

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, New York 10007-1866**

REGIONAL HEARING
CLERK

2015 APR 23 AM 10:23

U.S. Environmental
Protection Agency-Reg 2

IN THE MATTER OF:

United Talmudical Academy of Kiryas
Joel, Inc. (Boys School)
55 Forest Road, Monroe, NY 10950
NPDES Tracking No. NYU400900

RESPONDENT

Proceeding pursuant to Sections 309(g) of
the Clean Water Act,
33 U.S.C. § 1319(g)
United Talmudical Academy of Kiryas
Joel, Bakertown Road, Kiryas Joel, NY
10950

**CONSENT AGREEMENT
AND
FINAL ORDER**

**DOCKET NO.
CWA-02-2014-3401**

I. PRELIMINARY STATEMENT

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA" or "Complainant"), filed, on September 5, 2014, a "Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty and Notice of Opportunity to Request a Hearing" ("Complaint") against United Talmudical Academy of Kiryas Joel ("UTA of KJ, Inc." or "Respondent").

Complainant and Respondents (collectively, "the Parties"), having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order ("CA/FO" or "Agreement") without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby ordered as follows:

II. PROCEDURAL AND FACTUAL FINDINGS

1. EPA initiated this proceeding for the assessment of a civil penalty, pursuant to Section 309(g) of the Clean Water Act (“CWA” of “Act”), 33 U.S.C. § 1319(g).
2. The Complaint alleges that Respondent is liable for four (4) distinct violations of the CWA, one of which includes discharging without a permit in the operation of its UTA of KJ Boys School construction site off of Bakertown Road in the Village of Kiryas Joel, Town of Monroe, New York 10950, which have resulted, among other things, in the discharge of stormwater pollution into waters of the United States, in violation of Sections 301 and 402 of the Act, 33 U.S.C. § 1311 and § 1342, respectively. The Complaint also alleges a failure to timely respond to information request letters, in violation of Section 308 of the Act, § 33 U.S.C. § 1318, and proposes to assess a civil penalty of one hundred seventy-seven thousand five-hundred dollars (\$177,500).
3. This action was public noticed on September 16, 2014 and the comment period closed on October 16, 2014. No public comment was received.
4. Respondent filed an Answer and requested a hearing pursuant to 40 C.F.R. Part 22.
5. On February 11, 2015, the NYS Department of Environmental Conservation approved Respondent’s application for coverage under the construction general permit (“CGP”) for its site; Permit coverage for the site commenced ten business days after Notice of Intent submittal on January 30, 2015, which is February 13, 2015, and was assigned Permit ID No. NYR10Y982.

III. CONSENT AGREEMENT

1. The Paragraphs above are re-alleged and incorporated herein by reference.
2. The Parties agree that it is in the public interest to resolve the issues alleged in the Agreement without further litigation and the expense and effort that litigation entails.
3. EPA is concluding this proceeding for the assessment of a civil penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.18(b)(2) and (3) of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and Revocation, Termination or Suspension of Permits” (“CROP”), which sets forth procedures for conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order.
4. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of this CA/FO.
5. Respondent hereby waives its rights to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint or on any terms of this CA/FO.

6. This CA/FO shall apply to and be binding upon Respondent, its officers, directors, employees, successors and assigns, including, but not limited to, subsequent purchasers.
7. Based upon the foregoing, and pursuant to Section 309 of the CWA, 33 U.S.C. §1319, and the CROP, it is hereby agreed by and between EPA and Respondent, and Respondent voluntarily and knowingly agrees as follows:

A. Payment of Civil Penalty

1. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), given the nature of the alleged violations, EPA has determined that **one hundred thirteen thousand and twenty three dollars (\$113,023)** is an appropriate civil penalty to settle this action.
2. Respondent shall pay the penalty amount in accordance with the schedule in the table below, which includes penalty plus interest for payments after the first payment. If the due date for payment falls on a weekend or legal federal holiday, the due date is the next business day. Payment must be received by 11:00a.m. Eastern Time to be considered received that day.

Payment Plan	Amount
1 st payment due within 30-days of the Final Order	\$14,253.71
2 nd payment due 120 days of the Final Order	\$14,253.71
3 rd payment due 210 days of the Final Order	\$14,253.71
4 th payment due 300 days of the Final Order	\$14,253.71
5 th payment due 390 days of the Final Order	\$14,253.71
6 th payment due 480 days of the Final Order	\$14,253.71
7 th payment due 570 days of the Final Order	\$14,253.71
Final payment due 660 days of the Final Order	\$14,253.71

3. Payment shall be made by one of the following methods:

By cashier's or certified check. A cashier's or certified check, including the name and docket number of this case, made payable to "Treasurer, United States of America," and mailed to:

Regular Mail

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

Overnight Mail

U.S. Bank
 Government Lockbox 979077
 U.S. EPA Fines and Penalties
 1005 Convention Plaza
 Mail Station SL-MO-C2-GL
 St. Louis, MO 63101

By Wire Transfer: Wire transfers should be directed to the Federal Reserve Bank of New York with the following information:

ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33

33 Liberty Street
New York, NY 10045

Field tag 4200 of Fedwire message should read, "D 68010727 Environmental Protection Agency."

Online: This option is available through the Department of Treasury, at www.pay.gov. Enter "sfo 1.1" in the search field. Open the form and complete the required fields.

4. Respondent shall send a copy of the check, or record of payment if made by other means, immediately following payment, to:

Kara Murphy, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007;

Murray Lantner, Engineer
Division of Enforcement and Compliance
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, NY 10007;

and

Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007

5. In the event payment is not received by the specified due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 31st day from the due date of any payment, and for each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.

6. In addition, pursuant to Section 309(g)(9) of the Clean Water Act, 33 U.S.C. § 1319(g)(9), if any of the payments are not received by the applicable due date, a quarterly nonpayment penalty will be imposed for each calendar quarter during which such nonpayment persists. The quarterly nonpayment penalty is twenty percent (20%) of the aggregate amount of penalties and quarterly nonpayment penalties which are unpaid as of the beginning of such quarter. Respondent also may be required to pay attorney's fees and costs for collection proceedings in connection with nonpayment.
7. Respondent shall not claim the penalty as a federal or other tax deduction or credit.
8. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for collection.

IV. GENERAL PROVISIONS

1. The provisions of this CA/FO shall apply to and be binding on Respondent, its officers, directors, agents, servants, authorized representatives and successors or assigns, including, but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondent of its obligations to comply with the CA/FO.
2. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of the Agreement and may result in referral of the matter to the Department of Justice for enforcement of the Agreement and for such other relief as may be appropriate.
3. This Agreement shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.
4. This Agreement constitutes a final settlement by EPA of all claims for civil penalties pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for the violations alleged in the Complaint. Nothing in this Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this Agreement shall not be a defense to any enforcement actions subsequently commenced pursuant to Federal laws and regulations administered by EPA for violations other than those alleged in the Complaint.
5. Each undersigned representative of the parties to this Agreement certifies that she or he is fully authorized by the party represented to enter into the terms and conditions of this Agreement and to execute and legally bind that party to it.
6. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this CA/FO.
7. Respondent consents to service upon it by delivery of a copy of this Agreement by mail or by an EPA employee other than the Headquarters or Regional Hearing Clerks.

RESPONDENT:

BY: Wolf Gluck
Rabbi Wolf Gluck
Administrator
United Talmudical Academy of Kiryas Joel, Inc.

DATE: 4/13/15

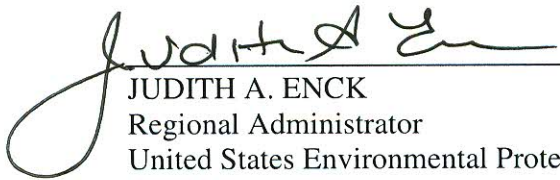
COMPLAINANT:

BY: Dore LaPosta
Dore LaPosta, Director
Division of Enforcement and Compliance Assistant
U.S. EPA, Region 2
New York, New York 10007-1866

DATE: APRIL 21, 2015

V. FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the Parties is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Headquarters Hearing Clerk, U.S. EPA, Washington, DC.



JUDITH A. ENCK
Regional Administrator
United States Environmental Protection Agency, Region 2
290 Broadway
New York, NY 10007

4/21/15
Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
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New York, New York 10007-1866

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CERTIFICATE OF SERVICE

I certify that on April 23, 2015, I served the above-cited Consent Agreement
And Final Order, bearing the above referenced docket number, on the persons listed
below, in the following manner:

Original and One Copy By Hand:

Karen Maples
Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

One Copy By Mail:

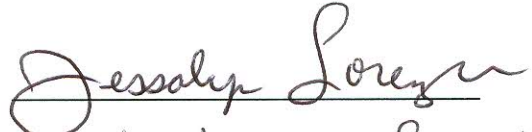
Honorable Susan L. Biro
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900R
Washington, DC 20460

Copy by Certified Mail, Return Receipt Requested:

Rabbi Wolf Gluck
Administrator
United Talmudical Academy of Kiryas Joel, Inc.
55 Forest Road, 3rd Floor
Monroe, NY 10950

Dated: 4.23.15

Signature:



Name and Title:

Jessalyn Lorenzo, Secretary