

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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IN THE MATTER OF:

UTA of KJ, Inc.
P.O. Box 477, Monroe, NY 10949
55 Forest Road, Monroe, NY 10950

DOCKET No. CWA-02-2014-3401

RESPONDENT

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

Administrative Law Judge
Christine D. Coughlin

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

**JOINT MOTION TO MOVE ADMINISTRATIVE ENFORCEMENT CASE TO
ALTERNATIVE DISPUTE RESOLUTION**

Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, EPA, Region 2 (EPA), through her attorney, requests that the Court move the administrative enforcement matter of UTA of KJ, Inc., Docket No. CWA-02-2014-3401, to alternative dispute resolution (“ADR”). UTA of KJ, Inc. (“Respondent”), through its counsel, Joseph Scarmato, Esq., concurs with this request.

Pursuant to Section 309(g)(2)(B) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(B), on September 5, 2014, Complainant filed an administrative complaint and notice of opportunity to request a hearing (Complaint) against Respondent for alleged violations of 301, 308, and 402 of the CWA, 33 U.S.C. §§ 1311, 1318 and 1342, for unauthorized discharges of stormwater associated with construction activity and failure to obtain the New York State Department of Environmental Conservation’s State Pollutant Discharge Elimination

System General Permit for Stormwater Discharges from Construction Activity on a construction site Respondent owns and operates. The total amount of the penalty proposed by Complainant is \$177,500. Respondent filed an answer and request for a hearing dated October 1, 2014.

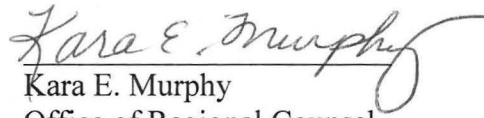
On October 1, 2014, the Regional Hearing Clerk sent a letter to Chief Judge Biro asking that an Administrative Law Judge be assigned to the case and included a copy of the Complaint and Answer. By letter dated Oct. 3, 2014, the Office of Administrative Law Judges (“OALJ”) offered ADR to the parties and provided Dec. 2, 2014 as the deadline to respond. OALJ, by letter dated Oct. 27, 2014, made a correction and provided a new ADR deadline of Nov. 10, 2014. By email dated November 5, 2014, Respondent’s counsel requested an extension of time for the ADR deadline as Respondent’s client was out of the country and could not provide an answer by November 10, 2014. By email dated November 6, 2014, EPA agreed to the extension. By email, dated November 13, 2014, OALJ stated that the letter offering ADR indicated that there will be no extension of the deadline for deciding whether to participate in ADR.

By letter dated November 13, 2014, the OALJ provided an Order of Designation. On November 25, 2014, EPA counsel was contacted by OALJ and was informed that if the parties still wanted to participate in ADR, a motion to move the case would have to be filed with Judge Coughlin.

EPA and Respondent hereby respectfully move the Court, pursuant to 40 C.F.R. §§ 22.4(c)(2) and 22.16(a), for an order allowing this enforcement case to move to ADR.

Dated: December 4, 2014
New York, New York

Respectfully submitted,



Kara E. Murphy
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
212-637-3211/FAX: 212-637-3199

TO: Honorable Christine D. Coughlin
Administrative Law Judge
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, N.W.
Mail Code 1900R
Washington, D.C. 20460

Sybil Anderson
Headquarters Hearing Clerk
U.S. Environmental Protection Agency, Region 2
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Upper Nyack, NY 10960

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**Administrative Law Judge
Christine D. Coughlin**

CERTIFICATE OF SERVICE

I certify that I have on this day caused to be sent the foregoing Joint Motion to Move Administrative Enforcement Case to Alternative Dispute Resolution, bearing the above-referenced docket number, in the following manner to the respective addressees below:

Copy by Intra Office Mail to:

Honorable Christine D. Coughlin
Administrative Law Judge
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, N.W.
Mail Code 1900R
Washington, D.C. 20460

Original and one copy by Intra Office Mail to:

Sybil Anderson
Headquarters Hearing Clerk
U.S. Environmental Protection Agency, Region 2
Office of Administrative Law Judges
1200 Pennsylvania Avenue, N.W.
Mail Code 1900R
Washington, DC 20460

Copy by Certified Mail Return Receipt Requested:

Joseph S. Scarmato
Attorney at Law
105 Lewis Drive
Upper Nyack, NY 10960

Dated: Dec. 4, 2014
New York, New York

Kara E. Murphy
Kara E. Murphy, Esq.