

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

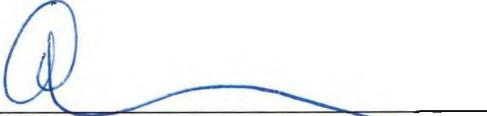
In the Matter of:)	
)	
New York State)	Docket No. CWA-02-2016-3403
Department of Transportation)	
)	
Respondent.)	

SETTLEMENT STATUS REPORT

In her September 14, 2017 Superseding Hearing Notice and Order, Judge Biro directed the Complainant to file a Settlement Status Report on October 31, 2017. On October 24, in anticipation of that filing, Complainant called and spoke with Respondent’s counsel to determine the Respondent’s willingness to resume negotiations in order to settle this matter without further litigation. Respondent’s counsel agreed to confer with Respondent about its current position, and to respond to Complainant’s counsel in advance of the filing deadline.

Complainant’s counsel had not heard back from Respondent’s counsel on Monday, October 30, and so sent a follow up email to Respondent’s counsel asking about Respondent’s willingness to resume negotiations, and reminding Respondent’s counsel about the October 31 deadline. Respondent’s counsel did not respond until October 31, but had not yet been able to confer with her client, and stated that she was out of the office, and promised to call Complainant’s counsel the following day. The next day, Complainant’s counsel unsuccessfully tried to reach Respondent’s counsel by phone, and so drafted and emailed her a proposed joint status report and request for extension, to allow Respondent’s counsel time to confer with her client before the Complainant filed the status report. Respondent’s counsel responded that she was out sick, and would call Complainant’s counsel and review the draft status report the following morning. At 11:00am, on November 2, Complainant’s counsel called Respondent’s counsel, and was again unable to reach her.

Therefore, with apologies, and with good cause for its lateness, Complainant hereby submits this settlement status report to notify this tribunal that there has been no change in the settlement status of this matter.



Christopher Saporita, Esq.
Assistant Regional Counsel
United States Environmental Protection Agency – Region 2

Dated: November 2, 2017
New York, NY

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 Settlement Status Report, dated November 2, 2017, was sent this day to the following parties in the manner indicated below.


Yolanda Majette, Secretary

Original and One Copy by Regular Mail to:

Mary Angeles
Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Avenue, NW
Washington, DC 20004

Copy by Regular 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: November 2, 2017
New York, NY