



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
2890 WOODBRIDGE AVENUE
EDISON, NEW JERSEY 08837-3679

MAY 10 2016

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Article Number 7015 1520 0002 8556 6007

Kevin Jones, Owner
K&D Landscaping and Construction
4577 Francis Road
Cazenovia, NY 13035

Re: K&D Landscaping and Construction, Docket No. TSCA-02-2016-9283

Dear Mr. Jones:

Enclosed is a fully executed copy of the Administrative Expedited Settlement Agreement and Final Order in the above-referenced proceeding, signed by the Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2.

Please contact Demian P. Ellis at (732) 321-6661, should you have any questions regarding this matter.

Sincerely,

John German, Chief
Pesticides and Toxic Substances Branch

Enclosure

REGIONAL HEARING
CLERK

2016 MAY 11 PM 4:26

U.S. Environmental
Protection Agency-Reg 2

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

K&D Landscaping and Construction,
Respondent.

) Docket No.
) TSCA-02-2016-9283
)

) **EXPEDITED SETTLEMENT**
) **AGREEMENT AND**
) **FINAL ORDER**
)
)
)

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency ("EPA") alleges K&D Landscaping and Construction ("Respondent" or "K&D") failed to comply with Sections 402, 406 and 407 of the U.S. Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2682, 2686 and 2687 respectively.
2. Respondent offered to perform a residential renovation or repairs at a property located at: 104-106 Weeger Street, Rochester, NY 14605 in May 2015.
3. The aforementioned residential housing property in paragraph 2, above, was constructed prior to 1978 and is target housing¹ subject to the Renovation, Repair, and Painting Rule.
4. Respondent was required to obtain initial firm certification from EPA, as required by 40 CFR § 745.81(a)(2)(ii), prior to offering to perform renovations at the residential housing property, as described in paragraph 2. Respondent did not do this.
5. EPA and Respondent agree that settlement of this matter for a civil penalty of \$200 (two hundred dollars) is in the public interest.
6. EPA is authorized to enter into this Expedited Settlement Agreement ("Agreement") pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 40 C.F.R. § 22.13(b), and 40 C.F.R. § 22.18(b)(2).
7. In signing this Agreement, Respondent: (1) admits that Respondent is subject to the Residential Property requirements (40 C.F.R. § 745, Subpart E); (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as described in paragraph 4 above; (3) neither admits nor denies the factual finding contained therein; (4) consents to the assessment of the penalty; and (5) waives any right to contest the findings contained herein.
8. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the violation described in paragraph 4, above, has been corrected; and (2) Respondent is submitting

¹ Target Housing is defined in TSCA Section 401 as any housing constructed before 1978, except for: 1) housing for the elderly or persons with disabilities (unless a child less than six years of age resides or is expected to reside in such housing); and 2) any zero-bedroom dwelling.

proof of payment of the civil penalty with this agreement.

9. The civil penalty of \$200 (two hundred dollars) has been paid in accordance with the *Instructions for Making a Payment* that was provided to the Respondent.
10. Upon the effective date of this Agreement, payment of the civil penalty shall constitute full settlement of the civil claims cited herein. Respondent will also provide, if it has not already done so, within thirty days a written statement outlining actions taken to correct the violation cited above.
11. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.
12. 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.
13. Upon signing and returning this Agreement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to TSCA or 40 C.F.R. Part 22.
14. Each party shall bear its own costs and fees, if any.
15. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing with the Regional Hearing Clerk.

IT IS SO AGREED, K&D LANDSCAPING AND CONSTRUCTION


Name (print): Kevin Jones

Title (print): owner/operator

Signature: 

Date 4-22-16

APPROVED BY EPA:


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Date MAY 3, 2016

In the Matter of K&D Landscaping and Construction
Docket Number TSCA-02-2016-9283

FINAL ORDER

The Regional Judicial Officer of EPA, Region 2, concurs in the foregoing Expedited Settlement Agreement in the case of In the Matter of K&D Landscaping and Construction, bearing Docket No. TSCA -02-2016-9283. Said Expedited Settlement 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(a) of TSCA 15 U.S.C. § 2615(a).

DATED: May 5, 2016
New York, New York

Helen Ferrara

Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency-Region 2
290 Broadway
New York, New York 10007-1866

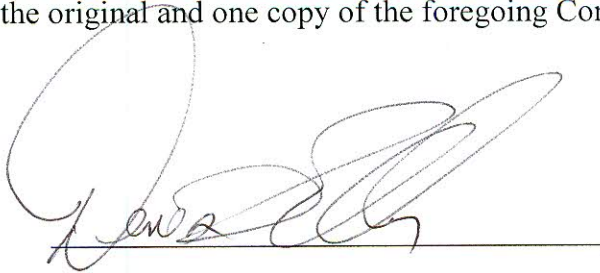
In the Matter of K&D Landscaping and Construction
Docket Number TSCA- 02-2016-9283

CERTIFICATE OF SERVICE

This is to certify that on the 10th day of May 2016, I served a true and correct copy of the foregoing fully executed Expedited Settlement Agreement and Final Order bearing Docket Number TSCA-02-2016-9283, by certified mail, return receipt requested, to:

Mr. Kevin Jones, Owner
K&D Landscaping and Construction
4577 Francis Road
Cazenovia, NY 13035

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.



A handwritten signature in black ink, appearing to read "Kevin Jones", is written over a horizontal line. The signature is stylized and cursive.