

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, New York 10007**

IN THE MATTER OF:

**New York State Department of
Transportation
50 Wolf Road
Albany, NY 12232
SPDES Permit No. NYR20A288**

Respondent.

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

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

Docket No. CWA-02-2016-3403

COMPLAINANT'S MOTION TO SUPPLEMENT THE PREHEARING EXCHANGE

Pursuant to 40 C.F.R. §§ 22.19 and 22.16, Complainant, the Director of the Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2 ("EPA" or "Complainant"), hereby moves this tribunal for leave to supplement its prehearing exchange with an additional exhibit.

On July 28, 2017, pursuant to Judge Coughlin's Prehearing Order dated June 13, 2017, the EPA submitted, among other things, the CV for its expert witness, Christy Arvizu, along with a summary of her expected testimony. However, Ms. Arvizu's CV was mistakenly not marked as an exhibit. On January 12, 2018, the parties jointly stipulated to, inter alia, the scope of the anticipated witness testimony described in their respective prehearing exchanges.

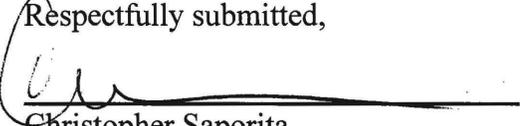
On January 24, 2018, Complainant was notified by Jennifer Almase, an Attorney Advisor with the Office of Administrative Law Judges, about its need to mark Ms. Arvizu's CV with an exhibit number

in order for Complainant to move it into evidence to support the designation of Ms. Arvizu as an expert. And, on February 7, 2018, the undersigned conferred by email with Respondent's counsel, and confirmed that Respondent would not object to Complainant's motion to supplement the prehearing exchange with a copy of Ms. Arvizu's CV marked as a Complainant's exhibit.

Therefore, because this motion is made well in advance of the commencement of the hearing on April 3, 2018, and because Respondent does not object to this motion and would not be prejudiced by its granting, it is submitted that this tribunal should grant Complainant's motion and accept the submission of Ms. Arvizu's CV as an exhibit in this matter. (Attached)

Dated: February 8, 2018
New York, New York

Respectfully submitted,



Christopher Saporita
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866
212-637-3203

In the Matter of *New York State Department of Transportation*, Respondent.
Docket No. CWA-02-2016-3403

CERTIFICATION OF SERVICE

I hereby certify that the foregoing Complainant's Reply to Respondent's Opposition to the Motion for Partial Accelerated Decision on Liability, dated February 8, 2018, was sent this day to the following parties in the manner indicated below.


Yolanda Majette, Secretary

Original and One Copy by OALJ E-Filing System to:

Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Mail Code 1900R
Washington, DC 20460

Copy by Certified Mail to:

Alicia McNally, Esq.
Assistant Counsel
Division of Legal Affairs
New York State Department of Transportation
50 Wolf Road, 6th Floor
Albany, NY 12232
For Respondent

Dated: February 8, 2018
New York, NY