



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2016 APR 20 PM 2:13

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: TSCA-08-2016-0004

IN THE MATTER OF:

KSK Builders, LLC
800 S. Sherman Street
Denver, CO 80209

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18(b)(2)(3), of EPA’s Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 20th DAY OF April, 2016.

Elyana Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. TSCA-08-2016-0004

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IN THE MATTER OF:)
)
KSK Builders, LLC)
800 S. Sherman Street)
Denver, CO 80209)
)
Respondent.)
)

**EXPEDITED SETTLEMENT
AGREEMENT**

AUTHORITY

1. This Expedited Settlement Agreement (the Agreement) is entered into by the United States Environmental Protection Agency (EPA), Region 8, by its duly delegated officials, and by KSK Builders, LLC (Respondent) for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. The EPA has jurisdiction over this matter pursuant to sections 16 and 409 of the Toxic Substances and Control Act (the Act), 15 U.S.C. §§ 2615, 2689, and the regulations promulgated under TSCA Subchapter IV, as set forth at 40 C.F.R. Part 745.

RESPONDENT

3. Respondent is a "person" for purposes of sections 16 and 409 of the Act, 15 U.S.C. §§ 2615, 2689.
4. Respondent is a "firm" as that term is defined in 40 C.F.R. § 745.83.

ALLEGED VIOLATIONS

5. On August 27, 2015, an authorized representative of the EPA conducted a compliance inspection at Respondent's jobsite at 1937 N. Clermont Street, Denver, Colorado 80220-1113 (Jobsite) to determine compliance with the Renovation, Repair and Painting (RRP) Rule, 40 C.F.R. Part 745, Subpart E.
6. The Jobsite is a residential housing property constructed prior to 1978 and is "target housing" as that term is defined in section 401 of the Act, 15 U.S.C. § 2681.
7. Respondent conducted a "renovation," as that term is defined at 40 C.F.R. § 745.83, by demolishing a porch with windows at the Jobsite for compensation.

KSK Builders, LLC
EXPEDITED SETTLEMENT AGREEMENT

8. Firms performing renovations on target housing must apply to the EPA for certification pursuant to 40 C.F.R. § 745.89(a).
9. Respondent failed to obtain initial certification from the EPA prior to performing a renovation on target housing, as required by 40 C.F.R. § 745.89(a) and in violation of 40 C.F.R. § 745.81(a)(2)(ii).
10. Firms performing renovations on target housing must retain all records necessary to demonstrate compliance with the RRP Rule for a period of three (3) years following the completion of the renovation activities, as required by 40 C.F.R. § 745.86(a).
11. The EPA found that Respondent was unable to provide records documenting compliance with the RRP Rule for work at the Jobsite. Respondent therefore failed to keep records documenting compliance with the RRP Rule, as required by 40 C.F.R. § 745.86(a).
12. Respondent's failure to comply with 40 C.F.R. §§ 745.89 and 745.86(a) is a violation of the RRP regulations promulgated under section 402 of the Act, 15 U.S.C. § 2682, and is therefore a violation of section 409 of the Act, 15 U.S.C. § 2689.

SETTLEMENT

13. The EPA and Respondent agree that settlement of this matter is in the public interest, and the EPA and Respondent agree that execution of this Agreement and issuance of a Final Order without further litigation and without adjudication of any issue of fact or law, is the most appropriate means of resolving this matter.
14. Pursuant to section 16 of the Act, 15 U.S.C. § 2615, and based in part on the size of business, the nature, circumstances, extent and gravity of the violations alleged, and other relevant factors, EPA agrees that an appropriate civil penalty to settle this matter is two-thousand dollars (\$2,000).
15. By signing this Agreement, Respondent certifies that: (1) the alleged violations listed in the Agreement have been corrected, and Respondent has submitted true and accurate documentation of such correction along with this Agreement, (2) Respondent has provided payment of the civil penalty as described below, and (3) Respondent releases that penalty to the EPA upon incorporation of the Agreement into a Final Order.

Within thirty (30) days of receipt of this Agreement, Respondent must send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of two-thousand dollars (\$2,000) in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

**KSK Builders, LLC
EXPEDITED SETTLEMENT AGREEMENT**

**The following Payment Number for this Agreement must be included on the check:
ESA-R8-TSCA**

The signed Agreement and a copy of the check must be sent by certified mail to:

Kristin Jendrek
U.S. EPA Region 8 (8ENF-AT)
1595 Wynkoop St.
Denver, Colorado 80202-1129

16. Respondent agrees that the penalty specified in this Agreement and any interest paid shall not be deductible for purposes of local, state, or federal taxes.
17. This settlement is subject to the following terms and conditions with respect to the violations alleged:
 - a. Respondent, by signing below, admits the jurisdictional allegations of the Agreement, neither admits nor denies the specific factual allegations contained in the Agreement and consents to the assessment of the penalty as stated above.
 - b. Each party to this action shall bear its own costs and attorney fees, if any.
 - c. Payment by Respondent shall constitute a waiver of any and all available rights to judicial or administrative review or other remedies that the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this Agreement, including any right to appeal the Final Order.
18. This Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall only resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in this Agreement.
19. This Agreement does not pertain to any matters other than those expressly specified herein. The EPA reserves, and this Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including but not limited to, the following:
 - a. Claims based on a failure by Respondent to meet a requirement of this Agreement, including any claims for costs which are caused by Respondent's failure to comply with this Agreement;
 - b. Claims based on criminal liability; and,
 - c. Claims based on any other violations of the Act or federal or state law.
20. If the signed original Agreement with an attached copy of the check is not returned to the EPA Region 8 at the above address in correct form by Respondent within thirty (30) days of the date of

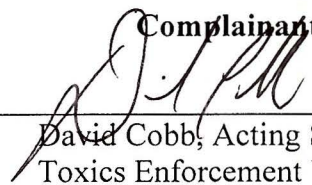
KSK Builders, LLC
EXPEDITED SETTLEMENT AGREEMENT

Respondent's receipt of this Agreement, the proposed Agreement is withdrawn without prejudice to EPA's ability to file an enforcement action for the violations identified in this Agreement.

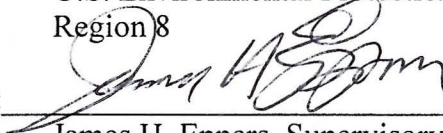
- 21. This Agreement, upon incorporation into a Final Order, applies to and is binding upon the EPA and upon Respondent and Respondent's successors or assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Agreement. This Agreement contains all terms of the settlement agreed to by the Parties.
- 22. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of the Agreement and to bind Respondent to the terms and conditions of this Agreement.
- 23. Nothing in this Agreement shall relieve Respondent of the duty to comply with TSCA and its implementing regulations.
- 24. The Parties agree to submit this Agreement to the Regional Judicial Officer with a request that it be incorporated into a Final Order.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement,
Compliance and Environmental Justice,

Date: 4/12/16

By: 
David Cobb, Acting Supervisor
Toxics Enforcement Unit
Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice (8ENF-AT)
U.S. Environmental Protection Agency,
Region 8

Date: 4/13/16

By: 
James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice (8ENF-L)
U.S. Environmental Protection Agency,
Region 8

**KSK Builders, LLC
EXPEDITED SETTLEMENT AGREEMENT**

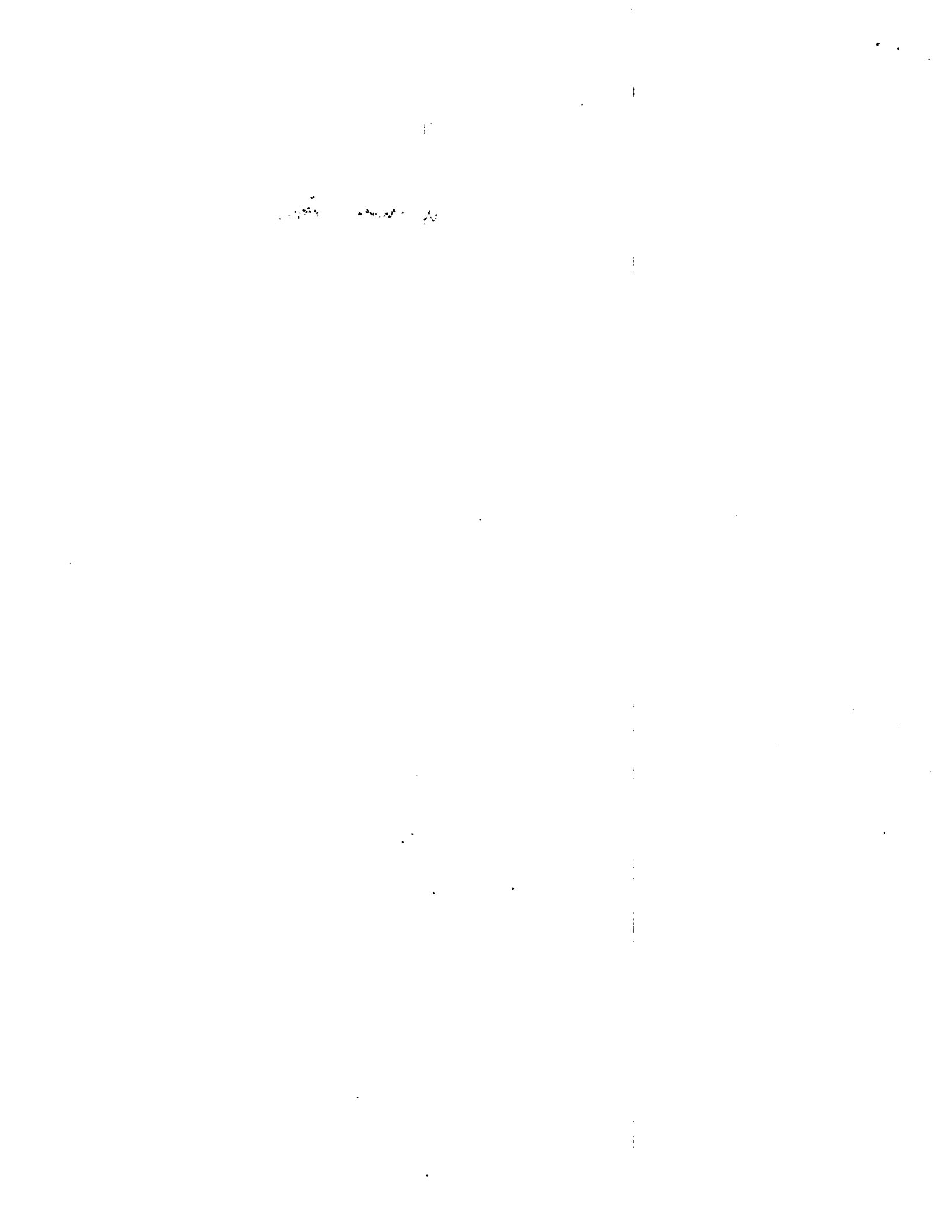
Date: MAR 30 2016

KSK Builders, LLC

Respondent

By: Walter Cook

Printed Name: _____



CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT AND CONSENT AGREEMENT and FINAL ORDER** in the matter of **KSK BUILDERS, LLC; DOCKET NO.: TSCA-08-2016-0004** was filed with the Regional Hearing Clerk on April 20, 2016.

Further, the undersigned certifies that a true and correct copy of the documents were emailed to, James Eppers, Senior Enforcement Attorney. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt on April 20, 2016, to:

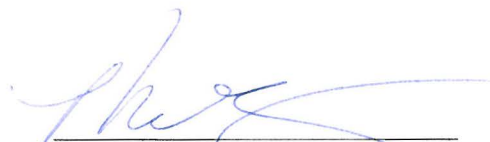
Respondent

Warren Cook
KSK Builders, LLC
800 S. Sherman Street
Denver, CO 80209

And emailed to:

Jessica Farmer
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

April 20, 2016



Melissa Haniewicz
Regional Hearing Clerk

