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12 IN THE UNITED STATES DISTRICT COURT  
 13 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 14

16 **MICHAEL PHELAN,**  
 17  
 Plaintiff,  
 18  
 v.  
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 20 **MECOM EQUIPMENT, LLC, a California  
 Limited Liability Company, PAWNEE  
 21 LEASING CORPORATION, a California  
 Corporation, STATE OF CALIFORNIA,  
 22 California Department of Toxic Substances  
 Control, STATE OF CALIFORNIA,  
 23 Employment Development Department, the  
 UNITED STATES, and all other persons  
 24 unknown, claiming any right, title, estate,  
 lien, or interest in the real property  
 25 described in the Complaint, adverse to  
 Plaintiff's ownership or any cloud on  
 26 Plaintiff's title thereto,  
 27  
 Defendants.  
 28**

**No. 2:10-cv-01651-FCD-KJN**

**AGREED STIPULATION BETWEEN  
 PLAINTIFF MICHAEL PHELAN AND  
 DEFENDANT STATE OF CALIFORNIA,  
 DEPARTMENT OF TOXIC  
 SUBSTANCES CONTROL RE RELEASE  
 OF CERTAIN REAL PROPERTY FROM  
 JUDGMENT LIEN and DISMISSAL  
 WITH PREJUDICE OF DTSC and  
 ORDER THEREON**

Date: No hearing required  
 Time:  
 Courtroom:  
 Judge: The Honorable Frank C. Damrell  
 Trial Date: Not Set  
 Action Filed: June 28, 2010

1 Plaintiff, Michael Phelan, and Defendant, State of California, Department of Toxic  
2 Substances Control, enter into this Stipulation and request entry of this Order on the terms set  
3 forth herein:

4 **RECITALS**

5 Whereas, on June 28, 2010, Plaintiff Michael Phelan (Phelan) initiated this action in the  
6 United States District Court for the Eastern District of California entitled *Michael Phelan v.*  
7 *Mecom Equipment, LLC, et al*, No. 2:10-cv-01651-FCD-KJN, against several defendants,  
8 including the State of California, Department of Toxic Substances Control (DTSC) and the  
9 United States of America, seeking to quiet title to certain real property specified in the Verified  
10 Complaint for Quiet Title and Demand for Jury Trial (the Quiet Title Complaint).

11 Whereas Phelan alleges that he purchased certain real property located at 1143 Fremont  
12 Street, Colusa, Colusa County, California, Assessor's Parcel Number 001-351-028, and more  
13 particularly described in the Quiet Title Complaint as:

14 Lot No. 3 in Block 126 of the City of Colusa, as said lot and block are shown on the  
15 official map or plat thereof, filed on March 5, 1855 in the office of the County Clerk  
of said County of Colusa, State of California.

16 Said real property is referred to hereinafter as the "Fremont Street Property."

17 Whereas Phelan further alleges that he purchased the Fremont Street Property as an  
18 investment property from the tax collector of Colusa County, California, in a non-judicial tax  
19 delinquency sale and that the deed from the Colusa County tax collector to Phelan was executed  
20 and recorded on July 2, 2009, in the official records of the County of Colusa, Instrument Number  
21 2009-2837.

22 Whereas Phelan has represented, under penalty of perjury to DTSC, that he does not  
23 personally know Kenneth R. Whitmire or Iva L. Whitmire and that he has he never interacted  
24 with them or anyone acting on their behalf, on a personal or business level.

25 Whereas DTSC, an agency of the State of California, alleges that it obtained a judgment in  
26 the amount of \$151,900, together with interest, against Kenneth R. Whitmire, Iva L. Whitmire  
27 and National Environmental Services Corporation (the "Judgment Debtors"), on December 2,  
28 1994, in Sacramento County Superior Court in a matter entitled *People of the State of California*,  
{00824671.DOC}

1 *ex rel. William F. Soo Hoo, Director, State Department of Toxic Substances Control v. National*  
2 *Environmental Services Corporation, Kenneth R. Whitmire, and Iva L. Whitmire, No. 537257*  
3 (“the Whitmire Judgment”).

4       Whereas DTSC further alleges that based on the Whitmire Judgment, that DTSC recorded,  
5 through its counsel, an Abstract of Judgment on May 20, 1997, with the Colusa County  
6 Recorder’s Office, Instrument Number 97-002177, and subsequently, through its counsel of  
7 record, renewed and recorded its abstract of judgment on November 4, 2004, Instrument Number  
8 2004-0006251.

9       Whereas DTSC alleges that Kenneth R. Whitmire and Iva L. Whitmire were owners of the  
10 Fremont Street Property to which the judgment lien, created by the above referenced recorded  
11 abstracts of judgment, attached and that the Judgment Debtors have not satisfied the Whitmire  
12 Judgment.

13       Whereas DTSC further alleges that it did not receive notice of the Colusa County  
14 Assessor’s non-judicial tax-delinquency sale of the Fremont Street Property.

15       Whereas the United States has alleged that it has valid liens against the Fremont Street  
16 Property.

17       Whereas Phelan and DTSC wish to resolve this matter solely as to them in  
18 accordance with the terms set forth herein.

19       IT IS AGREED AND ORDERED AS FOLLOWS:

- 20       1. Within three (3) court days of the entry of this Stipulation and Order by this Court,  
21       DTSC will provide by overnight mail to counsel of record for Phelan an executed and  
22       notarized “Release From Plaintiff’s Judgment Lien Real Property at 1143 Fremont  
23       Street, Colusa, Colusa County, CA” (“Release of Fremont Street Property from  
24       Judgment Lien”), for recording with the Colusa County clerk-recorder.
- 25       2. Within three (3) court days of the receipt of the executed and acknowledged Release  
26       of Fremont Street Property from Judgment Lien, Phelan, through his counsel of  
27       record, will cause to be recorded with the Colusa County Recorder’s office the  
28       executed and acknowledged Release of Fremont Street Property from Judgment Lien.

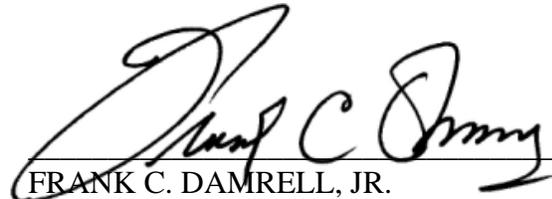


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**IT IS SO ORDERED:**

Dated: September 22, 2010

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FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE