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REGIONAL HEARING
CLERK

2014 OCT -1 AM 10:31

U.S. Environmental
Protection Agency-Reg 2

by Federal Express No. 771325418853

September 30, 2014

Karen Maples, Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, NY 10007-1866

Re: Answer to Complaint Docket No. CWA-02-2014-3401
United Talmudical Academy of Kiryas Joel, Respondent
Bakertown Road, Village of Kiryas Joel, NY
NPDES Tracking Number: NYU400900

Dear Ms. Maples:

Enclosed please find an original and one copy of the Respondent's Answer for service upon the U.S. Environmental Protection Agency in the above captioned matter.

Please feel free to call me to discuss any questions you may have concerning the above.

Respectfully submitted,



JOSEPH S. SCARMATO

Cc: Kara E. Murphy, Esq., Asst. Regional Counsel
Mr. Elozer Gruber

JSS/jms

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

U.S. Environmental
Protection Agency-Reg 2
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IN THE MATTER OF:

UTA of KJ, Inc.
PO Box 477, Monroe, New York 10949
55 Forest Road, Monroe, New York 10950

Respondent.

ANSWER WITH
AFFIRMATIVE DEFENSES

Proceeding pursuant to Section 309(g) of the
Clean Water Act, 33 U.S.C. §1319(g)

Docket No. CWA-02-2014-3401

United Talmudical Academy of Kiryas Joel,
Bakertown Road, Kiryas Joel, New York 10950
NPDES Tracking No. NYU400900

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Respondent, UNITED TALMUDICAL ACADEMY OF KIRYAS JOEL, INC., by and through its attorneys, JOSEPH S. SCARMATO, PLLC, in Answer to the Petitioner's, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Complaint states as follows:

1. Refer to the Court to examine the document referred to in Paragraph "1" of the Complaint for content as it speaks for itself and neither admit or deny but leave the interpretation of the law referred to in said paragraph to this Honorable Court.

2. Refer to the Court to examine the document referred to in Paragraph "2" of the Complaint for content as it speaks for itself and neither admit or deny but leave the interpretation of the law referred to in said paragraph to this Honorable Court.

3. Refer to the Court to examine the document referred to in Paragraph "3" of the Complaint for content as it speaks for itself.

4. Refer to the Court to examine the document referred to in Paragraph "4" of the Complaint for content as it speaks for itself.

5. Refer to the Court to examine the document referred to in Paragraph "5" of the Complaint for content as it speaks for itself.

6. Refer to the Court to examine the document referred to in Paragraph "6" of the Complaint for content as it speaks for itself.

7. Refer to the Court to examine the document referred to in Paragraph "7" of the Complaint for content as it speaks for itself.

8. Refer to the Court to examine the document referred to in Paragraph "8" of the Complaint for content as it speaks for itself.

9. Refer to the Court to examine the document referred to in Paragraph "9" of the Complaint for content as it speaks for itself.

10. Refer to the Court to examine the document referred to in Paragraph "10" of the Complaint for content as it speaks for itself.

11. Refer to the Court to examine the document referred to in Paragraph "11" of the Complaint for content as it speaks for itself.

12. Refer to the Court to examine the document referred to in Paragraph "12" of the Complaint for content as it speaks for itself.

13. Deny knowledge and information sufficient to form a belief as to each and every allegation set forth in Paragraph "13" of the Complaint.

14. Refer to the Court to examine the document referred to in Paragraph "14" of the Complaint for content as it speaks for itself.

15. Refer to the Court to examine the document referred to in Paragraph "15" of the Complaint for content as it speaks for itself.

16. Refer to the Court to examine the document referred to in Paragraph "16" of the Complaint for content as it speaks for itself.

17. Refer to the Court to examine the document referred to in Paragraph "17" of the Complaint for content as it speaks for itself.

18. Refer to the Court to examine the document referred to in Paragraph "18" of the Complaint for content as it speaks for itself.

19. Refer to the Court to examine the document referred to in Paragraph "19" of the Complaint for content as it speaks for itself.

20. Refer to the Court to examine the document referred to in Paragraph "20" of the Complaint for content as it speaks for itself.

21. Refer to the Court to examine the document referred to in Paragraph "21" of the Complaint for content as it speaks for itself.

22. Refer to the Court to examine the document referred to in Paragraph "22" of the Complaint for content as it speaks for itself but admits that Respondent is a private school or corporation.

23. Refer to the Court to examine the document referred to in Paragraph "23" of the Complaint for content as it speaks for itself.

24. Deny knowledge and information sufficient to form a belief as to each and every allegation set forth in Paragraph "24" of the Complaint.

25. Refer to the Court to examine the document referred to in Paragraph "25" of the Complaint for content as it speaks for itself.

26. Deny knowledge and information sufficient to form a belief as to each and every allegation set forth in Paragraph "26" of the Complaint.

27. Deny each and every allegation set forth in Paragraph "27" of the Complaint.

28. Refer to the Court to examine the document referred to in Paragraph "28" of the Complaint for content as it speaks for itself.

29. Refer to the Court to examine the document referred to in Paragraph "29" of the Complaint for content as it speaks for itself.

30. Deny knowledge and information sufficient to form a belief as to each and every allegation set forth in Paragraph "30" of the Complaint.

31. Refer to the Court to examine the document referred to in Paragraph "31" of the Complaint for content as it speaks for itself.

32. Refer to the Court to examine the document referred to in Paragraph "32" of the Complaint for content as it speaks for itself.

33. Deny each and every allegation set forth in Paragraph "33" of the Complaint.

34. Deny each and every allegation set forth in Paragraph "34" of the Complaint.

35. Deny knowledge and information sufficient to form a belief as to each and every allegation set forth in Paragraph "35" of the Complaint.

36. Deny each and every allegation set forth in Paragraph "36" of the Complaint.

37. Deny each and every allegation set forth in Paragraph "37" of the Complaint.

38. Deny each and every allegation set forth in Paragraph "38" of the Complaint.

39. Refer to the Court to examine the document referred to in Paragraph "1" of the Complaint for content as it speaks for itself.

AFFIRMATIVE AND SEPARATE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Petitioner's Complaint fails to state a cause of action upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The alleged violations with di minimis in nature and no damage was caused to the navigable Waters of the United States of America.

THIRD AFFIRMATIVE DEFENSE

The Respondent achieved no economic benefit or savings by virtue of the alleged violations.

FOURTH AFFIRMATIVE DEFENSE

The Respondent acted promptly to mitigate any and all alleged violations.

FIFTH AFFIRMATIVE DEFENSE

Any alleged breach of the Respondent is an Excused Breach due to contingencies beyond the Respondent's control.

RESPONDENT'S REQUEST FOR A FORMAL HEARING

The Respondent hereby requests a hearing upon the issues raised in the Complaint and on the proposed penalty assessment pursuant to 40 C.F.R. Sect. 22.15(c).

[intentionally left blank]

WHEREFORE, the Respondent respectfully demands that judgment be entered as

follows:

- a) Dismissing the Petitioner's Complaint in its entirety;
- b) Setting the matter down for a formal hearing on the issues raised by the Petitioner in its Complaint and on the proposed penalty assessment; and
- c) For such other and further relief as the Court deems just and proper.

Dated: Upper Nyack, New York
September 26, 2014

Yours, etc.

JOSEPH S. SCARMATO, PLLC

By: 

Joseph S. Scarmato

Attorneys for Respondent

105 Lewis Drive

Upper Nyack, New York 10960

(845) 548-1880 (Telephone)

jscarmato@aol.com

TO: Kara E. Murphy, Esq., Assistant Regional Counsel
Office of Regional Counsel
US Environmental Protection
Attorney for Petitioner
290 Broadway, 16th Floor
New York, New York 10007-3211
