

UNITED STATES DISTRICT COURT  
District of Maine

CITY OF BANGOR, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Civil No. 02-183-B-S  
 )  
 CITIZENS COMMUNICATIONS )  
 COMPANY, )  
 Defendant/Third Party )  
 Plaintiff, )  
 vs. )  
 )  
 BARRETT PAVING MATERIALS, INC., )  
 et. al., )  
 Third-party Defendants )

ORDER AFFIRMING THE  
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE

The United States Magistrate Judge filed with the Court on March 11, 2004 her Recommended Decision (Docket No. 291) (on Motion for Partial Summary Judgment filed by Citizens Communication Company (Docket No. 176). The Plaintiff City of Bangor filed its objection to the Recommended Decision on March 29, 2004 (Docket #318) and Citizens Communications Company filed its response to objections (Docket No. 330) on April 15, 2004. Third-Party Defendant Barrett Paving Materials, Inc. filed its response to objection (Docket No. 331) as to Docket No. 291 on April 15, 2003.

I have reviewed and considered the Magistrate Judge's

Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.

1. It is therefore ORDERED that the Recommended Decision of the Magistrate Judge (Docket #291) is hereby AFFIRMED. City of Bangor's Motion to Deem Facts Admitted (Docket #249) is DENIED. Citizens Communications Company's Motion for Partial Summary Judgment (Docket No. 176) is GRANTED. Judgment shall be entered on the docket that the City is precluded from obtaining a "full recovery" of all of its response costs from Citizens in its CERCLA § 107 claims (Counts I and II), as a matter of law, but not dismissing Counts I and II to the extent that they can be read as requesting the imposition of more limited, equitable liability on Citizen's part.

/s/ George Z. Singal  
Chief U.S. District Judge

Dated this 5<sup>th</sup> day of May 2004.

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