

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

U.S. ENVIRONMENTAL
PROTECTION AGENCY-RCRA
2009 DEC 10 PM 1:06
REGIONAL HEARING
CLERK

In the Matter of

Kmart Corporation,

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Docket No. RCRA-02-2009-7147

Respondent

**ORDER INITIATING ALTERNATIVE DISPUTE
RESOLUTION PROCESS AND APPOINTING NEUTRAL**

Pursuant to the request of the parties, Judge Spencer T. Nissen, is hereby designated as a neutral to initiate and conduct such processes as may facilitate a settlement of this proceeding.

The following procedures shall apply:

1. The Alternative Dispute Resolution (ADR) process will be conducted in a confidential manner. The Judge who serves as the neutral will not disclose to anyone the contents of any of the parties' ADR communications.
2. For the ADR process to be effective, the persons communicating with the neutral must either have authority to commit his or her side to a settlement, or have ready access to someone with such authority.
3. Unless terminated earlier at the request of either party, the ADR process shall automatically terminate on **February 8, 2010**. An extension of up to 60 days may be granted by the undersigned upon request of the ADR neutral, but in no event shall ADR continue for longer than 4 months. At that time, if no settlement has been reached, the case will be remanded to the litigation Judge to proceed with the litigation process in an expedited manner.
4. A party requesting termination of this process shall so advise the assigned neutral Judge either orally or in writing. The neutral Judge shall forward the request to the Chief Administrative Law Judge. The dispute resolution process initiated by this Order shall terminate upon order of the Chief Administrative Law Judge.

5. At the termination of the ADR process, the parties will be sent a questionnaire to elicit their views and the experience with the process. The contents of individual questionnaires will be kept confidential and will be made available to the neutrals and others only in a composite format.

A handwritten signature in black ink, appearing to read "S. Biro", is positioned above a horizontal line.


Susan L. Biro
Chief Administrative Law Judge

Dated: December 9, 2009
Washington, DC

In the Kmart Corporation, Respondent
Docket No. RCRA-02-2009-7147

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Initiating Alternative Dispute Resolution Process And Appointing Neutral**, dated December 9, 2009, was sent this day in the following manner to the addressees listed below.


Maria Whiting-Beale
Staff Assistant

Dated: December 9, 2009

Original And One Copy By Pouch Mail To:

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