

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

IN THE MATTER OF

Docket No. CWA-02-2011-3601

Dependable Towing & Recovery, Inc.,  
and David A. Whitehill,

Respondents


U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 FEB 24 P 3 02  
REGIONAL HEARING  
CLERK

STATUS REPORT

Pursuant to an Order of Judge Barbara A. Gunning, dated January 5, 2011, the Complainant in the above captioned, the U.S. Environmental Protection Agency, respectfully submits its Status Report:

1. Since the filing of the Complaint dated April 8, 2011 in the instant matter, the parties have been holding settlement conversations.
2. The instant Complaint seeks the assessment of civil penalties, and in addition the Complainant also has claims that pertain to the restoration of the environment due to the alleged violations of the Clean Water Act.
3. The settlement conversations that the parties have been holding involve the resolution of the civil penalty and the development of an agreement between the parties which would provide for a long-term environmental restoration plan with terms that can be agreeable to the Respondents and compliant with the Clean Water Act's objectives.
4. The parties have agreed that the technical background of this case is complicated and finding mutually agreeable technical solutions has proven challenging, nonetheless, the parties continue to hold on-going conversations and there are areas of agreement.
5. The parties will require additional time to finalize agreement on the various matters that are under discussion, and we hereby submit that there is a general agreement in principle that includes a penalty range.
6. The parties acknowledge that Judge Gunning's order averts that the parties will have to comply with the hearing schedule provided in said order.
7. The instant Report has been discussed with and agreed to by counsel for Respondents.

In New York, NY, February 24, 2012,



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CERTIFICATE OF SERVICE

I certify that I have this day caused to be sent the foregoing **Complainant's Status Report**, dated February 24, 2012, and bearing the above-referenced docket number, in the following manner to the respective addressees below:

Original and copy, **Federal Express** to:

Karen Maples  
Regional Hearing Clerk  
Region 2  
U.S. Environmental Protection Agency  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007-1866.

Copy by **electronic and regular mail** to:

Deborah J. Chadsey, Esq.  
Kavinoky Cook, LLP  
Attorneys at Law  
726 Exchange Street, Suite 800  
Buffalo, NY 14210

Copy by **electronic and regular mail** to:

Administrative Law Judge:  
The Honorable Barbara A. Gunning  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mailcode 1900L  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460  
[Phone: (202) 564-6281 Attn: Mary Angeles, Legal Staff Assistant]

2-24-2012 Ana Madera  
Date