

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY**

In the Matter of:)	
)	Docket No. TSCA-10-2021-0006
GREENBUILD DESIGN & CONSTRUCTION, LLC)	
)	
Anchorage, Alaska)	COMPLAINANT’S INITIAL PREHEARING EXCHANGE
)	
Respondent.)	
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COMPLAINANT’S INITIAL PREHEARING EXCHANGE

COMES NOW, the U.S. Environmental Protection Agency, Region 10 (“Complainant”), in response to this Tribunal’s February 3, 2021 Prehearing Order and March 2, 2021 Order on Complainant’s Motion, to respectfully submit its Initial Prehearing Exchange, stating as follows:

I. 1(A). WITNESSES INTENDED TO BE CALLED

Ms. Kim Farnham (fact/expert): Ms. Farnham will testify as both a fact and expert witness. Ms. Farnham is a Compliance Officer and Inspector for the U.S. Environmental Protection Agency (EPA) Region 10, Enforcement and Compliance Assurance Division. She has worked at EPA since 2000, starting as a Resource Conservation and Recovery Act (RCRA) Environmental Protection Specialist in 2005, then transitioning to a Toxic Substances Control Act (TSCA) inspector and Environmental Protection Specialist in 2011.

In her role, Ms. Farnham reviews and implements regulations, policies, and operating guidance for the EPA Region 10 TSCA Lead-Based Paint Program. She offers program administration and oversight, which involves (1) managing, administering, and coordinating efforts to achieve and maintain environmental compliance of ongoing operations, and to remediate past environmental violations or compliance problems; and (2) administering, evaluating, and overseeing environmental programs and/or

activities funded by a program of grants, cooperative agreements, or other similar arrangements. Ms. Farnham has completed over 300 TSCA lead-based paint inspections and processed over 50 enforcement actions in the Lead-Based Paint Program.

Ms. Farnham will testify as to her background, work experience in EPA Region 10's Enforcement and Compliance Assurance Division, and her experience serving as a compliance officer for TSCA, 40 C.F.R. Part 745, Subpart E ("Renovation, Repair, and Painting Rule" or the "RRP Rule") inspections.

Ms. Farnham was the lead inspector during EPA's July 25, 2018 inspection of the renovation at 2208 Turnagain Parkway in Anchorage, Alaska ("the Turnagain Property"). She conducted the inspection interview with Greenbuild Design & Construction LLC (Respondent), wrote the inspection report, and had extensive communication with Respondent. As such, Ms. Farnham will testify about her review of Respondent's file, her observations made while conducting the July 25, 2018 inspection, her conversations with Respondent during and after the July 25, 2018 inspection, and her overall investigation of Respondent.

Further, based on her wealth of experience and expertise in TSCA, Ms. Farnham will testify as to how appropriate penalties are calculated in TSCA lead-based paint cases and why such penalties are necessary. Ms. Farnham will be able to offer her opinion on this case, its importance in upholding the TSCA regulatory scheme, and the appropriateness of the penalty.

Mr. Robin ("Rob") Hamlet (fact/expert): Mr. Hamlet will testify as both a fact and expert witness. Mr. Hamlet is currently a Tribal Technical Specialist in the Permitting, Drinking Water & Infrastructure Branch of the Water Division at EPA Region 10. From 2017 to 2019, he worked as a Senior Environmental Employee (SEE) Environmental Specialist II for the EPA Region 10 TSCA

program. While there, Mr. Hamlet was responsible for conducting TSCA RRP Rule inspections and providing compliance assistance on TSCA regulations to the regulated community.

Mr. Hamlet will testify as to his background and work experience in EPA Region 10's Enforcement and Compliance Assurance Division, and his experience serving as a SEE Environmental Protection Specialist II for TSCA RRP inspections.

Mr. Hamlet worked on this case prior to the July 25, 2018 inspection. As such, Mr. Hamlet will testify about his work on this matter during the 2017 and 2018 timeframe, and how he attempted to provide compliance assistance to Respondent on multiple occasions. Mr. Hamlet will testify that he attempted to conduct an in-person inspection with Respondent on October 12, 2017, but Respondent did not show up for that inspection. Mr. Hamlet will also testify about his work leading up to the July 25, 2018 inspection, including attempting to schedule an inspection with Respondent on July 26, 2018, but discovering that Respondent would not be showing up for that inspection either.

Mr. Hamlet was also present at the July 25, 2018 inspection of the Turnagain Property. As such, Mr. Hamlet will testify about his review of Respondent's case file and preparation for the July 25, 2018 inspection, his observations made while conducting the July 25, 2018 inspection, his conversations with Respondent before, during, and after the July 25, 2018 inspection, and his overall investigation of Respondent. Further, based on his expertise in TSCA and TSCA inspections, Mr. Hamlet will be able to offer his opinion on this case, its importance in upholding the TSCA regulatory scheme, and the appropriateness of the penalty.

Ms. Maria ("Socky") Tartaglia (fact/expert): Ms. Tartaglia will testify as both a fact and expert witness. Ms. Tartaglia is an Environmental Protection Specialist and TSCA Lead-Based Paint Enforcement and Compliance Officer for EPA Region 10. She has worked at the Agency since 1993 and

has been with the TSCA program since 1999. Ms. Tartaglia became an Environmental Protection Specialist and TSCA Lead-Based Paint Enforcement and Compliance Officer in 2015.

Ms. Tartaglia will testify as to her work experience in EPA Region 10's Enforcement and Compliance Assurance Division. Her duties include serving as a compliance officer for TSCA RRP enforcement actions for violations stemming from inspections and calculating appropriate penalties for those enforcement actions.

Ms. Tartaglia supported Mr. Hamlet and Ms. Farnham's efforts on this case. As such, she will be able to testify how she assisted Mr. Hamlet with this case during 2017 and 2018, including by speaking on the phone with Respondent about TSCA RRP Rule requirements and drafting an advisory letter to Respondent. Ms. Tartaglia will also testify about how she supported Mr. Hamlet and Ms. Farnham immediately preceding the July 25, 2018 inspection of the Turnagain Property.

Ms. Tartaglia was also chiefly responsible for identifying any violations of the TSCA RRP Rule that Respondent committed. Ms. Tartaglia will testify about her review of the July 25, 2018 inspection report and other evidence in this matter. Relying on that information and her expertise with the relevant EPA penalty policies, Ms. Tartaglia calculated the proposed penalty in this matter. As such, Ms. Tartaglia will testify about the operation of the various applicable penalty policies and how she calculated the proposed penalty for this case. She will also offer her opinion regarding the appropriateness of the proposed penalty, considering the nature, circumstances, extent and gravity of the violations, and with respect to Respondent: its ability to pay, the effect on its ability to continue to do business, any history of prior violations, the degree of culpability, and such other matters as justice may require.

Mr. Scott Wilder (expert): If necessary, Mr. Wilder will testify as an expert witness on rebuttal.

Mr. Wilder has served as Region 10's primary financial analyst, analyzing ability to pay issues since

2016. He first joined EPA in 2010 as a financial analyst in Region 8's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Technical Enforcement Program. Mr. Wilder was Region 8's primary analyst for CERCLA ability to pay claims until he transferred to Region 10 in 2016. Prior to joining EPA, Mr. Wilder worked at the largest mortgage bank in the country for ten years. While at that institution, he managed an office of over thirty employees originating, underwriting, and funding residential mortgage loans.

Mr. Wilder earned an MBA in Sustainable Business from Bainbridge Graduate Institute (now Presidio Graduate School) in 2011. His graduate studies included courses in financial accounting and economics. He has completed training on all the EPA economic models (ABEL, INDIPAY, MUNIPAY, and BEN) and has designed and presented ability to pay training sessions for the State of Montana and EPA's 2014 National CERCLA Potentially Responsible Party (PRP) Search Conference. In 2014 and 2015, Mr. Wilder served on the national workgroup tasked with drafting the EPA's Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Action. CX 99.

If necessary on rebuttal, Mr. Wilder will testify as to his work experience and job duties at EPA, including relevant experience from his work as a financial analyst at EPA Regions 8 and 10. He will also be able to speak to his training, credentials, and qualifications to serve in the role of financial analyst at EPA Region 10. Should Respondent properly raise an ability to pay claim, Mr. Wilder will be able to offer his opinion on Respondent's ability to pay a civil administrative penalty in this matter.

II. 1(B). DOCUMENTS AND EXHIBITS INTENDED TO BE INTRODUCED

Exhibit Number	Description
CX 1	Curriculum Vitae (CV) of Ms. Kim Farnham
CX 2	Curriculum Vitae (CV) of Mr. Rob Hamlet
CX 3	Curriculum Vitae (CV) of Ms. Maria Tartaglia

CX 4	Unsworn Statement of Ms. Kim Farnham ¹
CX 5	Unsworn Statement of Mr. Rob Hamlet
CX 6	Unsworn Statement of Ms. Maria Tartaglia
CX 7	GreenBuild – Record Keeping Inspection Report
CX 8	Contractor Agreement 2208 Turnagain Parkway
CX 9	GreenBuild Invoice – Full Job
CX 10	Building Permit
CX 11	Firm Certification
CX 12	E-mail chain re: Renovator Certification
CX 13	Firm Certification Training receipt
CX 14	Inspection Photo 1
CX 15	Inspection Photo 2
CX 16	Inspection Photo 3
CX 17	Inspection Photo 4
CX 18	Inspection Photo 5
CX 19	Inspection Photo 6
CX 20	Inspection Photo 7
CX 21	Inspection Photo 8
CX 22	Inspection Photo 9
CX 23	Inspection Photo 10
CX 24	Inspection Photo 11
CX 25	Inspection Photo 12
CX 26	Inspection Photo 13
CX 27	Inspection Photo 14
CX 28	Inspection Photo 15
CX 29	Inspection Photo 16
CX 30	Inspection Photo 17

¹ Due to a technological issue, Ms. Farnham is unable to provide a digitally authenticated signature on her unsworn statement. CX 4. As such, it is currently unsigned. Complainant is working through that issue and will move to supplement this exchange with a signed version of Ms. Farnham’s statement when she is able to sign it. Complainant apologizes for this inconvenience.

CX 31	Inspection Photo 18
CX 32	Inspection Photo 19
CX 33	Inspection Photo 20
CX 34	Inspection Photo 21
CX 35	Inspection Photo 22
CX 36	Inspection Photo 23
CX 37	Inspection Photo 24
CX 38	Inspection Photo 25
CX 39	Inspection Photo 26
CX 40	Inspection Photo 27
CX 41	Inspection Photo 28
CX 42	Inspection Photo 29
CX 43	Inspection Photo 30
CX 44	Inspection Photo 31
CX 45	Inspection Photo 32
CX 46	Inspection Photo 33
CX 47	Inspection Photo 34
CX 48	Inspection Photo 35
CX 49	Inspection Photo 36
CX 50	Inspection Photo 37
CX 51	Inspection Photo 38
CX 52	Inspection Photo 39
CX 53	Inspection Photo 40
CX 54	Inspection Photo 41
CX 55	Inspection Photo 42
CX 56	Greenbuild Business License
CX 57	Affidavit of Service
CX 58	Invoice for Service
CX 59	907 Heating & Plumbing invoice
CX 60	Powertec Electric LLC invoice

CX 61	2208 Turnagain Parkway Photograph
CX 62	2208 Turnagain Real Estate Listings – Jan. 5, 2018
CX 63	2208 Turnagain Real Estate Listings – Nov. 16, 2018
CX 64	2208 Turnagain Real Estate Listings – Old New Comparison – Feb. 11, 2021
CX 65	2208 Turnagain Listings - Jan 5, 2018
CX 66	2208 Turnagain Listings - July 17, 2020
CX 67	2208 Turnagain - Old New Comparisons - Feb 11, 2021
CX 68	Anchorage building permit info - R18-1823
CX 69	Anchorage building permit info - R18-1823 (2)
CX 70	Anchorage building permit info - R18-1823 (3)
CX 71	Anchorage building permit info - R18-1823 (4)
CX 72	Anchorage building permit info - R18-1823 - electrical
CX 73	Disclosure of lead-based paint hazards
CX 74	Residential Real Property Transfer Disclosure Statement
CX 75	Alaska Secretary of State Filing - GreenBuild
CX 76	Greenbuild Design Construction LLC OneStop
CX 77	Westlaw Investigator Report – Greenbuild Bell Cir.
CX 78	Westlaw Investigator Report – Greenbuild Olive Lane
CX 79	2208 Turnagain Parkway Listing Screenshots – July 17, 2020
CX 80	June 27, 2017 - Notice of Inspection
CX 81	September 25, 2017 - Notice of Inspection

CX 82	October 3, 2017 – Telephone Call Log
CX 83	October 12, 2017 - Announced Inspection Report
CX 84	October 12, 2017 – No Show Inspection Notes
CX 85	April 25, 2018 – Letter to Respondent
CX 86	Property Detail – 2208 Turnagain
CX 87	Building Permit R18-2270
CX 88	Property Detail – 4220 Tahoe
CX 89	Signed Notice of Inspection
CX 90	Curriculum Vitae (CV) of Mr. Scott Wilder
CX 91	GreenBuild Design & Construction - Business Information
CX 92	Notice of Inspection Letter – July 2, 2018
CX 93	E-mail Chain from Laurie Fay to GreenBuild
CX 94	July 25, 2018 Inspection Field Notes
CX 95	GreenBuild Design & Construction Penalty Calculation Narrative
CX 96	<i>Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule (Aug. 2010) (RRP ERP).</i>
CX 97	<i>Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy (Dec. 2007) (Section 1018 ERP).</i>
CX 98	<i>2020 Penalty Policy Inflation Memo and 2020 Penalty Inflation Rule (Jan. 2020) (2020 Inflation Memo).</i>
CX 99	<i>Guidance on Evaluating a Violator’s Ability to Pay a Civil Penalty in an Administrative</i>

	<i>Enforcement Action (June 2015) (ATP Guidance).</i>
CX 100	PL 102-550, Oct 28, 1992, 106 Stat 3672, codified in 42 U.S.C. § 4851
CX 101	<i>Lead; Requirements for Hazard Education Before Renovation of Target Housing, 63 Fed. Reg. 29908, 29919 (June 1, 1998)</i>
CX 102	<i>Lead; Renovation, Repair, and Painting Program, 73 Fed. Reg. 21692, 21758 (Mar. 31, 2008)</i>

III. 1(C). AMOUNT OF TIME NEEDED; INTERPRETER

Complainant estimates that it will need approximately 10 hours, or a day and a half, to present its direct case, not including time for Respondent’s cross-examination of witnesses. Complainant does not request any translation services.

IV. 2(A). DOCUMENTATION CONFIRMING SERVICE OF COMPLAINT

Complainant’s Exhibits 57 and 58—Affidavit of Service and Invoice for Service—are documentation showing that Respondent’s registered agent, Mr. Rodrigo von Marees, CX 75, was personally served with a copy of the Complaint and other required documents on December 15, 2020, in accordance with Section 22.5(b)(1) of the Consolidated Rules of Practice, 40 C.F.R. § 22.5(b)(1).

V. 2(B). NARRATIVE STATEMENTS EXPLAINING THE FACTUAL AND/OR LEGAL BASES FOR THE ALLEGATIONS DENIED OR OTHERWISE NOT ADMITTED IN RESPONDENT’S ANSWER

Paragraph 1.3: Respondent admits the preliminary statement set forth in Paragraph 1.3 but denies Complainant’s allegations, denies having violated any legal provisions, and denies owing a penalty.

Complainant will establish through the introduction of Complainant's Exhibits listed in Section 1(B), above, and the testimony of Complainant's witnesses listed in Section 1(A), above, that Respondent violated, *inter alia*, Section 409 of TSCA, 15 U.S.C. § 2689, 40 C.F.R. §§ 745.81(a)(2)(ii), 745.89(d)(2), and 745.89(d)(3), for which a penalty is warranted.

Paragraph 3.4: Respondent admits that 2208 Turnagain Parkway, Anchorage, Alaska (the "Turnagain Property") is 1,584 square feet but makes no mention of the fact that it was built in 1953. Based on 40 C.F.R. § 22.15(d), Complainant reads this as an admission that the Turnagain Property was built in 1953. However, to the extent that Respondent intended this to indicate a denial, Complainant will establish that the Turnagain Property was built in 1953 using the following evidence:

- Complainant's Exhibit 86: Property Detail – 2208 Turnagain

Paragraph 3.7: Respondent admits that an estimate was provided to the owners of the Turnagain Property but neither admits nor denies the contents of the invoice quoted in Complaint Paragraph 3.7. Based on 40 C.F.R. § 22.15(d), Complainant reads this as an admission that the quoted sections of Paragraph 3.7 are accurate. However, to the extent that Respondent intended this to indicate a denial, Complainant will establish that the quoted sections are accurate using the following evidence:

- Complainant's Exhibit 9: GreenBuild Invoice – Full Job

Paragraph 3.8: Respondent denies that it disrupted more than 6 square feet of painted surfaces during its renovation activities, asserting instead that "the surface in question was wood paneling and not a painted surface." Answer at ¶3.8. In doing so, Respondent attempts to escape liability by suggesting that its work on the Turnagain Property was not a renovation and was instead minor repair and maintenance activities.

"Renovation" is defined as

the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement

as defined by this part. The term renovation includes (but is not limited to): The removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather-stripping), and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation under this subpart. The term renovation does not include minor repair and maintenance activities.

40 C.F.R. § 745.83.

Minor repair and maintenance activities are, in turn, defined as

activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by § 745.85(a)(3) are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

40 C.F.R. § 745.83.

By stating that Respondent “denies the work performed disrupted more than 6 ft of painted surface as the surface in question was wood paneling,” Answer at ¶3.8, Respondent is essentially asserting that its work was minor repair and maintenance activities. However, Complainant is prepared to prove that Respondent’s activities were a renovation in that Respondent (1) modified existing structures that resulted in the disturbance of painted surfaces, (2) removed painted surfaces, and (3) removed building components. Further, Complainant is prepared to prove that Respondent’s activities were not minor repair and maintenance activities because Respondent (1) disrupted more than 6 square feet of interior and 20 square feet of exterior painted surfaces, (2) replaced the windows, and (3) demolished painted surface areas.

Relying on Complainant's Exhibit 7 and Exhibits 14 to 55, Ms. Farnham and Mr. Hamlet will testify to the extent of work that Respondent was performing on the Turnagain Property during the July 25, 2018 inspection. As indicated in Complainant's Exhibit 9 and in Respondent's own words, the work Respondent was performing at the Turnagain Property could not be described as anything other than a "Complete house remodel." *See* CX 9 at 1.

Ms. Farnham and Mr. Hamlet will testify that Respondent had gutted the majority of the Turnagain Property so that only structural supports were left standing inside. Complainant will also introduce photographs that Mr. Hamlet took during the July 25, 2018 inspection, which when compared to photographs from online real estate websites depicting the pre-renovation Turnagain Property will show that Respondent removed painted surfaces and building components, disrupted more than six feet of interior painted surfaces, disrupted more than 20 square feet of exterior painted surfaces, replaced windows, and demolished painted surface areas. *Compare* CX 14 to 55 *with* CX 61 to 67; 40 C.F.R. § 745.83.

Further, as it is a violation for a firm to "perform, *offer*, or claim to perform renovation without certification from EPA..." 40 C.F.R. § 745.81(a)(2)(ii) (emphasis added), even if Respondent did not actually perform a renovation, its building permit, CX 10, contract, CX 8, and invoice, CX 9, all indicate that it at least offered to perform a renovation. Therefore, even if Respondent's assertion in Paragraph 3.8 were true, which Complainant does not concede, Respondent would still have violated 40 C.F.R. § 745.81(a)(2)(ii).

Paragraph 3.9: Respondent asserts that it is without knowledge or information sufficient to form a belief as to whether any of the exceptions in 40 C.F.R. § 745.82(a) apply to its renovation of the Turnagain Property.

The RRP Rule “applies to all renovations performed for compensation in target housing and child-occupied facilities, except for the following:”

- (1) Renovations in target housing or child-occupied facilities in which a written determination has been made by an inspector or risk assessor...that the components affected by the renovation are free of paint or other surface coatings that contain lead...
- (2) Renovations in target housing or child-occupied facilities in which a certified renovator, using an EPA recognized test kit...has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead...
- (3) Renovations in target housing or child-occupied facilities in which a certified renovator has collected a paint chip sample from each painted component affected by the renovation and a laboratory recognized by EPA...has determined that the samples are free of paint or other surface coatings that contain lead....

40 C.F.R. § 745.82(a)(1)-(3).

As Respondent is the only party to these proceedings that could possess any information related to these exceptions, the burden necessarily falls on Respondent to come forward with facts sufficient to establish that an exception applies. Therefore, based on 40 C.F.R. § 22.15(d), and the fact that any information relevant to the exceptions in 40 C.F.R. § 745.82(a) could only be in Respondent’s control, Complainant reads this as an admission that none of the exceptions in 40 C.F.R. § 745.82(a) apply. *C.f.*, *infra* Paragraph 4.5.

Paragraph 3.10: Respondent asserts that it is without knowledge or information sufficient to form a belief as to whether the RRP Rule applies to Respondent’s renovation at the Turnagain Property. The RRP Rule applies to “all renovations performed for compensation in target housing and child-occupied facilities,” 40 C.F.R. § 745.82(a), except those specifically enumerated in 40 C.F.R. § 745.82(a)(1)-(3).

Complainant will be able to establish that Respondent offered to perform, then actually performed, a renovation subject to the RRP Rule at the Turnagain Property, as further elaborated in Paragraph 3.8, *supra*, using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibit 8: Contractor Agreement 2208 Turnagain Parkway
- Complainant's Exhibit 9: GreenBuild Invoice – Full Job
- Complainant's Exhibit 10: Building Permit
- Complainant's Exhibit 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Complainant will be able to establish that the Turnagain Property is target housing using the following evidence:

- Complainant's Exhibit 86: Property Detail – 2208 Turnagain

Complainant will be able to establish that Respondent performed its renovation of the Turnagain Property for compensation using the following evidence:

- Complainant's Exhibit 8: Contractor Agreement 2208 Turnagain Parkway
- Complainant's Exhibit 9: GreenBuild Invoice – Full Job

And, as described in Paragraph 3.9, *supra*, the burden falls on Respondent to submit sufficient evidence to establish that an exception in 40 C.F.R. § 745.82(a)(1)-(3) applies. *C.f., infra* Paragraph 4.5.

Paragraph 3.12: Respondent denies that during the July 25, 2018 inspection, EPA inspectors provided it with a copy of the Notice of Inspection. At the inspection, Ms. Farnham provided Respondent with a copy of EPA's standard TSCA Notice of Inspection, and asked Respondent to sign it. Respondent signed the Notice of Inspection and returned it to Ms. Farnham. CX 89. Complainant will establish the accuracy of Paragraph 3.12 using the following evidence:

- Complainant's Exhibit 89: Signed Notice of Inspection
- Testimony of Ms. Farnham

- Testimony of Mr. Hamlet

Paragraph 3.13. Respondent neither admits nor denies Complainant’s allegation that Respondent was, itself, performing renovations at the Turnagain Property. Complainant therefore understands this allegation to be admitted. 40 C.F.R. § 22.15(d). Further, Respondent admits to overseeing workers performing renovations and pressure washing the exterior of the home but claims that those workers were only pressure washing new siding.

Respondent’s claim that workers at the Turnagain Property were only pressure washing new siding is another attempt by Respondent to dispute whether its action constituted a renovation. *See* 40 C.F.R. § 745.83 (definition of “Renovation” as including “the modification of any *existing structure*, or portion thereof, that results in the disturbance of painted surfaces....”) (emphasis added). This is factually inaccurate, and Complainant will establish that Respondent performed a renovation on the Turnagain Property, as defined in 40 C.F.R. § 745.83.

First, during the July 25, 2018 inspection, Ms. Farnham and Mr. Hamlet directly observed Respondent pressure washing the Turnagain Property. *See* CX 7. Therefore, they will be able to testify as to what, precisely, Respondent was pressure washing.

Second, while Respondent did install new siding on three sides of the Turnagain Property, it did not replace the Turnagain property’s soffits and eaves—the wooden part of the roof that overhangs the walls of the building—or install new siding on the rear of the property. Mr. Hamlet will testify that he directly witnessed Respondent pressure washing both the new siding and the existing soffits and eaves. *See* CX 22 (photograph taken during the July 25, 2018 inspection showing a worker pressure washing the existing eaves). And Mr. Hamlet will testify that he directly witnessed Respondent pressure washing the existing structure in the rear of the property. *See* CX 54 and 55 (photographs taken during the July

25, 2018 inspection showing the existing portion of the Turnagain Property that Respondent pressure washed).

Third, Respondent's contract for the Turnagain Property renovation indicates that Respondent would "replace the front, north and south side exterior walls of home" with new shingles and, as part of that exterior work, would "prep, pressure wash, and paint exterior." CX 8 at 13. This suggests two important things. First, Respondent removed, replaced, or otherwise disturbed the original exterior of the house through the process of preparing or pressure washing before applying the new shingles. And second, that Respondent did not put new siding on the rear of the house, so when Mr. Hamlet and Ms. Farnham observed Respondent pressure washing the rear of the house, it could only have been pressure washing the existing structure.

Fourth, Respondent replaced the windows of the Turnagain Property, *see* CX 8, 9, 14-55. Therefore, Respondent's activities were a renovation and could not have been minor repair or maintenance activities, regardless of whether it was pressure washing existing structures or not. *See* 40 C.F.R. § 745.83.

And finally, as established in Paragraph 3.8, *supra*, even if Respondent's pressure washing, itself, was not a renovation, its overall activities at the Turnagain Property were. Therefore, Respondent was subject to the RRP Rule.

Paragraphs 3.15(a), (d): Respondent indicates that it is without knowledge or information sufficient to form a belief as to the truth of Paragraphs 3.15(a) and 3.15(d). Complainant will establish that EPA inspectors wrote to Respondent and had conversations with Mr. von Marees in which EPA explained Respondent's responsibilities under TSCA using the following evidence:

- Complainant's Exhibit 80: June 27, 2017 – Notice of Inspection
- Complainant's Exhibit 81: September 25, 2017 – Notice of Inspection

- Complainant’s Exhibit 82: October 3, 2017 – Telephone Call Log
- Complainant’s Exhibit 83: October 12, 2017 – Announced Inspection Report
- Complainant’s Exhibit 84: October 12, 2017 – No Show Inspection Notes
- Complainant’s Exhibit 85: April 25, 2018 – Letter to Respondent
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet
- Testimony of Ms. Tartaglia

Paragraphs 3.15(b), (c): Respondent denies that EPA had a telephone conversation with Mr. von Marees about the RRP Rule requirements, during which EPA advised Respondent to attend an in-person inspection on October 12, 2017. Respondent also denies that EPA attempted to conduct an in-person RRP Rule inspection with Respondent on October 12, 2017, but Respondent did not show up for that inspection. Complainant will establish the truth of these facts using the following evidence:

- Complainant’s Exhibit 82: October 3, 2017 – Telephone Call Log
- Complainant’s Exhibit 83: October 12, 2017 – Announced Inspection Report
- Complainant’s Exhibit 84: October 12, 2017 – No Show Inspection Notes
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet
- Testimony of Ms. Tartaglia

VIOLATIONS

Count 1: Failure to Obtain EPA Firm Certification

Paragraph 4.1: Respondent denies violating any EPA statutes or regulations. Complainant will establish through the introduction of Complainant’s Exhibits listed in Section 1(B), above, and the

testimony of Complainant’s witnesses listed in Section 1(A), above, that Respondent violated, *inter alia*, 40 C.F.R. §§ 745.81(a)(2)(ii), 745.89(d)(1)-(2), and 745.89(d)(3).

Paragraph 4.3: Respondent admits to obtaining a building permit and invoicing the owners of the Turnagain Property for renovation services. Based on 40 C.F.R. § 22.15(d), Complainant reads this as an admission to all of Paragraph 4.3, and therefore an admission that Respondent offered to perform renovation for compensation on target housing, itself a violation of 40 C.F.R. § 745.81(a)(2)(ii).

Paragraph 4.4: Respondent admits to performing renovation services and that an unannounced inspection was performed. Based on 40 C.F.R. § 22.15(d), Complainant reads this as an admission to all of Paragraph 4.4, and therefore an admission that Respondent actually performed a renovation for compensation on target housing.

Paragraph 4.5: Respondent admits that it did not obtain EPA certification under 40 C.F.R. § 745.89(a) before offering to perform or before performing a renovation on the Turnagain Property. Therefore, Respondent admits to violating 40 C.F.R. § 745.81(a)(2)(ii). Respondent then goes on to state that EPA certification was not necessary “as the lead test performed was negative.” Answer at ¶4.5.

The RRP Rule “applies to all renovations performed for compensation in target housing...except for,” *inter alia*,

Renovations in target housing . . . in which a *certified renovator*, using an EPA recognized test kit as defined in §745.83 and following the kit manufacturer’s instructions, has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0mg/cm²

40 C.F.R. § 745.82(a)(2) (emphasis added). *See also*, 40 C.F.R. § 745.83 (defining a certified renovator as “a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program.”).²

² Alaska is not an EPA-authorized State under the TSCA Lead-Based Paint program. 40 C.F.R. Part 745, Subpart Q.

In Paragraph 4.5, Respondent claims that because it tested the Turnagain Property for the presence of lead, and because that test came back negative, EPA certification was not required. But the exemption in 40 C.F.R. § 745.82(a)(2) only applies if a certified renovator tested each component affected by the renovation. Respondent was not a certified renovator at the time it offered to perform and performed the Turnagain Property. Therefore, even if Respondent did test the Turnagain Property for lead—which Complainant does not concede actually happened—the exception in 40 C.F.R. § 745.82(a)(2) cannot apply, as Respondent was not a certified renovator when it did so.

Moreover, in Paragraph 3.9, *supra*, Respondent asserted that it was without knowledge or information sufficient to form a belief as to whether 40 C.F.R. § 745.82(a) applied or not. It is impossible for Respondent to simultaneously have tested the Turnagain Property and determined that it was lead free, and yet be without knowledge or information as to whether it tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead.

Further, this assertion appears to be in direct contradiction with Respondent’s assertion in Paragraph 3.8, *supra*. If, as Respondent alleges, the work performed did not disrupt more than 6 feet of painted surface as the surface in question was wood paneling and not a painted surface, Answer at ¶3.8, how could Respondent have performed a lead test according to the manufacturer’s instructions? *See* 40 C.F.R. § 745.82(a)(2). A lead test is only designed to be performed on painted surfaces and is useless on wood paneling. As the two are mutually exclusive, Respondent cannot have it both ways—either the Turnagain Property was entirely wood paneling (it was not) or Respondent performed a lead test.

Paragraph 4.6: Respondent denies that it offered to perform, and performed, renovations in target housing without EPA certification under 40 C.F.R. § 745.89(a), in violation of 40 C.F.R. § 745.81(a)(2)(ii). Beyond the fact that Respondent admitted it offered to perform and performed

renovations, Paragraphs 4.3 and 4.4, *supra*, and did not have EPA certification before doing so, Paragraph 4.5, *supra*, Complainant will be able to establish that Respondent violated 40 C.F.R. § 745.81(a)(2)(ii).

Complainant will be able to establish that the Turnagain Property is target housing using the following evidence:

- Complainant's Exhibit 86: Property Detail – 2208 Turnagain

Complainant will be able to establish that Respondent offered to perform, then actually performed, renovation at the Turnagain Property using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibit 8: Contractor Agreement 2208 Turnagain Parkway
- Complainant's Exhibit 9: GreenBuild Invoice – Full Job
- Complainant's Exhibit 10: Building Permit
- Complainant's Exhibit 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

And Complainant will be able to establish that Respondent did not have EPA certification under 40 C.F.R. § 745.89(a) until after the July 25, 2018 inspection using the following evidence:

- Complainant's Exhibit 11: Firm Certification
- Complainant's Exhibit 12: E-mail chain re: Renovator Certification
- Complainant's Exhibit 13: Firm Certification Training Receipt
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet
- Respondent's Admission in Paragraph 4.5, *supra*.

Therefore, Complainant will be able to prove that Respondent violated 40 C.F.R.

§ 745.81(a)(2)(ii).

Count 2: Failure to Ensure Employees were Certified Renovators or Trained by Certified Renovators

Paragraph 4.7: Complainant does not believe that a response to Respondent's denial of Paragraph 4.7 is necessary, however to the extent that it may be, Complainant incorporates all relevant preceding arguments as though argued herein.

Paragraph 4.13: Respondent denies that during the July 25, 2018 inspection EPA inspectors asked Mr. von Marees if he or any of his employees were certified renovators. 40 C.F.R. § 745.89(d)(1) provides that firms performing renovations must ensure that all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90. During the July 25, 2018 inspection, Ms. Farnham discussed the RRP Rule requirements with Respondent, including the training requirements of 40 C.F.R. § 745.90. *See CX 7 at 5.* Portions of this conversation were also overheard by Mr. Hamlet. Complainant will establish the truth of this assertion using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Paragraph 4.14: Respondent denies that during the July 25, 2018 inspection Mr. von Marees answered Ms. Farnham and Mr. Hamlet that he was not a certified renovator. Complainant will establish the truth of this assertion using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Further, Complainant will establish that Respondent was not, in fact, a certified renovator during the July 25, 2018 inspection using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibit 11: Firm Certification
- Complainant's Exhibit 12: E-mail chain re: Renovator Certification
- Complainant's Exhibit 13: Firm Certification Training receipt
- Testimony of Ms. Kim Farnham

Paragraph 4.15: Respondent denies that during the July 25, 2018 inspection, Ms. Farnham and Mr. Hamlet asked Mr. von Marees whether he was able to provide documentation showing that his workers received training in work practice standards by a certified renovator. 40 C.F.R. § 745.89(d)(1) provides that firms performing renovations must ensure that all individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90. During the July 25, 2018 inspections, Ms. Farnham discussed the RRP requirements with Respondent, including the training requirements of 40 C.F.R. § 745.90. *See CX 7 at 5.* Complainant will establish the truth of this assertion using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Paragraph 4.16: In response to Paragraph 4.16, Respondent admits that the EPA inspector gave it information as to how to become certified. Based on 40 C.F.R. § 22.15(d), Complainant reads this as an admission that Respondent was unable to provide documentation showing that its employees had received training by a certified renovator. However, to the extent that Respondent intended this to

indicate a denial, Complainant will establish the accuracy of Paragraph 4.16 using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Paragraph 4.17: Respondent denies that it failed to ensure its renovation of the Turnagain Property was directed by certified renovators and performed by certified renovators or appropriately trained individuals, in violation of 40 C.F.R. § 745.81(a)(3). Yet, Respondent—the entity directing the work performed on the Turnagain Property—was not a certified renovator until after the July 25, 2018 inspection and was unable to provide documentation showing that its employees were appropriately trained. CX 7 at 5. Complainant will, therefore, be able to show the accuracy of Paragraph 4.17 using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibit 11: Firm Certification
- Complainant's Exhibit 12: E-mail chain re: Renovator Certification
- Complainant's Exhibit 13: Firm Certification Training receipt
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Paragraph 4.18: Respondent denies that it failed to ensure that all individuals performing renovation activities on behalf of the firm were either certified renovators or have been trained by a certified renovator in accordance with 40 C.F.R. § 745.90, in violation of 40 C.F.R. § 745.89(d)(1). Complainant will be able to show that Respondent violated 40 C.F.R. § 745.89(d)(1) using the following evidence:

- Complainant’s Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Paragraph 4.19: Respondent denies that it failed to ensure that a certified renovator was assigned to each renovation performed by the firm and discharged all the certified renovator responsibilities, in violation of 40 C.F.R. § 745.89(d)(2). But Respondent—the entity directing the work performed on the Turnagain Property—was not a certified renovator until after the July 25, 2018 inspection, and was unable to provide documentation showing that any of its employees were a certified renovator. CX 7 at 5. Complainant will, therefore, be able to show that Respondent violated 40 C.F.R. § 745.89(d)(2) using the following evidence:

- Complainant’s Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant’s Exhibit 11: Firm Certification
- Complainant’s Exhibit 12: E-mail chain re: Renovator Certification
- Complainant’s Exhibit 13: Firm Certification Training receipt
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Count 3: Failure to Post Warning Signs

Paragraph 4.20: Complainant does not believe that a response to Respondent’s denial of Paragraph 4.20 is necessary, however to the extent that it may be, Complainant incorporates all relevant preceding arguments as though argued herein.

Paragraphs 4.23: Respondent denies that during the July 25, 2018 inspection there were no posted signs defining the work area or warning persons to remain outside of the work area. 40 C.F.R. § 745.85(a)(1) provides that firms must post signs clearly defining the work area and warning occupants

and other persons not involved in renovation activities to remain outside of the work area. These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the post-renovation cleaning verification have been completed. 40 C.F.R. § 745.85(a)(1).

Respondent was actively renovating the Turnagain Property when Ms. Farnham and Mr. Hamlet arrived for the July 25, 2018 inspection. Therefore, 40 C.F.R. § 745.85(a)(1) required Respondent—the firm doing the renovation—to post appropriate signs. Yet, during the July 25, 2018 inspection, Ms. Farnham and Mr. Hamlet were unable to locate any signs. As such, Complainant will be able to establish that Respondent failed to post signs defining the work area or warning persons to remain outside of the work area using the following evidence:

- Complainant’s Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant’s Exhibits 14 to 55: Inspection Photographs
- Complainant’s Exhibit 56: GreenBuild Business License
- Complainant’s Exhibit 75: Alaska Secretary of State Filing - GreenBuild
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Paragraph 4.24.: In Response to Paragraph 4.24, Respondent “admits the test results for lead was negative and the property was vacant.” Based on 40 C.F.R. § 22.15(d), Complainant reads this as an admission that Respondent failed to post warning signs in violation of 40 C.F.R. § 745.85(a)(1) and failed to ensure that the renovation was performed in accordance with work practice standards, as required by 40 C.F.R. § 745.89(d)(3). However, to the extent that Respondent intended this to be a denial, Complainant will be able to prove the accuracy of its allegation in Paragraph 4.24.

Complainant will be able to establish that Respondent failed to post signs defining the work area and warning persons to remain outside of the work area in violation of 40 C.F.R. § 745.85(a)(1) using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibits 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

40 C.F.R. § 745.89(d)(3) provides that firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in 40 C.F.R. § 745.85.

Complainant will be able to establish that Respondent is a firm using the following evidence:

- Complainant's Exhibit 56: GreenBuild Business License
- Complainant's Exhibit 75: Alaska Secretary of State Filing - GreenBuild

Complainant will be able to establish that Respondent was performing a renovation on the Turnagain Property during the July 25, 2018 inspection, as further elaborated in Paragraph 3.8, *supra*, *see also* Paragraphs 3.9, 4.5, using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibit 8: Contractor Agreement 2208 Turnagain Parkway
- Complainant's Exhibit 9: GreenBuild Invoice – Full Job
- Complainant's Exhibits 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

And Complainant will be able to establish that Respondent failed to perform its renovation of the Turnagain Property in accordance with the work practice standards in 40 C.F.R. § 745.85, by failing to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area, using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibits 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Therefore, Complainant will be able to establish that Respondent violated 40 C.F.R. §§ 745.85(a)(1) and 745.89(d)(3).

Count 4: Failure to Cover the Ground with Impermeable Material

Paragraph 4.25: Complainant does not believe that a response to Respondent's denial of Paragraph 4.25 is necessary, however to the extent that it may be, Complainant incorporates all relevant preceding arguments as though argued herein.

Paragraph 4.29: Just as in Paragraph 3.13, Respondent admits to pressure washing the Turnagain Property but denies violating any EPA regulations. Complainant's response is the same as in Paragraph 3.13, *supra*. Respondent will be unable to escape liability by arguing that it was not pressure washing existing surfaces because: (1) that is not factually accurate, as Complainant will be able to establish as explained in Paragraph 3.13, *supra*, and (2) even if true, Complainant will still be able to establish that Respondent performed a renovation, as defined in 40 C.F.R. § 745.83, on the Turnagain Property. Complainant will establish the accuracy of Paragraph 4.29 using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibit 8: Contractor Agreement 2208 Turnagain Parkway

- Complainant's Exhibit 9: GreenBuild Invoice – Full Job
- Complainant's Exhibits 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Paragraph 4.30: Respondent denies that during the July 25, 2018 inspection there was no plastic sheeting or other disposable impermeable material covering the ground. 40 C.F.R. § 745.85(a)(2)(ii)(C) provides that, when performing exterior renovations, the firm must cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering.

During the July 25, 2018 inspection, Ms. Farnham and Mr. Hamlet observed Respondent performing exterior renovations. But Respondent had not covered the ground with plastic sheeting or other disposable impermeable material to collect falling paint debris. In fact, Mr. Hamlet was able to take pictures of paint chips scattered over the ground surrounding the Turnagain Property. *See* CX 14 to 55. Therefore, Complainant will be able to establish that Respondent failed to cover the ground with plastic sheeting or other disposable impermeable material, using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibits 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Paragraph 4.31: Respondent denies that during the July 25, 2018 inspection there was no containment area that isolated the work area. 40 C.F.R. § 745.85(a)(2) provides that before beginning

the renovation, the firm must isolate the work area so that no dust or debris leaves the work area while the renovation is being performed.

During the July 25, 2018 inspection, Ms. Farnham and Mr. Hamlet observed Respondent performing renovations on the Turnagain Property. But Respondent had not isolated the work area so that no dust or debris could leave the work area. Rather, Mr. Hamlet was able to take pictures of debris scattered over the ground surrounding the Turnagain Property. *See* CX 14 to 55. Therefore, Complainant will be able to establish that Respondent failed to isolate the work area so that no dust or debris leaves the work area while the renovation is being performed, using the following evidence:

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibits 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Paragraph 4.32: Respondent denies that it failed to isolate the work area and cover the ground with impermeable material while the renovation was being performed, in violation of 40 C.F.R. §§ 745.85(a)(2) and 745.85(a)(2)(ii)(C), and failed to ensure that the renovation was performed in accordance with work practice standards, as required by 40 C.F.R. § 745.89(d)(3).

40 C.F.R. § 745.85(a)(2) provides that before beginning the renovation, the firm must isolate the work area so that no dust or debris leaves the work area while the renovation is being performed. 40 C.F.R. § 745.85(a)(2)(ii)(C) provides that for exterior renovations, the firm must cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering. And 40 C.F.R. § 745.89(d)(3)

provides that firms performing renovations must ensure that all renovations performed by the firm are performed in accordance with the work practice standards in §745.85.

Complainant will be able to establish that Respondent—a firm as defined in 40 C.F.R. § 745.83—was performing a renovation on the Turnagain property, using the following evidence:

- Complainant’s Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant’s Exhibit 8: Contractor Agreement 2208 Turnagain Parkway
- Complainant’s Exhibit 9: GreenBuild Invoice – Full Job
- Complainant’s Exhibit 10: Building Permit
- Complainant’s Exhibit 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Complainant will be able to establish that during renovation, Respondent failed to isolate the work area so that no dust or debris leaves the work area while the renovation is being performed, using the following evidence:

- Complainant’s Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant’s Exhibit 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Complainant will be able to establish that on July 25, 2018, Respondent was performing an exterior renovation on the Turnagain Property, using the following evidence:

- Complainant’s Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant’s Exhibit 8: Contractor Agreement 2208 Turnagain Parkway
- Complainant’s Exhibit 9: GreenBuild Invoice – Full Job

- Complainant’s Exhibit 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

And Complainant will be able to establish that on July 25, 2018, while Respondent was performing an exterior renovation on the Turnagain Property, Respondent failed to cover the ground with plastic sheeting or other disposable impermeable material, using the following evidence:

- Complainant’s Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant’s Exhibit 14 to 55: Inspection Photographs
- Testimony of Ms. Farnham
- Testimony of Mr. Hamlet

Therefore, Complainant will be able to establish that Respondent failed to isolate the work area and cover the ground with impermeable material while the renovation was being performed, in violation of 40 C.F.R. §§ 745.85(a)(2) and 745.85(a)(2)(ii)(C), and failed to ensure that the renovation was performed in accordance with work practice standards, as required by 40 C.F.R. § 745.89(d)(3).

PROPOSED PENALTY

Paragraph 5.1: Respondent denies that it owes a penalty. Section 16(a) of TSCA, 15 U.S.C. § 2615(a), provides that any person who violates Section 409 of TSCA, 15 U.S.C. § 2689, shall be liable to the United States for a civil penalty. Section 409 of TSCA, 15 U.S.C. § 2689, makes it unlawful for any person to fail or refuse to comply with any rule or order issued under *TSCA subchapter IV—Lead Exposure Reduction*, of which the RRP Rule is one such rule. *See Lead; Requirements for Hazard Education Before Renovation of Target Housing*, 63 Fed. Reg. 29908, 29919 (June 1, 1998).

Based on the above described violations, Respondent has committed at least four separate violations of the RRP Rule. As such, Respondent violated Section 409 of TSCA, 15 U.S.C. § 2689, and is liable to the United States for a civil penalty.

Paragraphs 5.2 and 5.3: Respondent denies violating any statute or regulation and denies owing a civil penalty. Based on the above described violations, Complainant will conclusively establish that Respondent violated, *inter alia*, Section 409 of TSCA, 15 U.S.C. § 2689, and 40 C.F.R. §§ 745.81(a)(2)(ii), 745.85(a)(1), 745.85(a)(2)(ii)(C), and 745.89(d)(1), for which a penalty is warranted.

Respondent then goes on to say that a civil penalty should not be assessed as Respondent acted in good faith and followed the instructions of the inspector to become certified and provide proof of certification. Respondent also asserts that it was told it would not receive a penalty. This is not factually accurate, and Ms. Farnham will testify that she did not tell Respondent it would not receive a penalty.

Further, Complainant disagrees with Respondent's characterization of its actions after the July 25, 2018 inspection; it did not act in good faith to become certified. But, regardless, even if Respondent had made a good faith attempt to comply with the law after already violating the law, that would not excuse Respondent's violations. As set out above, Respondent violated TSCA and the RRP Rule, for which a penalty is warranted.

Paragraph 5.4: Respondent denies that it owes a civil penalty and asserts that a civil penalty would cause a hardship to Respondent. Complainant interprets this as Respondent raising its inability to pay a civil penalty. Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), requires the Complainant to take into account a Respondent's ability to pay when determining an appropriate civil penalty. This duty is further elaborated upon in the RRP ERP, which provides that "Absent proof to the contrary, EPA can establish a respondent's ability to pay with circumstantial evidence relating to a company's size and

annual revenue. Once this is done, the burden is on the respondent to demonstrate an inability to pay all or a portion of the calculated civil penalty.” CX 96, RRP ERP at 20. In order to meet its burden to demonstrate an inability to pay a civil penalty, Respondent must submit financial information such as three to five years of its tax returns; balance sheets; income statements; statements of changes in financial positions; and statements of assets and liabilities. *See* RRP ERP at 20-21. *See also*, Guidance on Evaluating a Violator’s Ability to Pay a Civil Penalty in an Administrative Enforcement Action (June 2015), at 5. CX 99.

Initially, Complainant analyzed all information available to it in order to determine whether it believed Respondent has the ability to pay a civil penalty. *See* CX 75 to 78; CX 8 to 9. Based on that analysis, Complainant determined that Respondent would be able to pay such a penalty. However, Complainant remained open to reevaluating that conclusion should Respondent submit additional information. To date, despite numerous opportunities to do so and offers from Complainant to consider such information,³ Respondent has not submitted sufficient additional information from which Complainant is able to determine that Respondent is unable to pay a civil penalty.

As such, Respondent has not met its burden to demonstrate an inability to pay all or a portion of the calculated civil penalty. RRP ERP at 20.

VI. 2(C). FACTUAL INFORMATION AND SUPPORTING DOCUMENTATION RELEVANT TO THE ASSESSMENT OF A PENALTY

Complainant relied on a consideration of all of the evidence listed in Section 1(B), above, in conjunction with the information presented in Section 2(B), above, when calculating the proposed penalty. Especially relevant to Complainant’s calculation of the penalty was the following evidence:

³ Complainant has omitted proof of these offers from this prehearing exchange due to the fact that they were made during settlement negotiations, and therefore may be confidential pursuant to the Federal Rules of Evidence 408 and 40 C.F.R. § 22.19(a). If for any reason this Tribunal would like additional proof related to such offers for in camera review, Complainant can provide such proof.

- Complainant's Exhibit 7: GreenBuild – Record Keeping Inspection Report
- Complainant's Exhibits 14 to 55: Inspection Photographs
- Complainant's Exhibits 80 to 85, 89: Evidentiary materials related to Complainant's repeated attempts to engage Respondent in compliance assistance
- Complainant's Exhibits 87 and 88: Building Permit R18-2270 and Property Detail

Complainant relied on the following policy or guidance documents in calculating the proposed penalty:

- *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (Aug. 2010), available at <https://www.epa.gov/sites/production/files/2020-06/documents/revisedlbpconsolidatederpp.pdf> (RRP ERP). Complainant's Exhibit 93.
- *Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy* (Dec. 2007), available at <https://www.epa.gov/sites/production/files/documents/1018erpp-1207.pdf> (Section 1018 ERP). Complainant's Exhibit 94.
- *2020 Penalty Policy Inflation Memo and 2020 Penalty Inflation Rule* (Jan. 2020), available at <https://www.epa.gov/sites/production/files/2020-01/documents/2020penaltyinflationruleadjustments.pdf> (2020 Inflation Memo). Complainant's Exhibit 95.
- *Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Action* (June 2015), available at <https://www.epa.gov/sites/production/files/2015-06/documents/atp-penalty-evaluate-2015.pdf> (ATP Guidance). Complainant's Exhibit 96.

VII. 2(D). EPA GUIDANCE DOCUMENTS AND/OR POLICIES COMPLAINANT HAS RELIED UPON WITH REGARD TO THE ALLEGATIONS

Complainant has relied on the following EPA guidance documents, policies, and preambles to regulations with regard to the allegations set forth in the Complaint:

- PL 102-550, Oct 28, 1992, 106 Stat 3672, codified in 42 U.S.C. § 4851. Complainant's Exhibit 97.
- *Lead; Requirements for Hazard Education Before Renovation of Target Housing*, 63 Fed. Reg. 29908 (June 1, 1998). Complainant's Exhibit 98.
- *Lead; Renovation, Repair, and Painting Program*, 73 Fed. Reg. 21692 (Mar. 31, 2008). Complainant's Exhibit 99.

VIII. 2(E). DETAILED EXPLANATION OF THE FACTORS CONSIDERED AND METHODOLOGY UTILIZED IN CALCUALTING THE PROPOSED PENALTY

Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19 authorize EPA to assess administrative penalties for violations of TSCA of up to \$40,576 per violation, for each day such a violation continues. Complainant used the factors set out in Section 16 of TSCA, 15 U.S.C. § 2615, along with the RRP ERP and Section 1018 ERP, and adjusted consistent with the 2020 Inflation Memo, to determine a penalty amount that it believes is appropriate for this matter.

1. Determining the Appropriate Penalty

According to the RRP ERP, Complainant first determines the number of independently assessable violations, and considers whether Respondent realized any economic benefit from its noncompliance. RRP ERP at 8. Complainant then calculates a gravity-based penalty by considering the nature, circumstances, and extent of the violations. RRP ERP at 9. Then, after applying the appropriate inflation adjustment, *see* 2020 Inflation Memo at 14, Complainant determines whether any gravity-based penalty adjustments are appropriate.

The calculation of an appropriate penalty can be visually represented based on the following formula:

Penalty = Economic Benefit + Gravity +/- Gravity Adjustment Factors – Litigation Considerations – Ability to Pay – Supplemental Environmental Projects

A. Independently Assessable Violations

According to the RRP ERP, each requirement of the RRP Rule is a separate and distinct requirement and the failure to comply with any such requirement is an independently assessable violation. RRP ERP at 10. Here, Respondent failed to comply with at least four requirements of the RRP Rule. Therefore, Complainant has determined that there is sufficient evidence to support the assessment of four separate violations.

B. Economic Benefit Component

The RRP ERP provides that civil penalties generally should, at a minimum, remove any significant economic benefit resulting from failure to comply with the law. RRP ERP at 11. The cost to come into compliance with the RRP Rule is approximately \$550 to \$600—\$300 for firm certification and \$250-\$300 for renovator certification. As the cost to comply with the RRP Rule’s requirements can be split over multiple renovations, Respondent’s cost-share associated with any given renovation is likely negligible. As a result, Complainant determined that Respondent’s economic benefit from noncompliance was insignificant and therefore has not included an economic benefit component in the penalty.

C. Gravity Component

Complainant determines the appropriate gravity-based penalty for each violation of the RRP Rule by considering the relevant “Circumstance Level” (Level 1 to Level 6) and the “Extent Category” (Major, Significant, or Minor) assigned to each violation by the RRP ERP. RRP ERP at 15-17.

The “Circumstance Level” reflects the probability of harm resulting from a particular type of violation, from a high probability of impacting human health and the environment (Levels 1 and 2) to a medium probability (Levels 3 and 4), to a low probability (Levels 5 and 6). RRP ERP at 15-16. Complainant relied on Appendix A to the RRP ERP to determine the circumstance level of each violation. *See* RRP ERP at A-1. According to Appendix A, the circumstance level for violation 1 is 3a, for violation 2 is 3a, for violation 3 is 1b, and for violation 4 is 2a. *See* RRP ERP at A-3, A-3, A-1, and A-5, respectively.

The “Extent Category” represents the degree, range, or scope of a violation’s potential for harm. RRP ERP at 16. The measure of the extent of harm focuses on the overall intent of the RRP Rule and the amount of harm the rules are designed to prevent. *Id.* The primary consideration for determining the extent of harm to be considered is whether the specific violation could have a serious, significant, or minor impact on human health, with the greatest concern being for the health of a child under 6 years of age and a pregnant woman in target housing. *Id.* The Extent Categories are defined as: “Major” if a child under the age of six or a pregnant woman is affected, “Significant” if a child between six and 18 years old is affected, and “Minor” if no child is affected. RRP ERP at 16, Appendix B.

Here, there were no children under the age of 18 in the Turnagain Property during Respondent’s renovation. Therefore, according to the RRP ERP, the extent level for each of the violations identified above is Minor. RRP ERP at 16-17, Appendix B-2.

1. Violations 1, 2 and 4

For violations 1, 2, and 4, Complainant relied on Appendix B to the RRP ERP to determine the gravity-based penalty for each violation. *See* RRP ERP at B-2. Appendix B of the RRP ERP provides that for each violation occurring after January 12, 2009, with a circumstance level of 3a and a minor extent level, the gravity-based penalty is \$4,500. RRP ERP at B-2. Appendix B of the RRP ERP

provides that for each violation occurring after January 12, 2009, with a circumstance level of 2a and a minor extent level, the gravity-based penalty is \$6,000. RRP ERP at B-2. Accordingly, here, the total gravity-based penalty for violations 1, 2, and 4 is \$15,000—\$4,500 plus \$4,500 plus \$6,000.

Complainant then adjusted the gravity-based penalty for inflation by multiplying the total gravity-based penalty by 1.08203, 2020 Inflation Memo at 14, to get a total inflation-adjusted gravity-based penalty for violations 1, 2, and 4 of \$16,230, as depicted below:

Violation	Circumstance	Extent	40 C.F.R. Part 745	Penalty
Count 1	3a	Minor	745.81(a)(2)(ii)	\$4,500
Count 2	3a	Minor	745.89(d)(1)	\$4,500
Count 4	2a	Minor	745.85(a)(2)(ii)(C)	\$6,000
Gravity-Based Penalty				\$15,000
Inflation Adjustment (Gravity-Based Penalty x 1.08203)				\$16,230

2. Violation 3

Complainant treated violation 3 differently for the purposes of determining the appropriate gravity-based penalty. Rather than relying solely on the RRP ERP, Complainant also referred to the Section 1018 ERP for violation 3. The rationale for this practice is explained in the 2020 Inflation Memo. Footnote 30 to the 2020 Inflation Memo reads:

The 2010 “Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule” and the 2007 “Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy” both penalize violators who fail to provide and document receipt of certain information related to the presence or risk of lead-based paint. Instead of having differing penalty amounts for essentially the same type of deficiency, we have adopted the penalty matrix from the 2007 Section 1018 Disclosure Rule penalty policy in the Pre-Renovation Education Rule component of the 2010 Consolidated Lead-Based Paint penalty policy. Therefore, Level “a” penalties apply to violations of the Lead-Based Paint Renovation, Repair and Painting Rule and the Lead-Based Paint Activities (Abatement) Rule. Level “b” penalties are derived from the current Section 1018 Lead-Based Paint Disclosure Rule matrix because the major activities of the Disclosure Rule and Pre-renovation Education Rule are very similar. Therefore, under this Policy, Level “b” penalties apply to violations of the Pre-Renovation Education Rule.

2020 Inflation Memo at n.30. Violation 3 is, therefore, a circumstance level 1b, extent level minor violation. As such, the gravity-based penalty for violation 3 is \$2,580. *See* Section 1018 ERP at 30 (Gravity-Based Penalty Matrix for violations occurring on or after March 15, 2004: Level 1 Minor).

After determining the gravity-based penalty for violation 3, Complainant then accounted for inflation by multiplying the gravity-based penalty by 1.64990, *see* 2020 Inflation Memo at 14, to get a total inflation-adjusted gravity-based penalty for violation 3 of \$4,257, as depicted below:

Count 3	1b	Minor	745.85(a)(1)	\$2,580
Gravity-Based Penalty				\$2,580
Inflation Adjustment (Gravity-Based Penalty x 1.64990)				\$4,257

Therefore, the total gravity-based penalty that Complainant calculated for Respondent’s four violations of TSCA and the RRP Rule is as follows:

Violation	Circumstance	Extent	40 C.F.R. Part 745	Penalty
Count 1	3a	Minor	745.81(a)(2)(ii)	\$4,500
Count 2	3a	Minor	745.89(d)(1)	\$4,500
Count 4	2a	Minor	745.85(a)(2)(ii)(C)	\$6,000
Gravity-Based Penalty				\$15,000
Inflation Adjustment (Gravity-Based Penalty x 1.08203)				\$16,230
Count 3	1b	Minor	745.85(a)(1)	\$2,580
Gravity-Based Penalty				\$2,580
Inflation Adjustment (Gravity-Based Penalty x 1.64990)				\$4,257
Total Inflation-Adjusted Gravity-Based Penalty				\$20,487

D. Gravity-Based Adjustment Factors

After determining the appropriate inflation-adjusted gravity-based penalty, Complainant considered whether any factors warranted modifying the gravity-based penalty. *See* RRP ERP at 17.

1. Ability to Pay Factor

Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), requires Complainant to take into account a Respondent’s ability to pay when determining an appropriate civil penalty. This duty is further elaborated upon in the RRP ERP, which provides that “Absent proof to the contrary, EPA can establish

a respondent's ability to pay with circumstantial evidence relating to a company's size and annual revenue. Once this is done, the burden is on the respondent to demonstrate an inability to pay all or a portion of the calculated civil penalty." RRP ERP at 20.

Here, Complainant analyzed all information available to it in order to determine whether Respondent had the ability to pay a civil penalty. *See* CX 75 to 78; CX 8 to 9. Complainant determined that Respondent would be able to pay such a penalty. In order to meet its burden to demonstrate an inability to pay a civil penalty, Respondent must submit financial information such as three to five years of its tax returns; balance sheets; income statements; statements of changes in financial positions; and statements of assets and liabilities. *See* RRP ERP at 20-21. *See also*, Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Action (June 2015), at 5.

Respondent has not submitted sufficient additional information from which Complainant is able to determine that Respondent is unable to pay a civil penalty. As such, Respondent has not met its burden to demonstrate an inability to pay all or a portion of the calculated civil penalty. RRP ERP at 20. Therefore, Complainant has not adjusted the penalty based on Respondent's inability to pay.

2. History of Prior Violations

Complainant is unaware of any prior instances in which Respondent has been cited for violations of the lead-based paint regulations at 40 C.F.R. Part 745 in the past five years. As such, Complainant did not adjust the penalty for this factor.

3. Degree of Culpability

The RRP ERP provides that this factor may be used to increase or decrease a gravity-based penalty. RRP ERP at 18. Knowing or willful violations reflect an increased responsibility on the part of the violator and may give rise to criminal liability. *Id.* The liability of the violator is reflected in the amount of the penalty which may be increased by up to 25% for this factor. *Id.* Complainant is aware

that the violator had control over the events constituting the violations, had knowledge of the regulations, and knew the legal requirements it violated. Therefore, Complainant determined that the following reasons justified an increase of the gravity-based penalty due to Respondent's culpability:

Prior to the July 25, 2018 inspection, Complainant contacted Respondent via both letter and telephone calls to explain the RRP Rule requirements. *See, e.g.*, CX 80-82, 92-93. Respondent was advised that if the company intended to work on pre-1978 residences and/or child occupied facilities, then Respondent would need to certify the firm and assign a certified renovator and/or hire individuals trained by a certified renovator. *See, e.g.*, CX 82, 85, 92, 93. Respondent indicated that he understood the RRP Rule requirements. Respondent was also invited to attend an in-person recordkeeping inspection with Ms. Farnham and Mr. Hamlet, so that they could further explain the RRP Rule requirements. *See* CX 80-82. But Respondent did not show up for that inspection. *See* CX 83, 84.

On April 12, 2018, Ms. Tartaglia called Respondent to discuss the RRP Rule requirements. Then on April 25, 2018, Complainant sent an advisory letter as a follow up to the April 12, 2018 telephone conversation. *See* CX 85. The letter reminded Respondent of the RRP Rule requirements and advised Respondent to obtain the required RRP firm and renovator certifications prior to working on pre-1978 residential properties.

Despite multiple warnings from Complainant, Respondent did not get certified and continued to obtain building permits in target housing. So, Complainant wrote to Respondent and invited it to attend an in-person inspection on July 26, 2018. CX 92. But, when contacted prior to that inspection, Respondent informed Complainant that it would not be attending. So, on July 25, 2018, Complainant went to Respondent's job site and performed an unannounced workplace inspection. *See* CX 7. As part of that inspection, Ms. Farnham had a detailed conversation with Respondent about its requirements under the RRP Rule. CX 7.

But, before getting certified, Respondent obtained another building permit at a target house on July 30, 2018, just five days after the July 25, 2018 inspection. *See* CX 87, 88. This action, and Respondent's ongoing noncompliance after repeated attempts by Complainant to educate Respondent about the RRP Rule, showed that Respondent disregarded the information Ms. Farnham, Mr. Hamlet, and Ms. Tartaglia provided. Respondent disregarded the repeated warnings Complainant provided and continued to offer, perform, or claim to perform renovation work on pre-1978 residential properties.

Therefore, Complainant determined that a 25% upward adjustment to the penalty was appropriate based on Respondent's culpability.

4. *Attitude*

The RRP ERP allows for a reduction of up to 30% of the gravity-based penalty to account for Respondent's attitude. RRP ERP at 24. This reduction includes 10% for cooperation—which refers to Respondent's response to the compliance evaluation and enforcement process—10% for compliance—which refers to good-faith efforts to come into compliance—and another 10% for early settlement. *Id.*

Complainant does not believe that an adjustment based on Respondent's attitude is warranted. First, Respondent has not cooperated with Complainant's efforts during the compliance evaluation and enforcement process. For example, Respondent agreed to attend an in-person inspection on October 12, 2017 but failed to show up. *See* CX 82, 83, 84, 85. On July 2, 2018, EPA sent Greenbuild a letter requesting that it attend an in-person inspection on July 26, 2018. *See* CX 92. Greenbuild did not respond to that letter.

Second, Respondent did not take good-faith efforts to come into compliance. On July 30, 2018, five days after the July 25, 2018 inspection, Respondent obtained another building permit in target housing, R18-2270, despite being informed of the RRP Rule requirements. *See* CX 87, 88. Respondent did not obtain its EPA firm certification until August 10, 2018. *See* CX 11, 12, 13.

Finally, Respondent did not agree to settle this case at all, let alone early, and therefore does not qualify for the 10% reduction based on early settlement.

5. *Other Factors as Justice May Require*

The RRP ERP allows for an additional 25% reduction for other factors as justice may require. RRP ERP at 23. This allows Complainant to consider compelling factors that may not have been considered using the RRP ERP or unusual circumstances that suggest strict application of the RRP ERP is inappropriate. *Id.* Use of this reduction is rare but can be considered. Complainant is not aware of any factors that would warrant adjustment of the penalty based on other factors as justice may require, and as such did not adjust the penalty based on this factor.

2. **Appropriate Penalty**

Accordingly, based on a consideration of the nature, circumstances, extent of the violations and, with respect to the Respondent, ability to pay, effect on ability to continue in business, any history of prior such violations, the degree of culpability, and such other matters as justice may require, *see* TSCA § 16(a)(2)(B) and RRP ERP, Complainant believes that \$25,609 is an appropriate penalty for Respondent’s four violations of TSCA § 409 and the RRP Rule, as depicted below:

Violation	Circumstance	Extent	40 C.F.R. Part 745	Penalty
Count 1	3a	Minor	745.81(a)(2)(ii)	\$4,500
Count 2	3a	Minor	745.89(d)(1)	\$4,500
Count 4	2a	Minor	745.85(a)(2)(ii)(C)	\$6,000
Gravity-Based Penalty				\$15,000
Inflation Adjustment (Gravity-Based Penalty x 1.08203)				\$16,230
Count 3	1b	Minor	745.85(a)(1)	\$2,580
Gravity-Based Penalty				\$2,580
Inflation Adjustment (Gravity-Based Penalty x 1.64990)				\$4,257
Total Inflation-Adjusted Gravity-Based Penalty				\$20,487
Culpability Factor (25% of the inflation adjusted Gravity-Based Penalty)				\$5,122
TOTAL				\$25,609

IX. RESERVATION OF RIGHTS

Complainant respectfully reserves the right to call all witnesses called by Respondent; to recall any of its witnesses in rebuttal; and to modify or supplement the names of witnesses and exhibits prior to the Adjudicatory Hearing, pursuant to 40 C.F.R. Part 22, and upon adequate notice to Respondent and this Tribunal.

Respectfully submitted,

(Signature and Date)

Andrew Futerman
Counsel for Complainant
EPA Region 10

In the Matter of *GreenBuild Design & Construction, LLC*, Respondent.
Docket No. TSCA-10-2021-0006

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Complainant's Initial Prehearing Exchange and Copies of Complainant's Exhibits 1 through 102**, dated April 19, 2021 was served on the following parties in manner indicated below:

Original by OALJ E-Filing System to:
Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1200 Pennsylvania Avenue, NW
Washington DC 20004

Copy by Electronic Mail to:
Mr. and Mrs. Rodrigo and Kari von Marees
GreenBuild Design & Construction, LLC
rad@greenbuild.us.com
kad@greenbuild.us.com
For Respondent

Dated: April 19, 2021
Seattle, Washington

Respectfully submitted,

(Signature and Date)
Andrew Futerman
Counsel for Complainant
EPA Region 10