

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 2

RECEIVED  
CLERK  
2018 OCT -11 AM 7:52  
U.S. Environmental  
Protection Agency

-----X  
: :  
In the Matter of : : **CONSENT AGREEMENT AND**  
: : **FINAL ORDER**  
: :  
North River Mews Associates, LLC : :  
: :  
Respondent. : :  
: :  
Proceeding under the Toxic : : **Docket No.**  
Substances Control Act. : : **TSCA-02-2018-9102**  
-----X

This administrative proceeding for the assessment of a civil penalty is being commenced pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a) (“TSCA” or the “Act”). Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides, in part, that “[a]ny person who violates a provision of section 2614 [of TSCA, 15 U.S.C. § 2614] ... shall be liable to the United States for a civil penalty....”

The Agency, under authority of TSCA, has promulgated regulations that govern the manufacture, processing, distribution in commerce, use, disposal, storage and marking of, *inter alia*, polychlorinated biphenyls (PCBs) and PCB-containing wastes. These regulations are codified at 40 C.F.R. Part 761.

Pursuant to Section 22.13 of the revised Consolidated Rules of Practice, 40 C.F.R. § 22.13(b), where parties agree to settlement of one or more causes of action before the filing of a Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3). This administrative proceeding constitutes one that is simultaneously being commenced and concluded pursuant to said provisions of 40 C.F.R. § 22.18(b).

It has been agreed by the parties that settling this matter by entering into this CA/FO pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) is an appropriate means of resolving specified claims against North River Mews Associates, LLC, without further litigation. To that end, the parties have met and discussed settlement. No adjudicated findings of fact or conclusions of law have been made in either a judicial or administrative forum. The following constitute EPA's Findings of Fact and Conclusions of Law based on information of which EPA, Region 2, was aware as of the date this CA/FO has been executed.

Complainant in this proceeding is the Director of the Division of Enforcement and Compliance Assistance ("Complainant") of EPA, Region 2, and Complainant has been duly delegated the authority to commence this proceeding. Respondent is North River Mews Associates, LLC.

### **EPA FINDINGS OF FACT**

1. Respondent is North River Mews Associates, LLC, a limited liability company organized and existing under the laws of the State of New Jersey with offices at 1000 Portside Drive in Edgewater, New Jersey.
2. Fred Daibes, who maintains an office at 22 Route 5 in Edgewater, New Jersey, is a shareholder and the managing member of Respondent.
3. Until the late 1960s, the Aluminum Corporation of America ("Alcoa") conducted business operations at a site the address of which is 660 River Road in Edgewater, New Jersey (hereinafter, "the Site"), and these operations included the manufacture of fire-resistant hydraulic fluids that contained PCBs. Among the structures on the Site for which Alcoa was responsible and in which it conducted operations was a building known as Building 12. Testing demonstrated that some of the walls of Building 12 were contaminated with PCBs. Several of these walls subsequently collapsed and were stored in the shell of Building 12 until later disposal. A portion of Building 12 was demolished in the summer of 2013.
4. Waterside Construction, LLC ("Waterside"), a limited liability company organized and existing under New Jersey law, demolished a portion of Building 12 in the summer of 2012 as part of Respondent's remediation and development of the Site. Fred Daibes is the managing member of Waterside.
5. Since at least February 10, 2015, and for times prior to that, Respondent has held title to the Site. At all times relevant, Respondent owned, controlled, and/or was otherwise responsible for the Site.
6. Since at least August 2015, Keith Gagnon, a Licensed Site Remediation Professional, who was/is associated with LSRP Consulting LLC, oversaw the remediation work at the Site.

