



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC 20460

November 6, 2015

OFFICE OF  
THE ADMINISTRATIVE  
LAW JUDGES

Timothy J. Bergere, Esquire  
Montgomery, Mc Cracken, Walker  
& Rhoads LLP  
123 S Broad Street, Avenue of the Arts  
Philadelphia, PA 19106

Re: Brenntag Northeast, Inc  
Docket No. RCRA-03-2015-0240 CWA-03-2015-0240

Dear Mr. Bergere:

This Office, the Office of Administrative Law Judges, offers an Alternative Dispute Resolution (ADR) process to facilitate the settlement of adjudicative cases. Please inform my staff assistant, Danielle Pope by **November 20, 2015**, as directed below, whether you accept or decline this offer to participate in ADR in an effort to settle the above cited case. The ADR process will be conducted pursuant to the Administrative Dispute Resolution Act of 1996, as amended, 5 U.S.C. §§ 571-584, by a Judge of this Office serving as a neutral. The process will be entirely voluntary and completely confidential; both of these points, together with general procedures, are reviewed below.

Voluntary. Both EPA and Respondent(s) must elect to participate in ADR. The choice to use or not to use ADR does not prejudice either party. If ADR is utilized, either party may terminate the ADR process at any time.

Confidential. The ADR process will be conducted in a confidential manner, in accordance with Section 574 of the Administrative Dispute Resolution Act of 1996. The Judge who serves as the neutral will not disclose to anyone the contents of any of the parties' ADR communications.

Initial Procedures and Method. A Judge in this Office will serve as a neutral. The ADR Judge will ordinarily begin by arranging a telephone conference with the parties to establish procedures. The parties are encouraged to discuss their expectations of the ADR process with the neutral Judge. As a general practice, our Office offers mediation as the method of ADR. The neutral Judge, as mediator, hears each party's position and arguments, either in writing, orally or both, may ask the parties questions, may request the parties submit documents or other information, helps identify the factual and legal issues, enables each party to understand the other party's position and arguments, keeps the focus on the facts and issues that may lead toward settlement, and helps the parties explore their options, including practical concerns, to assist in reaching a settlement. At the parties' request, the neutral Judge may offer an opinion as to the

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strengths and/or weaknesses of a case and/or defenses, however the decision to do so, and whether to deliver the opinion in writing or orally, is entirely within the discretion of the neutral Judge. If the neutral Judge does offer an opinion, the parties may elect to discuss it with the neutral Judge separately or in conjunction with the other party or parties.

Authorization to Commit. For the ADR process to be effective, the persons communicating with the neutral Judge must either have authority to commit his or her side to a settlement, or have ready access to a person with such authority.

Method of Communication. All ADR discussions and conferences are held by telephone, except where the parties can demonstrate, and the neutral Judge agrees, that an in-person or video settlement conference, or that a visit to the facility by the parties and the neutral Judge, is necessary.

Non-Binding. The neutral Judge has no authority to impose a decision or settlement of the case on the parties. The purpose of ADR is to facilitate a settlement between the parties.

Impartial. The neutral Judges, like all Judges in this Office, render their decisions and opinions independent of any supervision or direction by any prosecuting or investigating employee or agent of the Environmental Protection Agency, and independent of the influence of any interested person outside the Agency, pursuant to Sections 554(d) and 557 of the Administrative Procedure Act. The Judges are certified as administrative law judges by the Office of Personnel Management and are appointed in accordance with 5 U.S.C. § 3105. The Judges are not subject to evaluation by the Environmental Protection Agency, or by any component or employee of EPA. These measures ensure the fair and impartial resolution of proceedings before this Office.

Duration. Unless terminated earlier by either party, the ADR process will continue for 60 days from the date the case is assigned to the neutral Judge. After that time, if no settlement has been reached, the case will be assigned to another Judge to commence the litigation process.

Follow-Up. At the termination of the ADR process, I will send the parties a questionnaire to elicit their views and 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.

Again, please inform Ms. Danielle Pope by **November 20, 2015**, whether you elect to participate in the ADR process that I have described. It is preferred that you email Ms. Pope at [pope.danielle@epa.gov](mailto:pope.danielle@epa.gov) or send a facsimile to (202) 565-0044, however, you may also inform her by calling this Office at (202) 564-6271 and leaving a message for her, or by mailing a letter that will be received in this Office on or before the due date. The Office's mailing address is:

U.S. EPA  
Office of the Administrative Law Judges  
Mail Code 1900R  
1200 Pennsylvania Avenue, N.W.

Very truly yours,



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Susan L. Biro  
Chief Administrative Law Judge

cc: Sybil Anderson, Headquarters Hearing Clerk  
Natalie L. Katz, Esquire



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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November 6, 2015

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LAW JUDGES

Natalie L. Katz, Esquire  
Assistant Regional Counsel (3RC20)  
& US EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Re: Brenntag Northeast, Inc  
Docket No. RCRA-03-2015-0240 CWA-03-2015-0240

Dear Ms. Katz:

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