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September 3, 2020

Marie Therese Dominguez, Esq.  
Commissioner  
New York State Department of Transportation  
50 Wolf Road  
Albany, New York 12232

Re: NYS IG 2986-007-2019

Dear Commissioner Dominguez:

On October 10, 2019, the Office of the New York State Inspector General received a complaint alleging that a New York State Department of Transportation (DOT) truck and its crew were observed delivering timber to private property owned by ██████████ in ██████████ ██████████ on September 3, 4, and 5, 2019.

The Inspector General investigated this allegation and found that on September 3, 4, and 5, 2019, DOT Tree/Herbicide Crews in Schuyler County delivered timber to ██████████ property in ██████████. The investigation further found that the crews' actions were contrary to DOT policy. The following is a brief summary of the findings of the Inspector General's investigation and recommendations.

DOT's Transportation Maintenance Instruction 14-02 provides policy, rules, and processes that its employees must follow when disposing of "waste" timber generated from tree cutting and pruning operations that will not be utilized by DOT. Upon request of the landowner where the cutting/pruning operations occurs, waste timber may be left along the landowner's highway frontage. According to the instruction, valuable timber, such as black walnut and cherry trees, should be sold through the surplus property process. Notably, the instruction does not explicitly authorize the transportation of waste timber to any secondary location, namely, property that does not abut timber maintenance operations.

The instruction further requires that a landowner whose land abuts the road where work occurred complete a Request for Timber and Release of Liability form if seeking to obtain waste timber. Next, a designated DOT residency employee is required to conduct a site inspection, complete a DOT checklist, and determine if waste timber can be safely left on the landowner's property. Then, the appropriate regional transportation management engineer must review and approve the paperwork, which is to be maintained in the residency or regional crew office for at least three years.

The investigation found that DOT Region 6 Tree/Herbicide Crew working out of DOT's Residency 6-3 (supporting Chemung, Schuyler, and Yates Counties) conducted tree removal work on State Route 79, near the village of Burdett, in Schuyler County on September 3 and 4, 2019. On September 5, 2019, this crew removed trees on State Route 14A, near Reading Center in Schuyler County. GPS data for the log truck used on both sites reveals that following the tree removal work, the truck traveled to [REDACTED]—private property owned by [REDACTED]. Surveillance video near that address showed a DOT truck delivering timber to [REDACTED] property on those dates.

The investigation further found the crews' actions were contrary to DOT policy. Specifically, the crews failed to obtain a liability release from the landowner, ensure a site inspection was conducted and a checklist completed, and have the checklist reviewed and approved by an appropriate regional transportation management engineer. In addition, the Daily Work Reports completed by the crews on these dates do not indicate the species of trees removed or if the wood was valuable and therefore suited for surplus sale. Moreover, the DOT crews transported the timber several miles on each of the three dates to [REDACTED] property.<sup>1</sup>

According to DOT policy, the paperwork for timber wasting—liability releases and site inspection checklists—is to be maintained in the appropriate residency or regional crew office for three years. This off-site method of recordkeeping is vulnerable to fraud and abuse and the records are difficult to monitor and audit. DOT must limit potential access to these records by imposing tighter internal controls over its timber wasting records.

Based on these findings, I recommend that DOT review the conduct of those employees working on the DOT Tree/Herbicide Crew, which include [REDACTED]

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<sup>1</sup> Residency 6-3 produced a May 2020 Release of Liability form for the [REDACTED] property for the dumping of "ditch spoil and hazardous tree removal wood." This release was signed by [REDACTED] and [REDACTED].

