



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 JAN 30 AM 10:10
REGIONAL HEARING
CLERK

JAN 30 2008

Certified Mail Return Receipt Requested

Sudha Raja, Esq.
Deputy Attorney General
Department of Law & Public Safety
Division of Law
25 Market Street
P.O. Box 114
Trenton, NJ 08625-0114

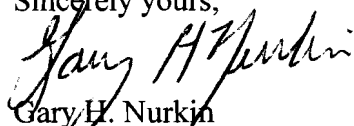
Re: New Jersey Schools Construction corporation
Docket No. TSCA-02-2007-9102

Dear Ms. Raja:

Enclosed is a copy of the Consent Agreement and Final Order ("CA/FO") in the above referenced proceeding signed by the Regional Administrator of the U.S. Environmental Protection Agency.

Please note that payment must be made in accordance with the terms given in the Consent Agreement. If you have any questions, please contact me at 212-637-3195.

Sincerely yours,


Gary H. Nurkin
Assistant Regional Counsel

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2007 JAN 30 AM 10:10
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In The Matter of:

New Jersey Schools Construction
Corporation,

Respondent

Proceeding Under Section 16(a) of the
Toxic Substances Control Act

CONSENT AGREEMENT
AND
FINAL ORDER

Docket Number TSCA-02-2007-9102

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of civil penalties was instituted pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a) (hereinafter "TSCA"). The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA") issued a Complaint and Notice of Opportunity for Hearing, bearing the docket number TSCA-02-2007-9102, to the New Jersey Schools Construction Corporation ("NJSCC" or "Respondent") on December 28, 2006. The Complaint, which was based upon allegations of actions or omissions occurring between December 2003 and September 2005, charged Respondent with violating Section 15 of TSCA, 15 U.S.C. § 2614, and regulations promulgated pursuant to 40 C.F.R. Part 761 relating to marking, storing, handling and manifesting of polychlorinated biphenyls ("PCBs") and/or PCB Transformers.

EPA and NJSCC have subsequently engaged in settlement discussions with respect to the alleged violations contained in the aforementioned Complaint. Both EPA and NJSCC have decided that settlement of this matter on the terms set forth in this Consent Agreement/Final Order ("CA/FO") is an appropriate means of resolving the claims against NJSCC without further litigation. NJSCC representatives have subsequently informed EPA that NJSCC has, as of August 6, 2007, transitioned to a new entity called the New Jersey Schools Development Authority ("NJSDA"). The parties have agreed that although the caption will remain the same, the NJSDA will assume responsibility for compliance with the terms set forth in this CA/FO.

This CA/FO is being issued pursuant to, and under the authority of, 40 C.F.R. § 22.18(b). No adjudicated findings of fact or conclusions of law have been made. NJSCC neither admits nor denies the Findings of Fact or Conclusions of Law set forth below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Respondent is NJSCC.
2. Respondent owns, operates and/or controls the facility commonly known as the "Roebing School" site, located in and around 670 South Clinton Avenue, Trenton, New Jersey 08611.
3. Respondent acquired the "Roebing Facility" from the prior owner through condemnation on or about December 15, 2003.
4. Respondent's facility is located within Region 2 of the United States Environmental Protection Agency ("EPA").
5. Respondent is a "person" within the meaning of 40 C.F.R. § 761.3.
6. By letter dated July 1, 2005, Respondent voluntarily disclosed to EPA "the potential for PCB containing transformers and electrical appurtenances . . . associated with the former historic use of the Roebing facility." On several occasions after that, Respondent provided EPA with additional information pertaining to transformers 4A, 4B and 6 indicating that those transformers were PCB Items. (hereinafter all such communications are collectively referred to as "Respondent's disclosure").
7. The 3 transformers described in paragraph "6", above, constitute "PCB Transformers", and consequently "PCB Items" as those terms are defined at 40 C.F.R. § 761.3.
8. "The PCB Items" described in paragraph "6", above, were left behind by the prior owner of the Roebing Facility at the time of Respondent's acquisition of the property. Respondent asserts that the prior owner of the Roebing Facility had not properly marked, labeled or stored the "PCB Items" at issue in accordance with 40 C.F.R. Part 761 regulations at the time of Respondent's acquisition of the Roebing Facility.
9. Respondent owned, used and maintained, or stored for reuse or disposal "PCBs" and "PCB Items", as those terms are defined at 40 C.F.R. § 761.3, at Respondent's Roebing School site since Respondent acquired the site via condemnation on or about December 15, 2003, until such "PCBs" and "PCB Items" were disposed of in accordance with 40 C.F.R. Part 761 regulations in July 2005.
10. Based on Respondent's disclosure, EPA, on December 28, 2006, issued a Complaint to NJSCC alleging that NJSCC: (1) failed to mark PCB Transformers, (2) failed to

properly store PCB Transformers on-site, (3) failed to notify EPA of PCB activity and (4) failed to manifest PCB containing material off-site.

11. On or about March 9, 2007, Respondent filed an Answer denying the alleged violations.

CONSENT AGREEMENT

Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. § 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, it is hereby agreed by and between the Parties, and voluntarily and knowingly accepted by Respondent, that Respondent, for purposes of this Consent Agreement and in the interest of settling this matter expeditiously without the time, expense or uncertainty of a formal adjudicatory hearing on the merits: (a) admits the jurisdictional allegations of the Complaint; (b) neither admits nor denies the allegations set forth in the Complaint; (c) neither admits nor denies the above "Findings of Fact" and/or "Conclusions of Law"; (d) consents to the assessment of the civil penalty as set forth below; (e) consents to the issuance of the Final Order accompanying this Consent Agreement; and (f) waives its right to contest or appeal that Final Order.

It is further hereby agreed by and between Complainant and NJSDA, the successor to NJSCC, and voluntarily and knowingly accepted by NJSDA, that the parties shall comply with the following terms and conditions:

1. Respondent shall immediately comply and maintain compliance with the 40 C.F.R. Part 761 regulations applicable to persons who own, use and maintain or store for reuse or disposal PCBs and PCB Items.
2. This CA/FO is not intended, and shall not be construed, to waive, extinguish or otherwise affect NJSCC's obligation to comply with all applicable federal, state and local law and regulations governing the generation, handling, treatment, storage, transport and disposal of PCBs.
3. Nothing in this document is intended nor shall it be construed, to waive, prejudice or otherwise affect the right of EPA, or the United States, from pursuing any appropriate remedy, sanction or penalty prescribed by law against NJSCC for having made any material misrepresentations or for NJSCC having provided materially false information in any document submitted in accordance with the terms and conditions of this Consent Agreement.
4. Nothing in this document is intended nor shall it be construed, to waive, prejudice or otherwise affect the right of the NJSDA to recover all or a portion of the penalties it has agreed to pay herein from any party which is not a signatory to this CA/FO.

5. NJSDA shall pay a civil penalty to EPA in the total amount of **SIXTY THOUSAND DOLLARS (\$60,000)**. Such payment shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be made payable to the "**Treasurer, United States of America,**" and shall be mailed to:

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

The check shall be identified with a notation thereon listing the following: *IN THE MATTER OF NEW JERSEY SCHOOLS CONSTRUCTION CORPORATION*, and shall bear thereon the Docket Number *TSCA-02-2007-9102*. Payment of the penalty must be *received* at the above address on or before forty-five (45) calendar days after the Effective Date of this CA/FO (the "due date").

If NJSDA chooses to make the payment by EFT, then NJSDA shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045.
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental Protection Agency."
- 6) Name of Respondent: New Jersey Schools Construction Corporation.
- 7) Case Number: TSCA-02-2007-9102.

Such EFT must be received on or before 45 calendar days after the Effective Date of this CA/FO.

Whether the payment is made by check or by EFT, NJSDA shall promptly thereafter furnish reasonable proof that such payment has been made, to both:

Gary H. Nurkin, Esq.
Assistant Regional Counsel
Environmental Protection Agency, Region 2
290 Broadway, Room 1623
New York, New York 10007-1866

and

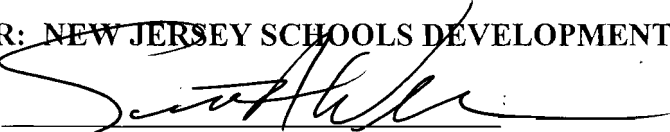
Karen Maples, Regional Hearing Clerk
Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866.

- a. Failure to pay the amount in full within the time period set forth above may result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.
 - b. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
 - c. The civil penalty constitutes a penalty within the meaning of 26 U.S.C. § 162(f).
6. This Consent Agreement is being voluntarily entered into by the parties to resolve the civil and administrative claims alleged in the Complaint bearing Docket Number TSCA-02-2007-9102.
 7. The provisions of this Consent Agreement shall be binding upon both Complainant and Respondent along with their authorized representatives and successors or assigns.
 8. NJSDA explicitly waives its right to request or to seek any Hearing on the Complaint or on any of the allegations therein asserted, on this Consent Agreement or on any of the matters herein stated, or on the accompanying Final Order.
 9. NJSDA waives any rights it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with, or to be served with and to reply to any memorandum or communication addressed to, the Regional Administrator or the Deputy Regional Administrator, where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

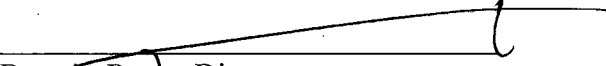
10. Each signatory certifies that he or she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.
11. NJSDA consents to the service of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.
12. The effective date of this Consent Agreement and Final Order shall be the date that it is filed with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.
13. Each party hereto agrees to bear its own costs and fees in this matter.

FOR: NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

BY:


Scott Weiner, Chief Executive Officer
New Jersey Schools Development Authority
Date: 12/24/07

FOR COMPLAINANT:


Dore LaPosta, Director
Division of Enforcement
and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway
New York, NY 10007

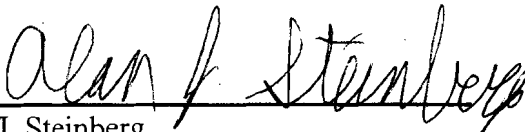
DATE: JANUARY 10, 2008

In the Matter of New Jersey Schools Construction Corporation,
Docket No. TSCA-02-2007-9102

FINAL ORDER

The Regional Administrator of EPA, Region 2 concurs in the foregoing Consent Agreement in the case of *In the Matter of New Jersey Schools Construction Corporation*, bearing Docket No. TSCA-02-2007-9102. Said Consent Agreement having been duly accepted and entered into by the parties, is hereby ratified, incorporated into and issued, as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under authority of Section 16 of TSCA, 15 U.S.C. § 2615.

DATED: 1-25-, 2008
New York, New York



Alan J. Steinberg
Regional Administrator
U.S. Environmental Protection Agency -
Region 2
290 Broadway
New York, New York 10007-1866

In the Matter of New Jersey Schools Construction Corporation
Docket No. TSCA-02-2007-9102

CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and One Copy

By Hand:

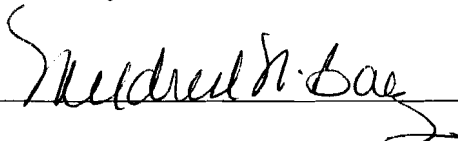
Regional Hearing Clerk
U.S. Environmental Protection
Agency - Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Copy by Certified Mail,
Return Receipt Requested:

Sudha Raja, Esq.
Deputy Attorney General
Department of Law & Public Safety
Division of Law
25 Market Street
P.O. Box 114
Trenton, NJ 08625-0114

Copy by Pouch Delivery:

Hon. Susan L. Biro.
Chief Administrative Law Judge
U.S. Environmental Protection Agency
Ariel Rios Building
Mail Code 1900
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460



Dated: JAN 30, 2007
New York, New York

SDA

NJ SCHOOLS DEVELOPMENT AUTHORITY

FAX

IMPORTANT NOTICE

DATE: December 31, 2007

TO: Gary Nurkin

FAX NUMBER: (212) 637-3199

FROM: Cecelia Haney, Esq.

TOTAL NUMBER OF PAGES (including cover page): 9

**COMMENTS: Re: Consent Agreement/Final Order
Requires Execution.**

IF THERE IS A PROBLEM WITH THE TRANSMISSION PLEASE NOTIFY
BARBARA McNEIL

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THE COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE BELOW ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

Mailing Address: PO Box 991, Trenton, NJ 08625-0991
Telephone (609) 341-5946 Fax (609) 656-2976

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 4698
CONNECTION TEL 912126373199
SUBADDRESS
CONNECTION ID
ST. TIME 12/31 14:52
USAGE T 02'02
PGS. SENT 9
RESULT OK

SDA

NJ SCHOOLS DEVELOPMENT AUTHORITY

FAX

IMPORTANT NOTICE

DATE: December 31, 2007

TO: Gary Nurkin

FAX NUMBER: (212) 637-3199

FROM: Cecelia Haney, Esq.

TOTAL NUMBER OF PAGES (including cover page): 7

COMMENTS: Re: Consent Agreement/Final Order
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BARBARA McNEIL**

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