



ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re:
Build-It Bros., L.L.C.
Docket No. TSCA-01-2019-0055
TSCA Appeal No. 20-06

ORDER VACATING ORDER ELECTING TO EXERCISE SUA SPONTE REVIEW

On February 9, 2021, the Environmental Appeals Board ("Board") issued an order electing to exercise sua sponte review in the above-captioned matter. While the complaint in this matter was properly served upon Build-It. Bros., L.L.C. ("Respondent") pursuant to 40 C.F.R. § 22.5(b)(1), see Motion and Memorandum in Support of Motion for Default 2, ex. 2 (July 14, 2020) (return receipt for complaint), the Board's sua sponte order noted concerns about service of the Motion and Memorandum for Default (collectively, "Motion for Default") and the Initial Decision and Default Order (collectively, "Default Order") on Respondent.1 Order Electing to Exercise Sua Sponte Review and Establishing Briefing Schedule (Feb. 9, 2021). As a result, the Board established a briefing schedule for the Region to file a brief, including any supporting

1 On January 21, 2021, the Board ordered re-service of the Default Order due to apparent anomalies in the Default Order's certificate of service. Order Directing Re-Service of Initial Decision and Default Order (Jan. 21, 2021). The Region re-served the Default Order by mail on January 25, 2021. See Certificate of Service (Jan. 25, 2021) (certificate of service accompanying re-served default order). The Board's subsequent order electing sua sponte review pertained to the re-service of the Default Order. Order Electing to Exercise Sua Sponte Review and Establishing Briefing Schedule 2-3 (Feb. 9, 2021).


documentation, addressing whether service of the Motion for Default and the Default Order upon Respondent was adequate and met applicable regulatory requirements. *Id.* at 3. The order, served on the Respondent, provided him the opportunity to file a brief responding to the Region's brief addressing service on or before February 25, 2021. *Id.*

On February 18, 2021, the Region filed its response to the Board's order addressing service of the Motion for Default and Default Order.² EPA Response to Environmental Appeals Board Order Electing to Exercise Sua Sponte Review and Establishing Briefing Schedule (Feb. 18, 2021). Respondent did not file a response to the Region's brief. In light of the brief and supporting materials submitted by the Region regarding service of the Motion for Default and the Default Order, the Board vacates its order electing sua sponte review. Accordingly, and pursuant to 40 C.F.R. § 22.27(c), the Default Order will become a final order 45 days after service of this order.

So ordered.³

ENVIRONMENTAL APPEALS BOARD

Dated: Mar. 18, 2021

By: 
Aaron P. Avila
Environmental Appeals Judge

² On March 5, 2021, the Region filed documentation showing that its response to the Board's sua sponte order was delivered to Respondent on February 19, 2021. USPS Tracking Data for February 18, 2021 EPA Response to EAB Order for Sua Sponte Review, attach. 1 (Mar. 5, 2021).

³ The three-member panel deciding this matter consists of Environmental Appeals Judges Aaron P. Avila, Mary Kay Lynch, and Kathie A. Stein.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Vacating Order Electing to Exercise Sua Sponte Review* in the matter of Build-It Bros., LLC, TSCA Appeal No. 20-06, were sent to the following persons in the manner indicated.

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Dated: Mar 18, 2021



Eurika Durr
Clerk of the Board