

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

IN THE MATTER OF:

Michael B. Rapasadi
2106 Lake Road
Oneida, NY 13421

Thomas R. Rapasadi
2106 Lake Road
Oneida, NY 13421

Respondents.

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

**Proceeding to Assess Class I
Civil Penalty Pursuant to Section
309(g) of the Clean Water Act**

Docket No. CWA-02-2013-3601

REPORT OF STATUS CONFERENCE AND ORDER

The status teleconference in this matter was held on December 19, 2013. Participating were:

Presiding Officer:	Helen S. Ferrara
Respondent's Attorney:	John Benjamin Carroll
Complainant:	Lauren Fischer, Attorney David Pohle, Wetlands Enforcement U.S. EPA

Introduction: The Presiding Officer requested that the parties' attorneys provide an update on efforts to resolve this matter.

Status: Mr. Carroll stated that he had spoken with Ms. Fischer regarding his clients' position, which is that they are not responsible for violation of the CWA because the Town of

Lenox (Town) informed them that their activities on the wetland in question were permissible. His clients hope to resolve this matter by putting the burden to remediate the wetlands on the Town. Mr. Carroll had contacted the Town Supervisor who had given prior local approval of his clients' activities, and the Supervisor had represented that he would present the Rapasadis' request to the Town Board. However, Mr. Carroll's attempts to follow up with the Supervisor have been unsuccessful to date.

Ms. Fischer stated that the Complainant had forwarded documentation to Respondent regarding the Respondents' claims of inability to pay, which documentation must be completed and returned to the Complainant if the Respondents want their inability to pay claim considered. Respondent's attorney indicated that his clients have not yet completed the documentation necessary to support their inability to pay argument. Mr. Carroll stated that his clients often do not respond to his attempts to contact them by phone and letter.

The Undersigned suggested that Mr. Carroll emphasize to his clients that they should be engaged in efforts to resolve this matter and must complete the inability to pay documentation if they want to pursue that claim. Mr. Carroll said he would inform his clients of EPA's position and the suggestion by the Undersigned.

The parties scheduled a settlement teleconference for January 13, 2013 to facilitate progress on the issues stated herein. The parties agreed that it was in the best interest of all parties to schedule a follow up status teleconference to apprise the Undersigned of their progress in resolving this matter.

IT IS ORDERED:

A status teleconference is hereby scheduled for Thursday, January 30, 2014 at 10:00AM.

Dated: December 19, 2013

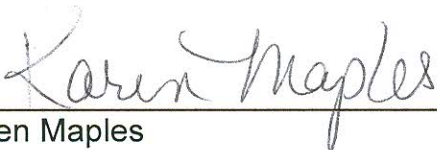

Helen S. Ferrara
Presiding Officer

CERTIFICATE OF SERVICE

I hereby certify that the **Report Of Status Conference And Order** by Regional Judicial Officer Helen Ferrara in the matter of **Michael B. Rapasadi and Thomas Rapasadi, Docket No. CWA-02-2013-3601**, was served on the parties as indicated below:

First Class Mail - John Benjamin Carroll, P.C.
 Carroll and Carroll Lawyers, P.C.
 440 South Warren Street
 Syracuse, New York 13202

Inter Office Mail - Lauren Fischer, Esq.
 Office of Regional Counsel
 USEPA - Region II
 290 Broadway 16th Floor
 New York, New York 10007-1866



Karen Maples
Regional Hearing Clerk
USEPA - Region II

Dated: December 19, 2013