UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

NOV 19 2013

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Article Number: 7005 3110 0000 5967 6929

Rabbi Wolf Gluck, Administrator
UTA of KJ, Inc.
P.O. Box 477
Monroe, New York 10949

Re: **NONCOMPLIANCE NOTIFICATION**
Administrative Compliance Order and Request for Information CWA-02-2013-3032
And Transmittal of Report from August 28, 2013 EPA Reconnaissance Inspection.
United Talmudical Academy of Kiryas Joel - Bakertown Road, Village of Kiryas Joel, NY
NPDES Tracking Number: NYU400900

Dear Rabbi Gluck:

The subject facility has failed to comply with the subject Information Request and Administrative Compliance Order ("Order"). EPA sent the Order to the UTA of KJ, Inc. ("UTA of KJ") on or about June 20, 2013. The Order was received by the UTA of KJ on July 2, 2013.

Paragraph D.3 of the Order required UTA of KJ to submit a Stormwater Pollution Prevention Plan ("SWPPP") within 30 days of receipt of the Order. Therefore, the SWPPP was due on August 1, 2013. UTA of KJ's attorney, Mr. Joseph Scarmato, by letter dated July 17, 2013, requested a 90 day extension to achieve compliance with the State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharges from Construction Activity ("CGP" or "Permit"), as required by the Order, due to the contours of the site and the type of system that is needed. Ninety days have passed and EPA has not received a SWPPP from UTA of KJ on or after October 29, 2013. Additionally, UTA of KJ has not obtained the required CGP coverage for stormwater discharges associated with its construction activity.

By letter dated August 29, 2013, UTA of KJ's Consultant, AFR Engineering and Surveying, stated that a SWPPP for the site was submitted to the Village of Kiryas Joel's ("Village") Engineer. The Village's Engineer, Macdonald Engineering, sent a letter dated September 4, 2013 to the Village and to AFR Engineering and Surveying (UTA of KJ's Consultant) that contained comments on the SWPPP (letter enclosed). Based on this letter from the Village Engineer, the SWPPP was deficient in certain areas and, therefore, the Village Engineer requested that the SWPPP be modified and resubmitted. The Village sent EPA a letter dated October 18, 2013, stating that to date no SWPPP has been approved by the Village.

By letter dated July 17, 2013, AFR Engineering and Surveying stated that silt fencing and temporary siltation basins would be installed and be maintained on a daily basis. EPA conducted a reconnaissance inspection at the site on August 28, 2013 (report attached), during a rainfall event and documented turbid discharges from the site discharging into Highland Brook, a tributary of the Ramapo River. The discharges of turbid stormwater from the site indicate that the stormwater BMPs are inadequate.

By letter dated July 17, 2013, Mr. Scarmato, Esq., in response to the Order, stated that construction activity at the site began on December 1, 2012. However, based on photos taken by EPA on July 26, 2012, clearing had already taken place on or before July 26, 2012.

Your failure to respond fully to the Order in a timely manner is a violation of Sections 308 and 301 of the Clean Water Act ("CWA").

Within fourteen (14) calendar days of receipt of this letter submit the following:

a. the final SWPPP for the site that addresses the comments made by the Village Engineer contained in the September 4, 2013 letter;
b. the status of installation of adequate stormwater best management practices ("BMPs");
c. the status of obtaining SPDES Permit coverage for stormwater discharges associated with construction activity; and
d. the date when construction activity (clearing, grading, or excavation) began at the site.

Section 308(a) of the CWA, 33 U.S.C. §1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person/agency is in violation of Section 301 of the CWA, 33 U.S.C. §1311, the EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances.

Failure to provide the required information and failure to comply with the Order may subject the facility to civil and/or criminal penalties pursuant to Section 309 of the Act, 33 U.S.C. §1319. Failure to comply with the Order shall also subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

Should you have any questions regarding this request, contact Mr. Murray Lantner, P.E. Environmental Engineer at (212) 637-3976 (Lantner.Murray@epa.gov) or myself at (212) 637-4268.

Sincerely,

Justine Modigliani, Chief
Compliance Section

Enclosures
September 4, 2013 SWPPP Comment letter from the Village of Kiryas Joel's Engineer
Report from EPA August 28, 2013 Reconnaissance Inspection

cc: Joe DiMura, P.E., Director, Bureau of Water Compliance Programs, NYSDEC
Victoria Schmitt, NYSDEC via Quick Place
Joseph S. Scarmato, Esq. for UTA of KJ
James Feury, P.E., AFR Engineering and Land Surveying, P.C.
Gedalye Szegedin, Administrator, Village of Kiryas Joel

EPA	United States Environmental Protection Agency Washington, D.C. 20460 **Water Compliance Inspection Report**	Form Approved. OMB No. 2040-0057 Approval expires 8-31-98

Section A: National Data System Coding (i.e., PCS)

Transaction Code	NPDES	yr/mo/day	Inspection Type	Inspector	Fac Type
1 N 2 5 3	N Y U 4 0 0 9 0 0 11 12	1 3 0 8 2 8 17	18 R	19 R	20 2

Remarks

2 66

Inspection Work Days	Facility Self-Monitoring Evaluation Rating							
6 69	70 U	71	B1	72	QA	73	74	7

Reserved

Section B: Facility Data

Name and Location of Facility Inspected *(for industrial users discharging to POTW, also include POTW name and NPDES permit number*	Entry Time/Date	Permit Effective Date
UTA of KJ, Inc. (United Talmudical Academy of Kiryas Joel) Bakertown Road Kiryas Joel, NY 10950	08/28/13 2:15PM	No Permit
	Exit Time/Date	Permit Expiration Date
	08/28/13 2:45PM	

Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)	Other Facility Data
John Loch, AFR Engineering and Land Surveying, P.C. 110 Stage Road, Monroe, NY 10950 Phone-(845) 782-8681 Fax- (845) 782-4212	SIC code 1542 The site is at 41°20'1.94"N 74° 9'32.73"W Administrative Order CWA-02-2013-3032 Request for Information CWA-IR-13-012

Name, Address of Responsible Official/Title/Phone and Fax Number(s)	Contacted	
Rabbi Wolf Gluck, Administrator UTA of KJ, 55 Forest Road, Monroe, NY, 10950 P.O. Box 477, Monroe NY, 10949	Yes	X No

Section C: Areas Evaluated During Inspection ***(Check only those areas evaluated)***

	Permit		Flow Measurement		Operations & Maintenance		CSO/SSO (Sewer Overflow)
	Records/Reports		Self-Monitoring Program		Sludge Handling/Disposal		Pollution Prevention
X	Facility Site Review		Compliance Schedules		Pretreatment		Multimedia
X	Effluent/Receiving Water		Laboratory	X	Storm Water		Other:

Section D: Summary of Findings/Comments ***(Attach additional sheets of narrative and checklists as necessary)***

See Attached Report

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
Murray Lantner, P.E., Env. Eng. Thomas Parel, Intern	EPA/WCB/(212) 637-3976/FAX: 637-4211 EPA/WCB/(212) 637-4280	11/6/13
Signature of Management Q/A Reviewer	**Agency/Office/Phone and Fax Numbers**	**Date**
Justine Modigliani, Chief, Compliance Section	EPA/DECA-WCB/(212) 637-4268/FAX:x4211	11/18/13

INSTRUCTIONS

Section A: National Data System Coding *(i.e., PCS)*

Column 1: Transaction Code: Use N, C, or D for New, Change, or Delete. All inspections will be *new* unless there is an error in the data entered.

Columns 3-11: NPDES Permit No. Enter the facility's NPDES permit number - third character in permit number indicates permit type for U=unpermitted, G=general permit, etc.. *(Use the Remarks columns to record the State permit number, if necessary.)*

Columns 12-17: Inspection Date. Insert the date entry was made into the facility. Use the year/month/day format (e.g., 04/10/01 = October 01, 2004).

Column 18: Inspection Type*. Use one of the codes listed below to describe the type of inspection:

A	Performance Audit	U	IU Inspection with Pretreatment Audit	!	Pretreatment Compliance (Oversight)
B	Compliance Biomonitoring	X	Toxics Inspection		
C	Compliance Evaluation (non-sampling)	Z	Sludge - Biosolids	@	Follow-up (enforcement)
D	Diagnostic	#	Combined Sewer Overflow-Sampling		
F	Pretreatment (Follow-up)	$	Combined Sewer Overflow-Non-Sampling	{	Storm Water-Construction-Sampling
G	Pretreatment (Audit)	+	Sanitary Sewer Overflow-Sampling		
I	Industrial User (IU) Inspection	&	Sanitary Sewer Overflow-Non-Sampling	}	Storm Water-Construction-Non-Sampling
J	Complaints	\	CAFO-Sampling		
M	Multimedia	=	CAFO-Non-Sampling	:	Storm Water-Non-Construction-Sampling
N	Spill	2	IU Sampling Inspection		
O	Compliance Evaluation (Oversight)	3	IU Non-Sampling Inspection	~	Storm Water-Non-Construction-Non-Sampling
P	Pretreatment Compliance Inspection	4	IU Toxics Inspection		
R	Reconnaissance	5	IU Sampling Inspection with Pretreatment	<	Storm Water-MS4-Sampling
S	Compliance Sampling	6	IU Non-Sampling Inspection with Pretreatment		
		7	IU Toxics with Pretreatment	-	Storm Water-MS4-Non-Sampling
				>	Storm Water-MS4-Audit

Column 19: Inspector Code. Use one of the codes listed below to describe the *lead agency* in the inspection.

A — State (Contractor)
B ---- EPA (Contractor)
E — Corps of Engineers
J — Joint EPA/State Inspectors—EPA Lead
L ---- Local Health Department (State)
N — NEIC Inspectors
O— Other Inspectors, Federal/EPA (Specify in Remarks columns)
P— Other Inspectors, State (Specify in Remarks columns)
R — EPA Regional Inspector
S — State Inspector
T — Joint State/EPA Inspectors—State lead

Column 20: Facility Type. Use one of the codes below to describe the facility.

1 — Municipal. Publicly Owned Treatment Works (POTWs) with 1987 Standard Industrial Code (SIC) 4952.
2 — Industrial. Other than municipal, agricultural, and Federal facilities.
3 — Agricultural. Facilities classified with 1987 SIC 0111 to 0971.
4 — Federal. Facilities identified as Federal by the EPA Regional Office.
5 — Oil & Gas. Facilities classified with 1987 SIC 1311 to 1389.

Columns 21-66: Remarks. These columns are reserved for remarks at the discretion of the Region.

Columns 67-69: Inspection Work Days. Estimate the total work effort (to the nearest 0.1 work day), up to 99.9 days, that were used to complete the inspection and submit a QA reviewed report of findings. This estimate includes the accumulative effort of all participating inspectors; any effort for laboratory analyses, testing, and remote sensing; and the billed payroll time for travel and pre and post inspection preparation. This estimate does not require detailed documentation.

Column 70: Facility Evaluation Rating. Use information gathered during the inspection (regardless of inspection type) to evaluate the quality of the facility self-monitoring program. Grade the program using a scale of 1 to 5 with a score of 5 being used for very reliable self-monitoring programs, 3 being satisfactory, and 1 being used for very unreliable programs.

Column 71: Biomonitoring Information. Enter D for static testing. Enter F for flow through testing. Enter N for no biomonitoring.

Column 72: Quality Assurance Data Inspection. Enter Q if the inspection was conducted as followup on quality assurance sample results. Enter N otherwise.

Columns 73-80: These columns are reserved for regionally defined information.

Section B: Facility Data

This section is self-explanatory except for "Other Facility Data," which may include new information not in the permit or PCS (e.g., new outfalls, names of receiving waters, new ownership, other updates to the record, SIC/NAICS Codes, Latitude/Longitude).

Section C: Areas Evaluated During Inspection

Check only those areas evaluated by marking the appropriate box. Use Section D and additional sheets as necessary. Support the findings, as necessary, in a brief narrative report. Use the headings given on the report form (e.g., Permit, Records/Reports) when discussing the areas evaluated during the inspection.

Section D: Summary of Findings/Comments

Briefly summarize the inspection findings. This summary should abstract the pertinent inspection findings, not replace the narrative report. Reference a list of attachments, such as completed checklists taken from the NPDES Compliance Inspection Manuals and pretreatment guidance documents, including effluent data when sampling has been done. Use extra sheets as necessary.

*Footnote: In addition to the inspection types listed above under column 18, a state may continue to use the following wet weather and CAFO inspection types until the state is brought into ICIS-NPDES: K: CAFO, V: SSO, Y: CSO, W: Storm Water 9: MS4. States may also use the new wet weather, CAFO and MS4 inspections types shown in column 18 of this form. The EPA regions are required to use the new wet weather, CAFO, and MS4 inspection types for inspections with an inspection date (DTIN) on or after July 1, 2005.

A. INTRODUCTION:

On August 28, 2013, EPA conducted a Reconnaissance Inspection ("RI") at the UTA of KJ Inc.'s construction site for the Kiryas Joel Boys School on August 28th, 2013. The site is approximately 100 feet north of the Village of Kiryas Joel's Department of Public Works Garage. Murray Lantner of EPA's Division of Enforcement and Compliance Assistance, Water Compliance Branch (DECA-WCB) conducted the inspection along with EPA intern Thomas Parel.

EPA had previously inspected this site in March 20/21, 2013 and June 13, 2013. Based upon interviews with the Village of Kiryas Joel's Municipal Separate Storm Sewer ("MS4") personnel and visual observations by EPA personnel on March 20 and 21, 2013 the construction activity at the site is greater than one acre. Area measurements conducted by EPA using a Garmin eTrex 10 GPS unit on June 13, 2013 also confirmed that the area of the site is greater than 1 acre. During these previous March and June 2013 inspections as well as this August 28, 2013 inspection, EPA documented deficiencies with the installation and maintenance of stormwater best management practices ("BMPs").

EPA issued Administrative Order CWA-02-2013-3032 ("Order") on June 20, 2013 to require the facility to develop and submit, within thirty days, a Storm Water Pollution Prevention Plan ("SWPPP"), implement the SWPPP, and obtain a State Pollutant Discharge Elimination System ("SPDES") Permit for stormwater discharges associated with construction activity. The Order was received on July 2, 2013 and to date, November 5, 2013 no SWPPP has been submitted to EPA. EPA also issued Request for Information ("RFI") CWA-IR-13-012 on July 25, 2013 which was received by the UTA of KJ on July 30, 2013. A response was required within 30 days of receipt on August 29, 2013. On October 28, 2013 UTA of KJ's attorney requested an extension. This extension request was addressed by letter from EPA to UTA of KJ on November 5, 2013 (Attached).

B. Non-Compliance Items

1. Based upon review of the New York State Department of Environmental Conservation (NYSDEC) Stormwater Database on or about October 21, 2013 the facility still does not have coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Discharges From Construction Activity GP-0-10-001 (CGP or Permit) effective January 29, 2010. Based upon a photo taken during an inspection at a nearby facility on July 26, 2012, construction activities at the site began prior to July 26, 2012 without a permit as required by Section 301, 308 and 402 of the Clean Water Act. Additionally, during this August 28, 2013 inspection, as shown in the attached photos and video (Attachments 1 and 2), EPA documented turbid discharges from the site into Highland Brook and its tributaries, which all ultimately flow into the Ramapo River. As evidenced by turbid discharges the stormwater BMPs employed are ineffective, not maintained and/or inadequate.

2. Noncompliance with Administrative Order CWA-02-2013-3032
   a. EPA sent the subject Administrative Compliance Order to the UTA of KJ on June 20, 2013. The Order was received by the UTA of KJ on July 2, 2013. Ordered Provision paragraph D.3 of the subject Order required that a Stormwater Pollution Prevention Plan ("SWPPP") be submitted within 30 days of receipt. Therefore the SWPPP was due on August 1, 2013. UTA of KJ's attorney, Mr. Joseph Scarmato, in a letter dated July 17, 2013, stated that it may take 90 days to achieve compliance with the CGP due to the contours of the site and the type of system that is needed. EPA is aware that the UTA of KJ did submit its SWPPP to the Village Engineer and that the Village Engineer provided comments on the SWPPP to UTA of KJ's engineering consultant, AFR Engineering and Land Surveying, by letter dated September 4, 2013. To date, no SWPPP has been submitted to EPA, and no SPDES permit coverage has been obtained. Therefore the UTA of KJ has not complied with the requirements of this Order.

   b. By letter dated July 17, 2013, UTA of KJ's Consultant, AFR Engineering and Surveying, stated that silt fencing and a temporary siltation basins would be installed and be maintained on a daily basis. As described in this report and as documented in the photographs and video in attachments 1 and 2. There were turbid discharges documented during this August 28, 2013 inspection indicating that the existing best management practices ("BMPs") are inadequate.

3. Noncompliance with EPA Request for Information ("RFI") CWA-IR-13-012.
   EPA issued this RFI on July 25, 2013 under the authority of Section 308 of the Clean Water Act. Based on the certified mail return receipt it was received by the UTA of KJ on July 30, 2013. A response was required within 30 days of receipt on August 29, 2013. On October 28, 2013 UTA of KJ's attorney requested an extension. This extension request was addressed by letter from EPA to UTA of KJ on November 5, 2013 (Attached).

C. Areas of Concern

1. Entrance road to UTA of KJ Boys School was built across the Highland Brook at the southwest area of the site. Culverts are used to convey the stream from one side of the road to the other. During this inspection, a heavy rain event occurred in Kiryas Joel. EPA observed, turbid run off from the site into Highland Brook at this location. See Photos and Videos 1450 to 1450 in Attachments 1 and 2.

2. At multiple portions around the perimeter of the site, the silt fence was improperly installed. The silt fence was not buried into the ground as required and material from the site was able to freely flow beneath the silt fencing. (See Photos/Videos 1455 to 1459) Turbid flows from these point sources were able to enter Highland Brook and its tributary. The silt fences need to be properly installed and maintained in order to prevent discharge of sediment from the site.

3. Turbid discharges are seen discharging from the site, but mainly around the site entrance see photos in Attachment 1 and videos in Attachment 2. The heavy turbid discharge from

the site caused a plume of sediment within Highland Brook. This plume can be seen flowing steadily downstream from the site in Highland Brook. The plume was documented initially beginning at the site entrance road as shown in Video 1460 (Attachment 2) and Photo 1461 and then continuing downstream (See Photos and Video 1450 to 1454, Video 1460, Photo/Video 1464 to 1470). Adequate stormwater best management practices must be installed on and around the site entrance as well as upgradient of the site entrance to reduce the volume, velocity and pollutant loads in the site runoff.

4. New York State Narrative Water Quality Standards in NYCRR Part 703.2 (http://www.dec.ny.gov/regs/4590.html#16133), applicable for Highland Brook a Class C stream, specify that: there can be no increase in turbidity that will cause a substantial visible contrast to natural conditions; and, that there can be no suspended, colloidal or settleble solids from sewage, industrial wastes or other wastes that will cause deposition or impair the waters for their best usages. UTA of KJ's turbid discharges do not conform with the New York State Narrative Water Quality Standards.

5. As shown in photos/videos 1455 to 1459 silt fencing at the northwestern portion of the site was not buried into the soil as required. There were flow paths shown below the silt fencing.

ATTACHMENTS

Attachment 1 – Photographs
Attachment 2 – CD of Photographs and Video collected during the inspection.
Attachment 3 - November 5, 3013 letter from EPA to UTA of KJ

Attachment 1 - Photographs of United Talmudical Academy of Kiryas Joel on August 28, 2013. Taken by Murray Lantner, P.E., Environmental Engineer, Nikon Coolpix P510, EPA Region 2, DECA-WCB

Attachment 1 - Photographs of United Talmudical Academy of Kiryas Joel on August 28, 2013. Taken by Murray Lantner, P.E., Environmental Engineer, Nikon Coolpix P510, EPA Region 2, DECA-WCB	
Photo ID No.	**Photo Description**
DSCN1450	Turbid discharge from the site flowing into Highland Brook at the south west - downstream - side of the entrance road to the site.
DSCN1451	Turbid plume moving downstream in Highland Brook from the site. Turbid plume begins around the entrance road.
DSCN1452	Flow paths at the site showing the turbid flow into Highland Brook from the UTA of KJ site.
DSCN1453	Video of turbid discharge from the site into Highland Brook and turbid plume moving downstream in Highland Brook.
DSCN1454	Turbid water flowing from UTA of KJ site towards and into Highland Brook.
DSCN1455	Turbid storm water flowing along under the silt fence at the UTA of KJ

Attachment 1 - Photographs of United Talmudical Academy of Kiryas Joel on August 28, 2013. Taken by Murray Lantner, P.E., Environmental Engineer, Nikon Coolpix P510, EPA Region 2, DECA-WCB	
	site.
DSCN1456	Video of mildly turbid water coming into a tributary of Highland Brook.
DSCN1457	Video of mildly turbid water flowing under silt fence and into a tributary of Highland Brook.
DSCN1458	Photo of mildly turbid storm water flowing along underneath the silt fence and into a tributary of Highland Brook. Silt fence seen not properly buried into the ground.
DSCN1459	Turbid storm water flowing along under the improperly installed silt fencing. Silt fence seen not properly buried into the ground.
DSCN1460	Video of Turbid water discharge from the UTA of KJ site turning Highland Brook a turbid color. This video demonstrates that the stream changes to a turbid color within a few feet upstream of the entrance road where the heavily turbid discharge from the site begins. It also shows the turbid flow entering the Highland Brook and turning it a turbid brown color.
DSCN1461	Turbidity seen beginning in Highland Brook located at the right side (when entering the site, which is the upstream or east side) of the entrance road to the site. A few feet upstream of the entrance road the stream is seen flowing with less or little turbidity. There are turbid flows from the site also entering Highland Brook from the UTA of KJ on the upstream side and downstream side of the entrance road.
DSCN1462	Turbid flow paths seen when looking towards the South side of the site. Just to the east of the site entrance.
DSCN1463	Turbid flow paths seen when looking Northeast from the site entrance.
DSCN1464	Turbid water flowing from the site and entering Highland Brook on the downstream side of the entrance road.
DSCN1465	Turbid water from the site entering Highland Brook on the downstream side of the entrance road.
DSCN1466	Turbid water from the site flowing from the entrance road and entering Highland Brook on the downstream side of the entrance road.
DSCN1467	Turbid plume covering the much of the visible portion of Highland Brook on the downstream side of the entrance road.
DSCN1468	Turbid plume covering the much of the visible portion of Highland Brook on the downstream side of the entrance road.
DSCN1469	Video of turbid stormwater entering Highland Brook on the downstream side of the entrance road and the turbidity seen extending downstream in Highland Brook.
DSCN1470	Video of turbid stormwater entering Highland Brook on the downstream side of the entrance road and the turbidity seen extending downstream in Highland Brook.

DSCN1450.JPG

DSCN1451.JPG

DSCN1452.JPG

DSCN1454.JPG

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