materials from the former English Station site.
20. I met with Ms. Jackie Holiday of the DEEP Environmental Equity Division; who informed me that while traveling south on Grand Avenue, she witnessed an individual leaving the Old English Power Station property carrying items that he had apparently stolen from the property.
21. Based on historic information regarding PCB contamination on the property, Ms. Holiday informed me that she was concerned with the fact that the items removed from the property were possibly contaminated with PCBs.
22. PCB contamination at the site is widespread including on the ground, and can cling to shoes and other material that comes in contact with the ground.
23. Ms. Holiday stated that she then contacted the New Haven Police Department (NHPD) to report the theft and possible exposure.
24. Ms. Holiday additionally stated that once on site, NHPD Officers secured the individual.
25. Ms. Holiday stated that based on the fact that this individual had possibly come in contact with PCB contaminated items on site, she recommended to NHPD Officers that the individual be examined at a local hospital.

26. Based on the possibility that the individual was PCB contaminated, NHPD Officers contacted the New Haven Fire Department (NHFD) for the purpose of decontamination prior to him being transported to a local hospital.
27. Once on site, NHFD technicians decontaminated the individual generating approximately 25-gallons of PCB contaminated waste water. The waste water, poly sheeting, gloves and other items used were then wrapped in a larger layer of poly sheeting and secured using duct tape.
28. I then inspected the poly wrapped sheeting and found it to be intact and non-leaking.
29. I then met with Ms. Holiday, who informed me that she had contacted Mr. Robert (sic) Shah, the Property Manager for the owner of the site.
30. Approximately 60-minutes after Mr. Shah contacted an environmental contractor to remove the hazardous waste, I was joined on site by a representative of True Blue Environmental.
31. Approximately 20-minutes after True Blue Environmental's arrival on the site, the equipment necessary to address the release arrived.
32. True Blue Environmental drained a majority of the liquid from the poly wrap into the shop vacuum, which was then transferred into a 55-gallon drum. Once a majority of the liquid in the wrap had been removed, the wrap was then transferred into an 85-gallon over pack drum for disposal.
33. The environmental contractor removed the potentially contaminated waste.
34. I was again called to the site to respond to an emergency incident on December 18, 2012.
35. I responded to a report from the New Haven Police Department of an attempted theft of PCB contaminated metal from the former English Station power plant site.

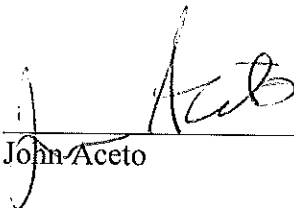
36. Once on site, I was met by two officers from the NHPD, who informed me that they had been contacted by a representative from McVac Environmental, a business located directly across the station from the former English Station Power Plant.
37. The reporting party stated that he observed one person arrive at the second entrance to the property with a large garbage can in tow.
38. The reporting party additionally stated that the individual in question entered the property through a partial opening (man-made) on a secured gate.
39. The reporting party additionally stated that he witnessed the individual in question return with several yards of what appeared to be waste metal from inside the footprint of the property and that the individual in question then threw the items in question over the fence and placed them into the garbage container.
40. Based on the information provided by NHPD Officers on site, I then assessed the release and observed that along with the garbage container, there were several additional yards of metal waste on the opposite side of the entrance that appeared to be similar to the ones in the garbage container.
41. Based on my observations and having been involved with another release that had originated from this location, I then attempted to contact property representative Mr. Bobby Shah.
42. Once I got in contact with Mr. Shah, Mr. Shah informed me that he would be dispatching his assistant, Mr. Russ Irvine. Mr. Shah then informed me that he would be retaining the services of True Blue Environmental of Wallingford, CT to address the dumping.

43. I was joined on site by Mr. Irvine. I informed Mr. Irvine of the events that had transpired and of the fact that the metal waste removed from the property would have to be disposed of by True Blue Environmental.
44. We were joined on site by two-field technicians from True Blue Environmental.
45. Once on site, True Blue Environmental technicians removed the metal waste from the driveway entrance and over packed it into a 5-yard poly-lined cardboard container. The container was then transferred into a True-Blue Environmental box-truck and removed from site.
46. On December 17, 2012, the DEEP Emergency Response Unit responded to an incident at the former English Station site.
47. On December 17, 2012, Emergency Response Coordinator Donnell Thigpen of the DEEP responded to a call from the New Haven Police Department of a possible PCB problem at the former English Station power plant site.
48. I have reviewed the Emergency Incident Report prepared by Mr. Thigpen.
49. Mr. Thigpen reports that the New Haven Police Department caught an assailant with a 5 gallon pail of metal debris that was potentially contaminated with PCBs attempting to enter a scrap yard.
50. Mr. Thigpen coordinated the emergency response which included decontamination of the assailants.
51. Mr. Shah was contacted and coordinated the removal and proper disposal of all contaminated clothes and debris.
52. I was again called to the site to respond to an emergency incident that was reported late on December 19, 2012, and is continuing into the day on December 20, 2012.

53. In connection with that report, I responded to a report from the New Haven Fire Department of an attempted theft of PCB contaminated metal from the former English Station power plant site. My unit was dispatched to the site to address contamination related to four gym bags of oily metal taken from the site, as well as a police vehicle and other police equipment affected by the incident.
54. I am also familiar with a number of additional incidents where the New Have Police Department and New Haven Fire Department have responded to theft and trespass at this site.
55. I have reviewed a number of New Haven Police Department incident reports as well as information from the New Haven Fire Department related to this site.
56. In addition to the incidents identified above, the New Haven Police Department has responded to incidents at this site on at least September 12, 2012, October 17, 2012 and on November 29, 2012.
57. Based on my review of the New Haven Police Department Incident Report from September 12, 2012, the New Haven Police Department responded to an incident at 510 Grand Avenue, the former English Station site.
58. On September 12, 2012, Mr. Shah, the manager of the site, reported that he observed two males jump over the eight foot fence at the site.
59. Mr. Shah reported that he was at the property on that day because he has had a lot of theft at the site.
60. On September 12, 2012, when confronted by police, the two suspects were found to have a green duffle bag with 50 feet of copper wire that was taken from the site.

61. On October 17, 2012, the New Have Police Department responded to an incident of theft at the site.
62. Upon arrival at the site, the police spoke with the complainants who reported that over the last several months they have observed several individuals entering the abandoned site by jumping the fence and even have cut the barb wire to get into the property.
63. The complainants reported that they had observed people taking metal from the site.
64. On November 29, 2012, the New Haven Police Department responded to an incident at the site.
65. On November 29, 2012, the New Haven Fire Department also responded to an incident at the site.
66. Both the New Haven Fire Department and the New Haven Police Department were responding to a report of a person who had been electrocuted.
67. Upon further investigation the New Haven Police Department learned that at least one individual had entered the former English Station site through a whole that had been cut in the fence.
68. After review of a security camera at a business across the street from the site, the New Haven Police Department learned the burglars entered the former power plant building on the site and cut a cable that is still being utilized by the United Illuminating.
69. The burglars cut a live electric cable and at the time of cutting the wire the individual was electrocuted.
70. The cut electrical wire caused asignificant power outage .
71. Power outages were immediately reported all over the immediate New Haven area.

72. I reviewed a newspaper article related to this incident that reports that over 3000 people were without power as a result of this illegal activity on the site.
73. Based on the incidents described in this affidavit it is clear that security at this site is unsatisfactory.
74. Based on the incidents described in this affidavit it is my opinion that more security must be installed at this site to protect human health and the environment.
75. PCBs are highly toxic and easily disturbed, if security is not improved at this site there is the potential for further widespread contamination of the environment.
76. PCBs are highly toxic and easily disturbed and if security is not improved at this site there is the potential for humans who trespass on this site to come into contact with this hazardous substance.
77. Each time there is a trespass at this site it demands a response from the Emergency Response Unit from DEEP requiring an allocation of significant resources, and also demands a response from local emergency personnel.
78. More security can and should be implemented at this site to ensure the public and the environmental are protected.



John Aceto

RETURN DATE: JANUARY 29, 2013

DANIEL ESTY
COMMISSIONER OF
DEPARTMENT OF ENERGY AND
ENVIRONMENTAL PROTECTION

v.

ASNAT REALTY, LLC,
EVERGREEN POWER, LLC,
MEHBOOB SHAH

SUPERIOR COURT

JUDICIAL DISTRICT
OF HARTFORD AT HARTFORD

DECEMBER 20, 2012

AFFIDAVIT IN SUPPORT OF
EX PARTE TEMPORARY INJUNCTION

Lori Saliby, having been duly sworn, deposes and says as follows:

1. I am over eighteen years of age and understand the nature and obligations of an oath.
2. I am currently employed as a Supervising Environmental Analyst in the Department of Energy and Environmental Protection, Storage Tank and PCB Enforcement Unit (hereinafter "DEEP" or "Department"). I have been employed by the DEEP for over 23 years.
3. The responsibilities of my employment include overall supervising of the Department's Storage Tank and PCB Enforcement Unit, performing field inspections, analyzing site conditions and environmental data, and coordinating enforcement response to environmental violations of applicable laws and regulations governing storage tank and PCB management.

4. I am familiar with the property located at 510 Grand Avenue in New Haven, Connecticut (the "site" or the "former English Station site").
5. This site is the location of the former English Station power plant.
6. The site is currently divided into two parcels.
7. Parcel A is on the northern portion of the site along Grand Avenue and includes a building known as Station B.
8. Parcel B is on the southern portion of the Site and includes a building known as the Plant.
9. Evergreen Power, LLC owns the property located at 510 Grand Avenue in New Haven, Connecticut known as Parcel A.
10. Asnat Realty, LLC owns the property located at 510 Grand Avenue in New Haven, Connecticut, known as Parcel B.
11. The site is unoccupied and no operations have occurred at the site for many years.
12. I am familiar with the Cease and Desist Order No.# CDOWSUST 12-001 issued by the DEEP on February 8, 2012.
13. I am familiar with the fact that this Order became final on October 4, 2012.
14. I am familiar with the fact that the site is highly contaminated with Polychlorinated biphenyls, ("PCBs").
15. Polychlorinated biphenyls, ("PCBs"), are a class of human-made chemicals whose manufacture, along with many of its uses, was banned by the United States Environmental Protection Agency, ("EPA"), in 1979. PCBs have been shown to cause cancer in animals. PCBs have been shown to cause other non-cancer health effects in animals including, but not limited to, effects on the immune system, reproductive system, endocrine system, and nervous system. Studies in humans provide supportive evidence

for the potential carcinogenic and non-carcinogenic harmful effects of PCBs on human health.

16. PCBs are highly toxic and easily spread.
17. PCB contamination at the site is widespread including on the ground, and can cling to shoes and other material that comes in contact with the ground.
18. Since October 4, 2012, the Emergency Response Unit of DEEP has responded to at least four emergency incidents of trespass at the site.
19. The site is highly contaminated with PCBs, including a number of significant Environment Hazard Areas (meaning PCB levels at or greater than 30 times the acceptable levels). The extent and degree of PCB contamination at the site is not fully known or delineated.
20. PCBs pose a particularly significant risk to human health and the environment due to their persistence (longevity) and tendency to bioaccumulate (meaning human exposure causes PCBs to build up in an individual's system and the body cannot readily rid itself of PCBs). PCB exposure to humans occurs via inhalation, ingestion, and via direct exposure to the skin.
21. Continual disturbance to the site by trespassers poses a serious concern with regard to (i) PCB-exposure to the trespassing individual; (ii) undocumented disturbance to on-site contamination; (iii) potential off-site tracking of PCBs on the trespassing individual's shoes and clothing, as well as any PCB-contaminated materials that they remove from the site, and (iv) potential exposure to police and other emergency response personnel.
22. I am aware of numerous and continuing instances of trespass at the site from both DEEP records as well as from city of New Haven first responders.

23. These trespass events are of major concern to DEEP with regard to the potential for significant and uncontrolled harm to the environment and public health.
24. It is critical that the defendants comply with the requirement of the Cease and Desist Order to secure the site against unauthorized entry.
25. I spoke by telephone with Rick Fontana, Deputy Director of Emergency Management Operations, City of New Haven on December 19, 2012. Mr. Fontana agreed that additional security measures are urgently needed at the site and concurred that, until a more comprehensive, long-term security plan can be implemented at the site, the positioning of at least one 24/7 security guard at the site is a very viable solution. In addition, Mr. Fontana noted that the existing security fence must be enhanced and fortified with respect to height as well as protective capability.
26. Based on the incidents described in this affidavit it is clear that security at this site is unsatisfactory.
27. Based on the incidents described in this affidavit it is my opinion that more security must be installed at this site to protect human health and the environment.
28. PCBs are highly toxic and easily disturbed; if security is not improved at this site there is the potential for humans who trespass on this site to come into contact with this hazardous substance.
29. Each time there is a trespass at this site it demands a response from the Emergency Response Unit from DEEP requiring an allocation of significant resources, and also demands a response from local emergency personnel.
30. More security can and should be implemented at this site to ensure the public and the environmental are protected.

Docket No.

RETURN DATE: JANUARY 29, 2013

DANIEL C. ESTY,
COMMISSIONER OF ENERGY AND
ENVIRONMENTAL PROTECTION
Plaintiff

SUPERIOR COURT
JUDICIAL DISTRICT

v.

OF HARTFORD

ASNAT REALTY, LLC,
EVERGREEN POWER, LLC,
MEHBOOB SHAH

Defendants

DECEMBER 20, 2012

(PROPOSED) ORDER OF EX PARTE TEMPORARY INJUNCTION

The Plaintiff's Complaint, duly verified, and Plaintiff's Application for Ex Parte Temporary Injunction having come before me, it appearing that an Order of Immediate Temporary Injunction should issue, and it appearing that the temporary injunction being sought by a public officer of the State of Connecticut in a matter of a public nature ought to issue without bond in accordance with Conn. Gen. Stat. § 52-472, the following temporary injunction is hereby issued:

THESE ARE THEREFORE, BY AUTHORITY OF THE STATE OF CONNECTICUT, to command and enjoin you, defendant ASNAT Realty, LLC, defendant Evergreen Power, LLC, and defendant Mehboob Shah, and each of your officers, agents, servants, employees, or any other person or entity acting on your behalf, to do the following:

1. Immediately retain and position at least one qualified security guard at the English Station Site on a 24 hour per day/ 7 day per week basis to prevent and deter trespassers unless and until a more comprehensive sitewide security plan is implemented, subject to review and approval by the Commissioner of Energy and Environmental Protection.
2. Within one week, secure means of unauthorized access to the English Station Site by land, including enhancing the height and effectiveness of the perimeter fencing at the English Station Site.
3. Take all other actions as are necessary to comply with the laws and Cease and Desist Order that are the subject of this action.

Violation of the provisions of this injunction shall subject the defendants, and each of them, to a penalty of up to \$25,000 per day per violation for any violation, until further order of this Court, and/or coercive incarceration until the terms of this injunction are fully satisfied.

ORDER

The foregoing application for temporary injunction having been duly considered, it is hereby:

ORDERED: GRANTED / DENIED

By the Court:

Judge of the Superior Court

Dated at Hartford, Connecticut this ____ day of December, 2012.

BY THE COURT

Judge of the Superior Court

SUMMONS - CIVIL

JD-CV-1 Rev. 9-12
C.G.S. §§ 51-346, 51-347, 51-349, 51-350, 52-45a,
52-48, 52-259, P.B. Secs. 3-1 through 3-21, 8-1

STATE OF CONNECTICUT
SUPERIOR COURT
www.jud.ct.gov

See page 2 for instructions

- "X" if amount, legal interest or property in demand, not including interest and costs is less than \$2,500.
- "X" if amount, legal interest or property in demand, not including interest and costs is \$2,500 or more.
- "X" if claiming other relief in addition to or in lieu of money or damages.

TO: Any proper officer; BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this Summons and attached Complaint.

Address of court clerk where writ and other papers shall be filed (Number, street, town and zip code) (C.G.S. §§ 51-346, 51-350)		Telephone number of clerk (with area code)	Return Date (Must be a Tuesday)
95 Washington Street, Hartford, Connecticut 06106		(860) 548-2700	January 29, 2013 <small>Month Day Year</small>
<input checked="" type="checkbox"/> Judicial District	<input type="checkbox"/> G.A. Number:	At (Town in which writ is returnable) (C.G.S. §§ 51-346, 51-349)	Case type code (See list on page 2)
<input type="checkbox"/> Housing Session		Hartford	Major: M Minor: 00

For the Plaintiff(s) please enter the appearance of:

Name and address of attorney, law firm or plaintiff if self-represented (Number, street, town and zip code)	Juris number (to be entered by attorney only)
Sharon Seligman, Assistant Attorney General, 55 Elm Street, P.O.Box 120, Htfd, CT 06141-0120	428731
Telephone number (with area code)	Signature of Plaintiff (If self-represented)
(860) 808-5250	

Number of Plaintiffs: 1 Number of Defendants: 3 Form JD-CV-2 attached for additional parties

Parties	Name (Last, First, Middle Initial) and Address of Each party (Number; Street; P.O. Box; Town; State; Zip; Country, if not USA)	
First Plaintiff	Name: Esty, Daniel C., Commissioner of Energy and Environmental Protection Address: 79 Elm Street, Hartford, Connecticut 06106	P-01
Additional Plaintiff	Name: Address:	P-02
First Defendant	Name: ASNAT Realty, LLC Address: 220-46 73rd Avenue, Bayside, New York 11364	D-01
Additional Defendant	Name: Evergreen Power, LLC Address: c/o Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19805	D-02
Additional Defendant	Name: Shah, Mehboob Address: 1315 Dixwell Avenue, Hamden, Connecticut 06514	D-03
Additional Defendant	Name: Address:	D-04

Notice to Each Defendant

1. YOU ARE BEING SUED. This paper is a Summons in a lawsuit. The complaint attached to these papers states the claims that each plaintiff is making against you in this lawsuit.
2. To be notified of further proceedings, you or your attorney must file a form called an "Appearance" with the clerk of the above-named Court at the above Court address on or before the second day after the above Return Date. The Return Date is not a hearing date. You do not have to come to court on the Return Date unless you receive a separate notice telling you to come to court.
3. If you or your attorney do not file a written "Appearance" form on time, a judgment may be entered against you by default. The "Appearance" form may be obtained at the Court address above or at www.jud.ct.gov under "Court Forms."
4. If you believe that you have insurance that may cover the claim that is being made against you in this lawsuit, you should immediately contact your insurance representative. Other action you may have to take is described in the Connecticut Practice Book which may be found in a superior court law library or on-line at www.jud.ct.gov under "Court Rules."
5. If you have questions about the Summons and Complaint, you should talk to an attorney quickly. The Clerk of Court is not allowed to give advice on legal questions.

Signed (Sign and "X" proper box) <i>Sharon Seligman</i>	<input checked="" type="checkbox"/> Commissioner of the Superior Court <input type="checkbox"/> Assistant Clerk	Name of Person Signing at Left Ass't Atty General Sharon Seligman	Date signed 12/20/2012
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If this Summons is signed by a Clerk:

- a. The signing has been done so that the Plaintiff(s) will not be denied access to the courts.
- b. It is the responsibility of the Plaintiff(s) to see that service is made in the manner provided by law.
- c. The Clerk is not permitted to give any legal advice in connection with any lawsuit.
- d. The Clerk signing this Summons at the request of the Plaintiff(s) is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service of the Summons or Complaint.

<i>For Court Use Only</i>	
File Date	
Docket Number	

I certify I have read and understand the above:	Signed (Self-Represented Plaintiff)	Date
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Name and address of person recognized to prosecute in the amount of \$250
n/a Suit Brought by the Commissioner of Energy and Environmental Protection

Signed (Official taking recognizance; "X" proper box)	<input type="checkbox"/> Commissioner of the Superior Court <input type="checkbox"/> Assistant Clerk	Date	Docket Number
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disposal of contaminants and remediation of the English Station Site and (ii) no person (other than a person associated with the investigation and remediation activities, emergency response personnel, other public officials or government agents) enters the buildings located on the English Station Site.

2. Immediately retain and position at least one qualified security guard at the English Station Site on a 24 hour per day/ 7 day per week basis to prevent and deter trespassers unless and until a more comprehensive sitewide security plan is implemented, subject to review and approval by the Commissioner of Energy and Environmental Protection.
3. Within one week, secure means of unauthorized access to the English Station Site by land, including enhancing the height and effectiveness of the perimeter fencing at the English Station Site.
4. Take all other actions as are necessary to comply with the laws and Cease and Desist Order that are the subject of this action.

The plaintiff requests that the defendants be subject to a penalty of up to \$25,000.00 per day for each day that the defendants fail to comply with the terms of this temporary injunction, and/or coercive incarceration until the terms of this injunction are fully satisfied. The plaintiff further requests that the defendants be cited to show cause why Plaintiff's application for temporary injunction should not issue against them.

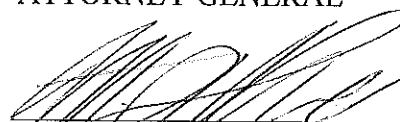
Dated at Hartford, Connecticut, this 20th day of December, 2012.

PLAINTIFF

DANIEL C. ESTY
COMMISSIONER OF ENERGY AND
ENVIRONMENTAL PROTECTION

GEORGE JEPSEN
ATTORNEY GENERAL

BY:



Matthew I. Levine
Assistant Attorney General
Juris No. 414845
Sharon Seligman
Assistant Attorney General
Juris No. 428731
P.O. Box 120
55 Elm Street
Hartford, CT 06141-0120
Tel: (860) 808-5250
Fax: (860) 808-5386

Bayside, New York, 11364 and owns property located at 510 Grand Avenue in New Haven, Connecticut, more fully described in a deed which is recorded at pages 195-98 of volume 7817 of the city of New Haven land records (the "ASNAT Site").

3. Defendant Evergreen Power, LLC ("Evergreen") is a limited liability corporation organized under the laws of the State of Delaware with a business address of Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19805 and owns property located at 510 Grand Avenue in New Haven, Connecticut, more fully described in a deed which is recorded at pages 14-17 of volume 7814 of the city of New Haven land records (the "Evergreen Site").

4. The Evergreen Site and the Asnat Site are commonly referred to collectively as English Station.

5. On or about February 8, 2012, the plaintiff Commissioner issued Cease and Desist Order CDOWSUST 12-001 (the "Cease and Desist Order") to defendants ASNAT, Evergreen and Mehboob Shah requiring them to (i) ensure that no demolition activities of any kind are allowed on either the ASNAT Site or the Evergreen Site until the Connecticut Department of Energy and Environmental Protection ("DEEP") and the United States Environmental Protection Agency ("EPA") are satisfied that the contamination on the sites has been properly characterized and remediated so as to prevent any potential for harm to human health and the environment based on demolition activities, (ii) secure the sites and buildings and ensure that no activity of any kind takes place on the sites, other than activities necessary for the investigation, removal and proper disposal of contaminants and remediation of the sites, and (iii) ensure that no person, other than a person associated with the investigation and remediation activities, emergency re-

sponse personnel, other public officials or government agents, enters the buildings. A copy of the Cease and Desist Order is attached to this complaint as **Exhibit A**.

6. An administrative hearing process with regard to the Cease and Desist Order was initiated on February 17, 2012 in accordance with General Statutes § 22a-7.

7. Following an uncontested hearing, the hearing officer affirmed the Cease and Desist Order against ASNAT, Evergreen and Mehboob Shah in a final decision on October 4, 2012. A copy of the hearing officer's Final Decision, affirming and making final the Cease and Desist Order, is attached to this complaint as **Exhibit B**.

8. In affirming the Cease and Desist Order, the Final Decision rendered final the following findings set forth in the Cease and Desist Order, which are incorporated as allegations in this Complaint:

- a. A former electrical power plant, also known as English Station, sits on the ASNAT Site.
- b. A warehouse building sits on the Evergreen Site.
- c. Defendant Mehboob Shah is the manager responsible for the day to day activities of ASNAT and Evergreen.
- d. Polychlorinated biphenyls, ("PCBs"), are a class of human-made chemicals whose manufacture, along with many of its uses, was banned by the United States Environmental Protection Agency, ("EPA"), in 1979. PCBs have been shown to cause cancer in animals. PCBs have been shown to cause other non-cancer health effects in animals including, but not limited to, effects on the immune system, reproductive system, endocrine system, and

nervous system. Studies in humans provide supportive evidence for the potential carcinogenic and non-carcinogenic harmful effects of PCBs on human health.

- e. A 2002 environmental report prepared by a consultant hired by the former owner of the Evergreen and Asnat sites documented the presence of PCBs and other hazardous contaminants at levels exceeding the Remediation Standard Regulations ("RSRs") in the surface soil and sediments of both the ASNAT Site and the Evergreen Site. PCBs at levels up to 2,300 parts per million ("ppm") were identified in soil immediately adjacent to the former electrical power plant on the ASNAT Site.
- f. A 2008 environmental report prepared for the former owner of the sites reported that it had discovered additional PCB contamination at the Evergreen Site including a sample from the interior concrete floor in the warehouse building containing 16,000 ppm PCBs.

9. Groundwater below and near the Evergreen and Asnat Sites is classified as a GB groundwater area. (May 1998 Phase I GEI Report p. 7, referring to *Water Quality Classification Map of Connecticut*.)

10. The surface water of the adjacent Mill River is classified as SD/SB. (May 1998 Phase I GEI Report p.7, referring to *Water Quality Classification Map of Connecticut*.)

11. The Evergreen Site and the Asnat Site are and remain heavily contaminated with Polychlorinated biphenyls (PCBs).

12. On or about October 18, 2012, the Department of Energy and Environmental Protection Emergency Response Unit responded to an incident of theft of potentially PCB contaminated metal from the site.

13. On or about December 17, 2012, the Department of Energy and Environmental Protection Emergency Response Unit responded to an incident of theft of potentially PCB contaminated metal from the site.

14. On or about December 18, 2012, the Department of Energy and Environmental Protection Emergency Response Unit responded to an incident of theft of potentially PCB contaminated metal from the site.

15. On December 19, 2012, and continuing into the day on December 20, 2012, the Department of Energy and Environmental Protection Emergency Response Unit responded to an incident of theft of potentially PCB-contaminated metal from the site.

16. Connecticut General Statutes § 22a-7(d) provides that, “[t]he Attorney General, upon the request of the commissioner, may institute an action in the superior court for the judicial district of Hartford to enjoin any person from violating a cease and desist order issued pursuant to this section and to compel compliance with such order.

17. The defendants ASNAT, Evergreen and Mehboob Shah have failed to comply with the requirements of the Cease and Desist Order in some or all of the following ways:

- a) The defendants ASNAT, Evergreen and Mehboob Shah have failed to comply with the requirements of Paragraph B.1 of the Cease and Desist Order, including the requirement that they shall secure the sites and buildings and ensure that no activity of any kind takes place on the sites other than activities necessary for the investigation, removal and proper disposal of contaminants and remediation of the sites.

- b) The defendants ASNAT, Evergreen and Mehboob Shah have further failed to comply with the requirements of Paragraph B.1 of the Cease and Desist Order, including the requirement that they shall ensure that no person (other than a person associated with the investigation and remediation activities, emergency response personnel, other public officials or government agents) enters the buildings.
- c) The defendants ASNAT, Evergreen and Mehboob Shah have failed to comply with the requirements of Paragraph B.2 of the Cease and Order, including the requirement that within ten days of the issuance of the Cease and Desist Order, and continuing monthly for each month thereafter, they shall certify in writing to the Commissioner that for that period of time covered by such certification that they have fully complied with the requirements of the Cease and Desist Order.

18. The requirements of the Cease and Desist Order remain in full force and effect since the defendants ASNAT, Evergreen and Mehboob Shah have not yet: (i) submitted, for the Commissioner's review and written approval, a plan which details the actions to be taken to investigate, and as needed decontaminate, the PCB's and other hazardous contaminants in and around the buildings to make the buildings safe for demolition; (ii) implemented the plan in accordance with the written approval of the Commissioner; and/or (iii) submitted, for the Commissioner's review and written approval, certification that the remediation approved by the Commissioner is complete and in accordance with the plan approved by the Commissioner and receive the Commissioner's approval of such in writing.

19. By reason of the conduct alleged in this Count One, the defendants ASNAT, Evergreen, and Mehboob Shah have violated the Cease and Desist Order and Conn. Gen. Stat. Chapter 439.

COUNT TWO

1. The allegations of Paragraphs One through Twelve of Count One are hereby incorporated as Paragraphs One through Twelve of this Count Two.

2. The plaintiff Commissioner has incurred costs and expenses in detecting, investigating, controlling and abating the defendants' violations of the Cease and Desist Order as cited in this Count.

3. The defendants ASNAT, Evergreen and/or Mehboob Shah have knowingly or negligently violated the Cease and Desist Order and Conn. Gen. Stat. Chapter 439, as cited in this Count and are liable for the reasonable costs and expenses of the State in detecting, investigating, controlling and abating such violations pursuant to Conn. Gen. Stat. § 22a-6a.

WHEREFORE, the plaintiff Commissioner respectfully requests, pursuant to §§ 22a-6, 22a-6a, 22a-6b, and 22a-7 of the General Statutes, the following relief:

1. That the Court issue a temporary and permanent injunction prohibiting the defendants, and each of them, from violating any provision of the Cease and Desist Order.
2. That the Court issue a temporary and permanent injunction requiring the defendants, and each of them, to comply with all provisions of the Cease and Desist Order, including:
 - a. That the defendants be required to immediately secure the site and buildings located at 510 Grand Avenue, New Haven, Connecticut that are the subject of the Cease and Desist Order issued by the Commissioner of Energy and Environmental Protection and this action so as to ensure that (i) no activity of any kind takes place on the English Station Site other than activities necessary for the investigation, removal and proper disposal of contaminants and remediation of the English Station Site and (ii) no person (other than a person associated with the investigation and remediation activities, emergency response personnel, other public officials or government agents) enters the buildings located on the English Station Site.
 - b. That the defendants be required to immediately retain and position at least one qualified security guard at the English Station Site on a 24 hour per day/ 7 day per week basis to prevent and deter trespassers unless and until a more comprehensive sitewide security plan is implemented, subject to review and approval by the Commissioner of Energy and Environmental Protection.

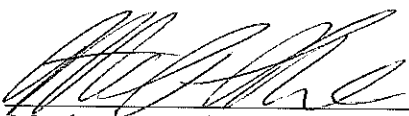
- c. That the defendants be required to, within one week, secure means of unauthorized access to the English Station Site by land, including enhancing the height and effectiveness of the perimeter fencing at the English Station Site.
3. That the Court issue a temporary and permanent injunction requiring the defendants, and each of them, and their officers, agents, employees and successors and assigns to undertake any and all actions required by the Cease and Desist Order.
4. That the Court issue a temporary and permanent injunction preventing the defendants, and each of them, and their officers, agents, employees and successors and assigns from violating the terms of the Cease and Desist Order.
7. That the Court issue an order holding the defendants, and each of them, liable to the State of Connecticut for the State's reasonable costs and expenses in detecting, investigating, controlling and abating the violations that are the subject of this action.
8. That the Court order such other relief as is just and equitable to effectuate the purposes of this action.

This action is brought by the Commissioner of Energy and Environmental Protection in his official capacity. Therefore, he is not liable for any costs in this action.

Dated at Hartford, Connecticut, on this 20th day of December, 2012.

PLAINTIFF
DANIEL C. ESTY
COMMISSIONER OF ENERGY AND
ENVIRONMENTAL PROTECTION

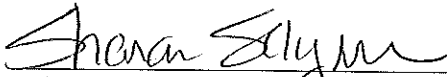
GEORGE JEPSEN
ATTORNEY GENERAL

BY: 

Matthew I. Levine
Assistant Attorney General
Juris No. 414845
Sharon Seligman
Assistant Attorney General
Juris No. 428731
P.O. Box 120
55 Elm Street
Hartford, CT 06141-0120
Tel: (860) 808-5250
Fax: (860) 808-5386

Please enter the appearance of
GEORGE JEPSEN,
ATTORNEY GENERAL,

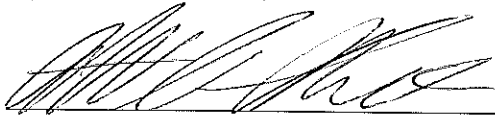
By Sharon Seligman, Assistant Attorney General



Sharon Seligman, Juris No. 428731
Commissioner of the Superior Court

Please enter the appearance of
GEORGE JEPSEN,
ATTORNEY GENERAL,

By Matthew Levine, Assistant Attorney General

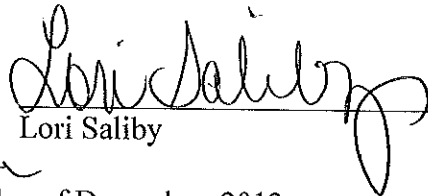


Matthew Levine, Juris No. 414845
Commissioner of the Superior Court

VERIFICATION

STATE OF CONNECTICUT)
)
COUNTY OF HARTFORD) ss. Hartford

Personally appeared Lori Saliby, Supervising Environmental Analyst, of the Bureau of Materials Management and Compliance Assurance, Storage Tank and PCB Enforcement Unit of the Department of Energy and Environmental Protection, the subscriber, and made oath to the truth of the matters contained in the aforesaid Complaint.


Lori Saliby

Sworn and subscribed to me on this ^{20th} day of December, 2012.

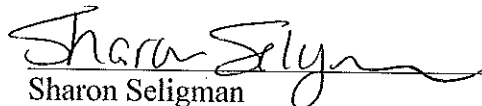

Sharon Seligman
Commissioner of the Superior Court

EXHIBIT A



Office of Adjudications

IN THE MATTER OF

:

*CEASE and DESIST
ORDER NO.
CDOWSUST 12-001*

*ASNAT REALTY LLC,
EVERGREEN POWER LLC,
JAQUELINE COHEN,
GRANT MACKAY DEMOLITION CO.
GRANT MACKAY CO., INC. D/B/A
GRANT MACKAY DEMOLITION CO., AND
JOSEPH VENDETTI*

:

OCTOBER 4, 2012

FINAL DECISION AND NOTICE OF DEFAULT

DEEP issued Cease and Desist Order No. CDOWSUST 12-001 (the Order) on February 8, 2012. The hearing process was initiated on February 17, 2012. After a prolonged continuance to accommodate efforts to resolve the issues through mediation, a hearing was held on October 1, 2012 pursuant to General Statutes § 22a-7. Notice of the hearing was issued to the parties on September 19, 2012. In attendance at the hearing were Assistant Attorney General Matthew Levine, Assistant Attorney General Sharon Seligman, Lori Saliby, and Gary Trombly on behalf of the Department of Energy and Environmental Protection (DEEP) and Attorney Alan Kosloff on behalf of respondents ASNAT Realty LLC, Evergreen Power LLC and Jaqueline Cohen. There was no one in attendance on behalf of Grant Mackay Demolition Co., Grant Mackay Demolition Co., Inc. d/b/a Grant Mackay Demolition Co. or Joseph Vendetti (collectively Grant Mackay).

Prior to the opening of the hearing record, a brief prehearing discussion was held. Attorney Kosloff indicated that he was not intending to contest the Order on behalf of his clients. He requested that Mr. Mehboob H. Shah be substituted for Ms. Cohen because Ms. Cohen no longer plays an active role with ASNAT Realty LLC or Evergreen Power LLC. Atty. Kosloff indicated that he represented Mr. Shah in his capacity as manager of ASNAT Realty and Evergreen Power. DEEP agreed to make the substitution as requested. (M. Levine, Hearing Recording, 10/1/12)¹.

DEEP staff requested that Grant Mackay be issued a Notice of Default and that the order be affirmed absent a re-opening of the record pursuant to Regs., Conn. State Agencies § 22a-3a-6(u). (M. Levine, Hearing Recording, 10/1/12)

The Order had previously been marked as Exhibit DEEP-1 and it was admitted into the record without objection.

FINDINGS OF FACT

DEEP issued a Cease and Desist Order (the Order) to the respondents on February 8, 2012 regarding activity being conducted at 510 Grand Avenue in New Haven (the site). (Ex. DEEP-1). The Order was served on the named respondents by a state marshal on February 9, 2012 and notice of the Order was posted at the site by the same marshal. (Ex. DEEP-1). Polychlorinated Biphenyls (PCBs) and other hazardous substances exist in concentrations at the site that warrant proper characterization and disposal. (Ex. DEEP-1). Any demolition and scrapping activities conducted at the site without proper characterization and disposal of PCBs and other hazardous substances are likely to result in imminent and substantial damage to the

¹ The testimony and proceedings in this matter were recorded. No written transcript has been prepared. The audio recording of this hearing is on file with the Office of Adjudications and is the official record of this proceeding.

environment or to public health by exposing the public or the environment to PCBs and other hazardous substances. (Ex. DEEP-1).

The respondents were initially offered an opportunity to be heard on February 17, 2012. At the initial hearing, the matter was continued to allow the parties to mediate the dispute and arrive at a mutually satisfactory agreement to allow further activity at the site. On September 7, 2012, DEEP notified the mediator that it was no longer participating in mediation. A notice of hearing was distributed and received by the parties on September 19, 2012.² There was no request for a continuance from any party.³

CONCLUSIONS OF LAW

The Commissioner is authorized to order any person engaging in conduct that will result in or is likely to result in substantial damage to the environment or public health to discontinue, abate, or alleviate such activity. General Statutes § 22a-7. The Order requires the respondents to cease any demolition and scrapping activities on the site until they properly characterize and remediate the on-site contamination. No one is permitted to access the site and its building for any activity other than for remediation activities necessary for the investigation, removal, and proper disposal of contaminants.

² All documents pertaining to the procedural history that are not specifically cited as exhibits are contained in the docket file maintained by the Office of Adjudications and are part of the administrative record in this matter. General Statutes §4-177(d).

³ I acknowledge that Joseph McAllister, counsel for Grant Mackay and Joseph Vendetti (Grant Mackay) indicated in an e-mail dated September 30, 2012 and sent at 11:07 pm that Grant Mackay would not be attending the hearing on October 1. That e-mail also indicated counsel's availability by telephone but did not provide a telephone number. An e-mail with a telephone number was provided in response to my request but not until I was already in the hearing room on the morning of the hearing. At no time did counsel for Grant Mackay and Joseph Vendetti request a continuance of this matter or seek leave to "attend" the hearing by telephone. In fact, counsel had indicated in an e-mail dated September 24, 2012 that Grant Mackay would be in attendance at the hearing. This was reasonably assumed to mean his or another representative's attendance in person. There is no record of a phone call or other attempt to contact me or other parties regarding the lack of an appearance at the hearing.

At the hearing, the respondents ASNAT Realty, LLC, Evergreen Power, LLC, Jacqueline Cohen, and Mehboob Shah, as a substitute for Ms. Cohen (collectively the ASNAT and Evergreen respondents) indicated through counsel that they did not contest the Order. The opportunity for the hearing is an opportunity for the respondents to show that the alleged conditions that support issuance of the Order do not exist. The ASNAT and Evergreen respondents have chosen not to contest Cease and Desist Order CDOWSUST 12-001 and instead affirmatively indicated their intent to work with DEEP to address the requirements of the Order.

Grant Mackay failed to appear at the hearing. The notice of hearing issued on September 19, 2012 clearly indicated that a failure to appear at the hearing would result in a Notice of Default.

DISPOSITION

Based on the evidence in the record and the lack of any affirmative showing by the respondents that the alleged conditions do not exist, I find that any demolition and scrapping activities at the site conducted without proper characterization and remediation of PCB and other hazardous substance contamination would or were likely to result in imminent and substantial damage to the environment or public health. The order is affirmed against the ASNAT and Evergreen respondents upon issuance of this final decision.

NOTICE OF DEFAULT

Based on its failure to appear, Respondent Grant Mackay is issued this Notice of Default. The decision to affirm the Order will be final and effective against Grant Mackay on October 19,

2012⁴ unless it submits and is granted a motion to reopen the record to affirmatively place evidence on the record that the alleged conditions do not exist. Any motion to reopen the record must provide a compelling reason for the failure to appear at the scheduled hearing. Absent a re-opening of the record, the Order as it applies to Grant Mackay is affirmed. Grant Mackay remains subject to the Order while the Notice of Default is pending.


Kenneth M. Collette, Hearing Officer

cc: Lori Saliby
Matthew I. Levine, AAG
Sharon Seligman, AAG
Alan Kosloff, Esq.
Thomas Katon, Esq.
Joseph McAllister, Esq.

⁴ §22a-3a-6(u) is clear that a party that fails to appear has 14 days from the date of the scheduled hearing to file a request to re-open the record. However, in an earlier e-mail I mistakenly indicated that the respondents had 14 days from the notice of default to file the request. To avoid any confusion, the decision will be effective and the order affirmed on the fifteenth day following the issuance of this Final Decision and Notice of Default. If a motion to re-open is submitted and rejected prior to 10/19/12, the decision will be effective and the order affirmed on the date of the rejection of that request.

SERVICE LIST

PARTY

Department of Energy
and Environmental Protection
79 Elm Street
Hartford, CT 06106

ASNAT Realty LLC
Evergreen Power
Jaqueline Cohen
Mehboob Shah

Grant Mackay Demolition Co.
Grant Mackay Co., Inc. d/b/a
Grant Mackay Demolition Co., and
Joseph Vendetti

REPRESENTED BY

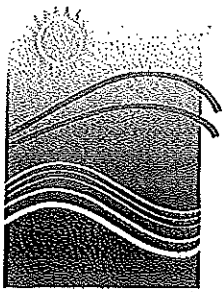
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EXHIBIT B



Connecticut Department of
**ENERGY &
 ENVIRONMENTAL
 PROTECTION**

STATE OF CONNECTICUT :
 v. :
 ASNAT REALTY, LLC, :
 EVERGREEN POWER, LLC, :
 JAQUELINE COHEN, :
 GRANT MACKAY DEMOLITION :
 COMPANY, :
 GRANT MACKAY COMPANY, :
 d/b/a GRANT MACKAY :
 DEMOLITION COMPANY, AND :
 JOSEPH VENDETTI :

Order # CDOWSUST 12-001

CEASE AND DESIST ORDER

A. The Commissioner of the Department of Energy and Environmental Protection (“the Commissioner”) finds:

1. Respondent ASNAT Realty, LLC (“ASNAT”) is a limited liability corporation organized under the laws of the State of Delaware with a business address of 220-46 73rd Avenue, Bayside, New York, 11364.
2. Respondent Evergreen Power, LLC (“Evergreen”) is a limited liability corporation organized under the laws of Delaware with a business address of Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19805.
3. ASNAT owns property located at 510 Grand Avenue in New Haven, Connecticut, more fully described in a deed which is recorded at pages 195-98 of volume 7817 of the City of New Haven land records, (the “ASNAT Site”).
4. Evergreen owns property located at 510 Grand Avenue in New Haven, Connecticut, more fully described in a deed which is recorded at pages 14-17 of volume 7814 of the City of New Haven land records, (the “Evergreen Site”).
5. A former electrical power plant, also known as English Station, sits on the ASNAT Site.
6. A warehouse building sits on the Evergreen Site.

7. Respondent Jaqueline Cohen ("Cohen") is the manager responsible for the day to day activities of ASNAT and Evergreen including, but not limited to, any decision regarding obtaining approval to conduct demolition activities on both the ASNAT Site and the Evergreen Site.
8. Respondent Grant MacKay Demolition Company is listed as the authorized agent of ASNAT and Evergreen for the purpose of obtaining a demolition permit from the City of New Haven, Connecticut.
9. Grant MacKay Demolition Company has a business address of 820 Fehr Avenue, Schenectady, New York, 12309.
10. Grant MacKay Demolition Company has not registered to do business in the State of Connecticut.
11. Grant MacKay Demolition Company is not listed on the City of New Haven's Trade Name list.
12. Upon information and belief, Respondent Grant MacKay Company is doing business as, or also known as, Grant MacKay Demolition Company.
13. Respondent Joseph Vendetti is the Vice President of Grant MacKay Demolition Company and is responsible for the day to day activities of Grant Mackay Demolition Company including, but not limited to, any decision regarding demolition activity at the ASNAT Site and Evergreen Site.
14. Polychlorinated biphenyls, ("PCBs"), are a class of human-made chemicals whose manufacture, along with many of its uses, was banned by the United States Environmental Protection Agency, ("EPA"), in 1979. PCBs have been shown to cause cancer in animals. PCBs have been shown to cause other non-cancer health effects in animals including, but not limited to, effects on the immune system, reproductive system, endocrine system, and nervous system. Studies in humans provide supportive evidence for the potential carcinogenic and non-carcinogenic harmful effects of PCBs on human health.
15. In 2002, Advanced Environmental Interface, Inc., ("AEI"), an environmental consulting firm, prepared a report and plan based on surface soil and sediment sampling at the ASNAT Site and the Evergreen Site, on behalf of Quinnipiac Energy LLC, ("Quinnipiac"), the former owner of the ASNAT Site and the Evergreen Site, (the "2002 AEI Report").
16. The 2002 AEI Report documented the presence of PCBs and other hazardous contaminants at levels exceeding the Remediation Standard Regulations ("RSRs") in the surface soil and sediments of both the ASNAT Site and the Evergreen Site. PCBs at levels up to 2,300 parts per million ("ppm") were identified in soil immediately adjacent to the former electrical power plant on the ASNAT Site.

17. On or about March 1, 2005, Quinnipiac submitted a Significant Environmental Hazard Report ("SEH Report") to the Department of Energy and Environmental Protection ("DEEP") admitting that PCBs, at concentrations greater than 300 ppm, which is more than thirty (30) times the industrial/commercial direct exposure criteria established by the RSRs, were present in surface soils at the ASNAT Site, posing a potential risk to human health through contact and exposure.

18. On or about March 21, 2005, pursuant to the SEH Report, the DEEP required Quinnipiac to immediately post warning signs on the ASNAT Site to warn individuals of the PCB hazard and advise them to avoid contact with the contaminated soil.

19. On or about May 22, 2007, the United States Environmental Protection Agency, Region 1, ("EPA Region 1") approved a PCB cleanup plan for the Evergreen Site proposed by Quinnipiac, (the "Evergreen Site PCB Cleanup Plan"). Pursuant to Record Keeping and Reporting Condition 20 of the approval, EPA Region 1 required Quinnipiac to submit a final report to the EPA within 60 days of completion of the remediation activities authorized under the approval. Pursuant to General Condition 1 of the approval, EPA Region 1 also required Quinnipiac to submit a schedule for addressing the PCB contamination on the ASNAT Site.

20. On or about May 19, 2008, AEI reported to Quinnipiac that it was unable to complete the Evergreen Site PCB Cleanup Plan due to insufficient funding. In addition, AEI reported that it had discovered additional PCB contamination at the Evergreen Site including a sample from the interior concrete floor in the warehouse building containing 16,000 ppm PCBs.

21. To date, neither Quinnipiac nor any other party has submitted to EPA Region 1 a final report regarding completion of the remediation activities as required pursuant to Record Keeping and Reporting Condition 20 of its approval of the Evergreen Site PCB Cleanup Plan.

22. To date, neither Quinnipiac nor any other party has submitted to EPA Region 1 a schedule for addressing PCB contamination on the ASNAT Site as required pursuant to General Condition 1 of its approval of the Evergreen Site PCB Cleanup Plan.

23. On or about December 13, 2010, Connecticut Testing Laboratories, Inc. prepared a report for its client, ASNAT, documenting the results of testing done on samples of transformer oil taken from eight transformers on the ASNAT Site, three located outside of the former electrical power plant and five located inside the former electrical power plant.

24. The report included data indicating that the transformer oil samples taken from the five transformers located inside the former electrical power plant on the ASNAT Site showed PCB concentrations as high as 440,000 ppm or forty-four percent (44%) total PCBs, (the "Five PCB Transformers").

25. On January 19, 2011, ASNAT contracted with United Industrial Services, a division of United Oil Recovery, Inc., ("United"), to remove and dispose of approximately 4,300 gallons of transformer oil from the Five PCB Transformers and the three additional transformers at the ASNAT Site, ("Waste Transformer Oil").
26. On January 17, 2011, Bob Shah, General Manager for ASNAT, certified via a Waste Stream Profile Sheet that the Waste Transformer Oil contained less than two (2) ppm PCBs.
27. On January 19, 2011, David N. Young, Project Manager for ASNAT, certified via a nonhazardous waste manifest that the Waste Transformer Oil contained less than forty-nine (49) ppm PCBs.
28. On January 19, 2011, David N. Young, Project Manager for ASNAT, signed a written statement verifying that the Waste Transformer Oil had been tested for PCB levels and "is NOT from an original source of greater than 50 ppm of Polychlorinated Biphenyls and it was never blended from a source greater than 50 ppm."
29. On or about January 20, 2011, United sampled the Waste Transformer Oil prior to off-loading it for disposal and discovered that the Waste Transformer Oil contained in excess of one hundred thousand (100,000) ppm PCBs.
30. On or about January 20, 2011, the Connecticut Testing Laboratories, Inc., on behalf of United, also analyzed a sample of the Waste Transformer Oil and found that it was composed of more than 990,000 ppm or ninety-nine percent (99%) total PCBs.
31. To date, the Five PCB Transformers, containing PCB contaminated transformer oil, are located in the former electrical power plant.
32. On or before March 4, 2011, the Commissioner requested from Marc Casslar of GeoQuest, Inc., the environmental consultant for ASNAT and Evergreen, a plan detailing the actions to be taken to investigate, and as needed decontaminate, the PCBs and other hazardous contaminants in and around the buildings to make the buildings safe for demolition, including but not limited to, investigation of the nature and extent of PCB contamination, steps necessary to remediate such contamination and steps necessary to ensure that such remediation has been effective.
33. On or about March 18, 2011, EPA Region 1 issued a subpoena to ASNAT and Evergreen requiring, in part, that both ASNAT and Evergreen submit to EPA Region 1 an inventory of all potentially PCB-contaminated equipment on the sites ("EPA's Subpeona").
34. During an inspection conducted on March 22, 2011, DEEP employees observed that the warning signs posted pursuant to the SEH Report had been removed and that persons had placed equipment and metal products on the PCB contaminated soil identified in the SEH Report.

35. On or about September 14, 2011, the EPA Region 1 issued an administrative complaint to ASNAT and Evergreen regarding violations of the federal Toxic Substance Control Act, ("TSCA"), and PCB regulations 40 C.F.R. Part 761 arising from the activities associated with ASNAT's January 2011 shipment of Waste Transformer Oil. The EPA claimed that ASNAT and Evergreen failed to comply with manifest requirements for the shipment of the Waste Transformer Oil and failed to notify the EPA of PCB waste activities at both sites.

36. On or about September 21, 2011, GeoQuest Inc., on behalf of ASNAT and Evergreen, provided, to DEEP and the EPA Region 1, an eleven (11) page inventory of more than two hundred (200) items potentially contaminated by PCBs located inside the former electrical power plant on the ASNAT Site. The inventory includes, but is not limited to, transformers, more than one hundred (100) unmarked liquid storage drums, and other electrical equipment items.

37. On November 9, 2011, Cohen signed ASNAT's Certification of Notification and Posting of Intent to Demolish to be filed with the City of New Haven, Connecticut listing Grant MacKay Demolition Company as the demolition contractor and Grant MacKay Demolition Company as an authorized agent for ASNAT.

38. On November 9, 2011, Cohen signed Evergreen's Certification of Notification and Posting of Intent to Demolish to be filed with the City of New Haven, Connecticut listing Grant MacKay Demolition Company as the demolition contractor and Grant MacKay Demolition Company as an authorized agent for Evergreen.

39. On November 10, 2011, Grant MacKay Demolition Company, as the authorized agent for ASNAT, signed and filed an Application to Demolish with the City of New Haven, Connecticut.

40. On November 10, 2011, Grant MacKay Demolition Company, as the authorized agent for Evergreen, signed and filed an Application to Demolish with the City of New Haven, Connecticut.

41. On or about December 19, 2011, Lori Saliby, Supervising Environmental Analyst for the Storage Tank and PCB Enforcement Unit of DEEP, wrote to ASNAT, Evergreen and Quinnipiac requesting, to the extent they exist, any environmental reports studies, figures, tables, plans, laboratory data and/or test results related to any portion of the ASNAT Site and/or Evergreen Site, including all structures thereon, generated after July 12, 2002. In addition, Ms. Saliby specifically requested copies of any and all documents related to any implementation of the Evergreen Site PCB Cleanup Plan.

42. No documents were provided to DEEP by ASNAT, Evergreen or Quinnipiac in response to DEEP's December 19, 2011 Letter.

43. On or about December 22, 2011, Mark DeCaprio, Director of the Emergency Response & Spill Division of DEEP, wrote to the Respondents notifying them that DEEP had information indicating the presence of contamination at the ASNAT Site and Evergreen Site and that no

demolition should take place prior to remediation of contamination in full compliance with all applicable federal and state laws and regulations.

44. On or about January 11, 2012, Roger Jansen, Technical Enforcement Manager, EPA Region 1, wrote to Attorney Victor Bolden, corporation counsel for the City of New Haven, informing him that ASNAT and Evergreen have not submitted the site characterization to evaluate the extent of PCB contamination at the ASNAT Site and Evergreen Site. Further, Mr. Jansen stated that the EPA Region 1 would "have serious concerns should any demolition of the buildings take place prior to the completion of the ongoing characterization of the power plant building for PCB contamination as well as the completion of any necessary EPA-approved PCB cleanup plan for the site."

45. On or about February 7, 2011, Geoquest, Inc. and Loureiro Engineering Associates, Inc., on behalf of ASNAT and Evergreen, emailed to Lori Saliby of DEEP, a copy of a PCB Self Implementing Plan, ("SIP"), presenting a strategy for remediation of building materials contaminated with PCBs in the former electrical power plant on the ASNAT Site. Geoquest, Inc. and Loureiro Engineering Associates, Inc. allege that the SIP was designed to conform to the requirements outlined in 40 C.F.R. 761 Section 761.61(a) of TCSA. Neither EPA nor DEEP has approved the SIP.

46. Due to the presence of PCBs and other hazardous contaminants in the soil, sediment and interior concrete floors and the presence of PCB contaminated equipment in the buildings, demolition and scrapping activities at the ASNAT Site or Evergreen Site, without first properly characterizing and disposing of PCB and other hazardous contaminants, are likely to result in imminent and substantial damage to the environment or to public health by exposing the public and/or the environment to PCBs and other hazardous contaminants.

47. Proper disposal of PCBs and the prevention of pollution are within the jurisdiction of the Commissioner under the provisions of chapters 439 and 446k of the Connecticut General Statutes ("CGS"), including but not limited to, CGS §§ 22a-5, 22a-467, 22a-430, and 22a-427.

B. Pursuant to Sections 22a-6, 22a-7, 22a-432, and 22a-433 of the Connecticut General Statutes, the Commissioner orders Respondents as follows:

1. Effective immediately upon the issuance of this Cease and Desist Order, the Respondents shall ensure that no demolition activities of any kind are allowed on either the ASNAT Site or the Evergreen Site until the DEEP and the EPA are satisfied that the contamination on the sites has been properly characterized and remediated so as to prevent any potential for harm to human health and the environment based on demolition activities. The Respondents shall secure the sites and buildings and ensure that no activity of any kind takes place on the sites, other than activities necessary for the investigation, removal and proper disposal of contaminants and remediation of the sites. The Respondents shall also ensure that no person, other than a person associated with the investigation and remediation activities, emergency response personnel, other public officials or government agents, enters the buildings.

2. Within ten days of the issuance of this Cease and Desist Order, and continuing monthly for each month thereafter that this Cease and Desist Order remains in effect, the Respondents shall certify in writing to the Commissioner that for the period of time covered by such certification the Respondents have fully complied with the requirements of this Cease and Desist Order. Each certification required by this paragraph shall be made in accordance with the requirements of paragraph B.10. below.

3. The requirements of this Cease and Desist Order shall remain in full force and effect until such time as the Respondents ASNAT, Evergreen and Cohen: (1) submit, for the Commissioner's review and written approval, a plan which details the actions to be taken to investigate, and as needed decontaminate, the PCBs and other hazardous contaminants in and around the buildings to make the buildings safe for demolition, including but not limited to, investigation of the nature and extent of PCB contamination, steps necessary to remediate such contamination and steps necessary to ensure that such remediation has been effective; (2) implement the plan in accordance with the written approval of the Commissioner; and (3) submit for the Commissioner's review and written approval, certification that the remediation approved by the Commissioner is complete and in accordance with the plan approved by the Commissioner and receive the Commissioner's approval of such in writing. The Commissioner's approval of any remediation undertaken pursuant to this paragraph shall not be construed as an assurance that the contamination at or emanating from the sites has been fully remediated.

4. Full Compliance. Respondents shall not be considered in full compliance with this Cease and Desist Order until all actions required by this order have been completed to the satisfaction of the Commissioner.

5. Sampling and sample analyses. All sample analyses which are required by this Cease and Desist Order and all reporting of such sample analyses shall be done by a laboratory certified by the Connecticut Department of Public Health for such analyses. All sampling and sample analyses performed under this Cease and Desist Order for PCBs shall be performed in accordance with procedures specified or approved in writing by the Commissioner or, if no such procedures have been specified or approved, in accordance with 40 CFR 136. Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the maximum level of precision and accuracy specified in the applicable protocol, and if no such level is specified, to the maximum level of precision and accuracy possible.

6. Approvals. Respondents shall use best efforts to submit to the Commissioner all documents required by this Cease and Desist Order in a complete and approvable form. If the Commissioner notifies the Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty days of the Commissioner's notice of deficiencies. In approving any document or other action under this order, the Commissioner may

approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this order. Nothing in this paragraph shall excuse noncompliance or delay.

7. Definitions. As used in this Cease and Desist Order, "Commissioner" means the Commissioner of Energy and Environmental Protection or an agent of the Commissioner.

8. Dates. The date of submission to the Commissioner of any document required by this Cease and Desist Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Cease and Desist Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this Cease and Desist Order, the word "day" as used in this Cease and Desist Order means calendar day. Any document or action which is required by this Cease and Desist Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

9. Notification of noncompliance. In the event that the Respondents become aware that they did not or may not comply, or did not or may not comply on time, with any requirement of this Cease and Desist Order or of any document required hereunder, Respondents shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, Respondents shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner dates by which compliance will be achieved, and Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondents shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

10. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this order shall be signed by Cohen and a responsible corporate officer of ASNAT and Evergreen or a duly authorized representative of such, as those terms are defined in section 22a-430-3 of the Regulations of Connecticut State Agencies and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."

11. Noncompliance. Failure to comply with this Cease and Desist Order may subject Respondents to an injunction and penalties under Chapters 439, and 445 or 446k of the Connecticut General Statutes.

12. False Statements. Any false statement in any information submitted pursuant to this Cease and Desist Order may be punishable as a criminal offense under section 22a-438 or 22a-131a of the Connecticut General Statutes or, in accordance with section 22a-6, under section 53a-157 of the Connecticut General Statutes.

13. Notice of transfer; liability of Respondents and others. Until the Respondents have fully complied with this Cease and Desist Order, Respondents shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the operations which are the subject of this Cease and Desist Order, the site or the business, or obtaining a new mailing or location address. Respondents' obligations under this Cease and Desist Order shall not be affected by the passage of title to any property to any other person or municipality. Any future owner(s) of the sites may be subject to the issuance of any order from the Commissioner.

14. Commissioner's powers. Nothing in this Cease and Desist Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, including but not limited to, an order to investigate and remediate contamination at or emanating from the sites, recover costs and natural resource damages, and to impose penalties for past, present and future violations of law. If at any time the Commissioner determines that the actions taken by the Respondents pursuant to this Cease and Desist Order have not fully characterized the extent and degree of pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require the Respondents to undertake further investigation or further action to prevent or abate pollution.

15. Respondents' obligations under law. Nothing in this Cease and Desist Order shall relieve the Respondents of any other obligation(s) under applicable federal, state or local law.

16. No assurance by Commissioner. No provision of this Cease and Desist Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by the Respondents pursuant to this Cease and Desist Order will result in compliance or prevent or abate pollution.

17. Submission of documents. Any document required to be submitted to the Commissioner under this Cease and Desist Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Ms. Lori Saliby
Supervising Environmental Analyst
Storage Tank and PCB Enforcement Unit

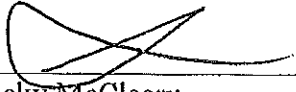
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106

18. Joint and several liability. Respondents shall be jointly and severally liable for compliance with this Cease and Desist Order.

19. Hearing. A hearing will be held on February 17, 2012 at 10:00 am in the Russell Room, 79 Elm Street, Hartford, Connecticut to provide the Respondents an opportunity to be heard and to show that the condition in this Cease and Desist Order does not exist or that this Cease and Desist Order is otherwise improper or unlawful. A prehearing conference will be held at the same location on February 17, 2012 at 9:00 am.

THIS CEASE AND DESIST ORDER IS IMMEDIATELY EFFECTIVE UPON RECEIPT.

Issued as a Cease and Desist Order of the Commissioner of the Department of Energy and Environmental Protection.



Macky McCleary
Deputy Commissioner
*Department of Energy & Environmental Protection

2/8/12
Date

*Public Act 11-80, effective July 1, 2011, established the Department of Energy and Environmental Protection as the successor agency to the Department of Environmental Protection.