



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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BEFORE THE ADMINISTRATOR

REGIONAL HEARING CLERK U.S. ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Ms. Dessie L. Brumfield,
d/b/a Brumfield Properties, LLC,
Respondent.

Docket No. TSCA-05-2010-0014

ORDER TO CLARIFY ANSWER AND CONDUCT SETTLEMENT CONFERENCE

As you have been previously notified, I am designated to preside over this proceeding. This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1 through 22.45 ("Rules of Practice").

This proceeding arises under Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). The United States Environmental Protection Agency ("EPA" or "Complainant") initiated this proceeding on July 8, 2010, by filing a Complaint against Ms. Dessie L. Brumfield, d/b/a Brumfield Properties, LLC ("Ms. Brumfield" or "Respondent").

In her Answer, Ms. Brumfield appears to deny all bases of liability. However, Ms. Brumfield does not indicate in her Answer whether she does or does not want a hearing in this matter. If Ms. Brumfield wanted to have a hearing before an Administrative Law Judge, Rule of Practice 22.15(b) required her to request that hearing in her Answer.

In view of Ms. Brumfield's failure to request a hearing in her Answer, Ms. Brumfield is directed to file a statement clarifying whether she does or does not request a hearing before an Administrative Law Judge. She shall file this clarification statement on or before November 18, 2011.

Furthermore, EPA policy encourages settlement of a proceeding without the necessity of a formal hearing. 40 C.F.R. § 22.18(b). The benefits of a negotiated settlement may far outweigh the uncertainty, time, and expense associated with a litigated proceeding. A settlement allows the parties to control the outcome of the case, whereas a judicial decision takes such control away. If settlement discussions have already been undertaken, the parties are commended for taking the initiative. However, the record does not indicate that the parties have engaged in such discussions.

The parties are directed to hold a settlement conference on or before December 2, 2011, to attempt to reach an amicable resolution of this matter. Complainant shall file a status report regarding the conference and the status of settlement on or before December 9, 2011.

The signed original, and one copy, of any statements, status reports, or other documents shall be filed with the Regional Hearing Clerk by mailing them to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604-3590

A document is "filed" when the Regional Hearing Clerk *receives* it. In addition, a copy shall be sent to the undersigned Administrative Law Judge, addressed as follows:

If sent by the U.S. Postal Service (USPS):

The Honorable Susan L. Biro, Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., Mail Code 1900L
Washington, DC 20460

If hand-delivered or sent by a non-USPS delivery service, such as Federal Express or UPS, that x-rays its packages as part of its routine security procedures:

The Honorable Susan L. Biro, Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1099 14th Street, N.W., Suite 350

Washington, DC 20005

Finally, a copy shall be sent to the other party. Mail may be addressed to Complainant at:

Jeffrey M. Trevino, Esq. (C-14J)
U.S. EPA, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604-3590

Mail may be addressed to Respondent at:

Ms. Dessie L. Brumfield
5067 N. 37th St.
Milwaukee, WI 53209

If the parties have any questions, they are encouraged to refer to the Citizen's Guide and the Practice Manual available at the Office of Administrative Law Judges' Website, at <http://www.epa.gov/oalj>. Telephone contact may be made with my legal assistant, Maria Whiting-Beale, at (202) 564-6259, to ask whether a document has been received or issued. Telephone contact may be made with my staff attorney, Ed Kulschinsky, Esq., at (202) 564-4133, for other procedural questions.

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge


Dated: October 27, 2011
Washington, D.C.

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In the Matter of Ms. Dessie L. Brumfield d/b/a Brumfield Properties, LLC, Respondent
Docket No.TSCA-05-2010-0014

CERTIFICATE OF SERVICE

I certify that the foregoing **Order To Clarify Answer And Conduct Settlement Conference**, dated October 27, 2011, was sent this day in the following manner to the addressees listed below.



Maria Whiting-Beale
Staff Assistant

Dated: October 27, 2011

Original And One Copy By Pouch Mail To:

La Dawn Whitehead
Regional Hearing Clerk
U.S. EPA
77 West Jackson Boulevard, E-19J
Chicago, IL 60604-3590

Copy By Pouch Mail To:

Jeffrey M. Trevino, Esquire
Associate Regional Counsel
U.S. EPA
77 West Jackson Boulevard, C-14J
Chicago, IL 60604-3590

Copy By Regular Mail To:

Ms. Dessie Brumfield
5067 N 37th Street
Milwaukee, WI 53209

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