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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 10

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HEARINGS CLERK EPA -- REGION 10

In the Matter of:)	DOCKET NO. TSCA-10-2020-0040
)	
Litzinger Construction Co.)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
)	FINAL ORDER
Boise, Idaho)	
)	
Respondent.)	
)	

EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER

1. The U.S. Environmental Protection Agency (“EPA”) alleges that Litzinger Construction Co. (“Respondent”) failed to comply with Section 402(c) of the U.S. Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. (“TSCA”).
2. Under Section 402(c) of TSCA and 40 C.F.R. § 745.81(a)(2)(ii), Respondent was required to obtain initial firm certification from EPA before performing, offering, or claiming to perform renovations for compensation.
3. On August 5, 2019, Respondent was issued a Building Permit Number BLD19-02125 from the City of Boise Planning and Development Services to conduct a renovation for compensation at 1521 N 5th Street, Boise, Idaho 83702 (“1521 Property”).
4. The 1521 Property was constructed in 1905, prior to 1978, and is a target housing within the meaning of 15 U.S.C. § 2681(17).

5. Respondent was not firm certified when it offered, performed or claimed to perform a renovation at the 1521 Property, in violation of 40 C.F.R. § 745.81(a)(2)(ii).

6. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B). After considering these factors, EPA has determined, and Respondent agrees that an appropriate penalty to settle this action is \$1,000.

7. Upon signing this Expedited Settlement Agreement, Respondent shall deposit the civil penalty amount listed in paragraph 6 by one of the following methods:

7.1 Send a cashier's or certified check or money order with a notation for TSCA-10-2020-0040 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Docket No. TSCA-10-2020-0040
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

7.2 Send a cashier's or certified check or money order by an overnight/common carrier (e.g., FedEx® or United Parcel Service of America, Inc.) with a notation for TSCA-10-2020-0040 payable to the order of the "Treasury of the United States of America" to the following address:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

7.3 Make an electronic deposit for payment (Vendor Express, Fedwire, Pay.gov) at <http://www2.epa.gov/financial/makepayment> following the online directions for an electronic funds transfer (EFT).

8. Concurrently with the deposit under paragraph 7, Respondent shall forward the original signed Expedited Settlement Agreement, a copy of the cashier's or certified check or money order or documentation of a wire transfer to the following address:

Maria Tartaglia
Lead-Based Paint Compliance Officer
Air and Toxics Enforcement Section
Enforcement and Compliance Assurance Division
U.S. EPA, Region 10, M/S: 20-C04
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

By written notice to Respondent, EPA may change the address and/or person listed above.

9. EPA is authorized to enter into this Expedited Settlement Agreement ("Agreement"), and this proceeding for the assessment of a civil penalty is simultaneously commenced and concluded, pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. § 22.13(b).

10. In signing this Agreement, for purposes of this proceeding, Respondent: (a) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (b) neither admits nor denies the factual allegations in this Agreement; (c) consents to the assessment of this penalty; and (d) waives any right to contest the allegations contained in this Agreement, and its right to appeal the attached Final Order.

11. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) is currently in compliance with the firm certification requirements as stated in 40 C.F.R. § 745.81(a)(2)(ii); (b) agrees to provide a deposit for payment of the civil penalty as set forth in Paragraph 6; (c) agrees to submit a true and accurate proof of deposit for payment of the civil penalty as set forth in Paragraph 7; and (d) agrees to release said deposit for payment to EPA upon entry of the Final Order attached hereto.

12. Upon the effective date of this Agreement and subsequent payment of the civil penalty as set forth in paragraph 6, Respondent shall be resolved of liability for Federal civil penalties for the violation(s) and facts alleged herein.

13. The penalty, including interest, paid by Respondent pursuant to the requirements of this Agreement, represents civil penalties assessed by EPA, and shall not be deductible for purposes of federal, state, or local income taxes.

14. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of TSCA, any other federal statute or regulation, or this Agreement.

15. Failure of Respondent to remit the civil penalties provided herein will result in this matter being forwarded to the United States Department of Justice for collection of the amount due, plus stipulated penalties and interest at the statutory judgment rate provided in 28 U.S.C. § 1961.

16. Each party shall bear its own costs and fees, if any.


17. The Agreement authorized by EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

18. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

IT IS SO AGREED.


Respondent Name (print): Ken Litzinger

Respondent Title (print): President

Respondent Signature: 

Date: 2-5-2020

APPROVED BY EPA:



Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division
EPA Region 10

Date: 2/26/2020

FINAL ORDER

Pursuant to the authority of Section 16 of TSCA, 15 U.S.C. § 2615, and according to the terms of the Expedited Settlement Agreement, IT IS HEREBY ORDERED THAT:

This agreement shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 10. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

SO ORDERED this 4th day of March, 2020.



RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of Litzinger Construction Co.**, Docket No. TSCA-10-2020-0040 was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:


The undersigned certifies that a true and correct copy of the document was delivered to:

Maria Tartaglia
Lead-based Paint Compliance Officer
Air and Toxics Enforcement Section
Enforcement and Compliance Assurance Division
U.S. EPA, Region 10, M/S: 20-C04
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Kenneth Litzinger
President
Litzinger Construction Co.
7249 W. Potomac Drive
Boise, Idaho 83704

DATED this 9 day of March, 2020.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10