



STATE OF NEW YORK  
OFFICE OF THE STATE INSPECTOR GENERAL  
**Final Report**  
**May 25, 2011**

## SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General determined that on July 28, 2010, New York State Department of Transportation (DOT) Highway Maintenance Worker 1 Brian Lee fueled his personal vehicle with DOT gasoline meant for stranded motorists. In addition, the Inspector General found this misconduct occurred on at least one other occasion as well, and that Lee falsely recorded activity on his log sheets maintained in his state vehicle.

To prevent future misconduct, the Inspector General recommends that DOT implement more stringent monitoring of the highway emergency local patrol (HELP) program. The Inspector General further recommends that DOT initiate disciplinary action against Lee. In addition, the Inspector General has referred this matter to the Nassau County District Attorney for review.

## ALLEGATION

On August 19, 2010, the Inspector General received an allegation from DOT officials alleging that DOT employee Brian Lee, who operates a HELP truck, had fueled his personal vehicle with fuel meant for stranded motorists.

## SUMMARY OF INVESTIGATION

The New York State Department of Transportation HELP program provides motorist assistance in various regions of the state including, New York City, the Lower Hudson Valley, Buffalo, Rochester, and the Albany area. The HELP program includes a total of 99 service trucks, covering 24 specified areas, and each area is monitored by a local DOT Transportation Management Center ("TMC"). The purpose of the program is to decrease motorist delay by providing emergency roadside assistance to disabled vehicles on high volume roadways during peak hours. Specifically, HELP technicians aid motorists experiencing minor car problems, such as running out of fuel, a dead battery, or a flat tire in order to return stranded motorists to the road and keep traffic moving during the morning and evening rush hours. To that end, HELP trucks are equipped with items necessary to fulfill this objective including four gasoline cans – three two-gallon cans for unleaded gasoline and one five-gallon can for diesel fuel.

Nevertheless, while the HELP program monitors each HELP truck fuel usage, fuel dispensed for the operation of the truck is not distinguished from fuel dispensed to fill each gasoline can.

DOT's Nassau North Residency, a highway maintenance facility in Syosset, Long Island, participates in the HELP program to assist stranded motorists. Areas of the highways are monitored by Nassau North Residency DOT employees on a rotating basis.<sup>1</sup> The HELP drivers patrol the highways looking for vehicles requiring assistance. Once this occurs, the HELP driver pulls off the road, contacts the Nassau North Residency dispatch department, and provides his or her location and license plate number of the vehicle requiring assistance. A TMC dispatcher then assigns a log number which the driver records, along with other information, in a logbook maintained in the HELP truck. Only after the call is radioed in may the driver approach the vehicle and provide assistance. The driver must contact the TMC dispatcher again to report what aid, if any, was provided.

Brian Lee has been employed by NYS DOT as a Highway Maintenance Worker 1 for the past 10 years. His shift begins at 4:30 a.m. and ends at 12:30 p.m. Between the hours of 6:00 a.m. and 10:00 a.m., Lee drives one of the HELP trucks and assists motorists as described above. At all other times, Lee is responsible for performing maintenance on DOT vehicles at the Nassau North Residency.

The Inspector General received an allegation that on July 28, 2010, while driving the HELP truck during his regularly scheduled working hours, Lee fueled his personal vehicle. Specifically, a DOT employee observed Lee fueling a minivan on the Long Island Expressway exit 49 and made note of the minivan's New York State license plate number. Upon his return to the facility, the employee witnessed the same minivan with a female driver in the parking lot. He then saw Lee get into the minivan and drive off. However, Lee's logs for that day indicated having fueled a different vehicle with a different plate number. DOT officials subsequently learned that the minivan Lee assisted and then departed in was registered to Lee. In addition, in September 2010, during the pendency of this investigation, a DOT official observed a second instance of Lee fueling his vehicle.

To determine the frequency of this misconduct, the Inspector General obtained Lee's logs for a four-month period, June to September 2010, and created a list of all instances of Lee providing fuel to a motorist. Those motorists were then contacted by the Inspector General to determine if they received assistance from Lee as indicated on his logs. Of the 32 instances of Lee reporting having given fuel to a stranded motorist during this four-month period, 10 reported that they never received fuel or assistance of any kind from Lee. In fact, two of these 10 instances coincide with the dates and times of the instances Lee was observed by DOT officials fueling his vehicle.

The Inspector General then conducted surveillance of Lee on several occasions as he patrolled the highway. The observations were recorded and, when compared against

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<sup>1</sup> These areas include the Long Island Expressway between exits 32 and 39, the Long Island Expressway between exits 39 and 49, and the Seaford Oyster Bay Expressway.

Lee's logs, revealed two additional instances when it appears Lee falsely claimed to have assisted motorists.

The Inspector General interviewed Lee and confronted him with the discrepancies between his log and the Inspector General's observations. Lee admitted that in some instances, he listed false activity to appear busier than he actually was. When queried as to where he obtained the falsely listed license plate numbers, he claimed that he either recorded one from a vehicle on the road or fabricated the number. Lee further asserted that on those occasions that he misrepresented having provided fuel assistance, he was not actually dispensing the fuel in the gasoline cans.

When asked about providing fuel for his family or friends, Lee admitted to having fueled his vehicle "maybe twice," and claimed he never did so for any other family or friends. With regard to the two admitted instances of providing fuel for his personal vehicle, Lee related that the vehicle was low on fuel and he did not have money to purchase gas. Lee acknowledged that he put all the unleaded fuel from the cans in the HELP truck in his vehicle on the two occasions in question – a total of 12 gallons. Lee further acknowledged listing different license plate numbers in the logbook on those two instances in order to conceal his misconduct.

## FINDINGS AND RECOMMENDATIONS

The Inspector General determined that on July 28, 2010, New York State Department of Transportation (DOT) Highway Maintenance Worker 1 Brian Lee fueled his personal vehicle with fuel meant for stranded motorists. In addition, the Inspector General found this misconduct occurred on at least one other occasion, and that Lee falsely recorded activity on his log sheets maintained in his state HELP truck vehicle. The Inspector General further recommends that DOT initiate disciplinary action against Lee. In addition, the Inspector General has referred this matter to the Nassau County District Attorney for her review.

To prevent future misconduct, the Inspector General recommends that DOT implement more stringent monitoring of the HELP program. While requiring HELP technicians to call in to their local TMC dispatcher, DOT does not verify the information that technicians provide to the TMC dispatcher or record in their logbooks. The Inspector General therefore recommends that DOT implement spot monitoring by randomly sampling motorists listed as having received assistance to assess the veracity of the logbook information. Additionally, the Inspector General recommends that DOT require the specific recording of fuel dispensed to fill the four gasoline cans thereby ensuring that DOT's fuel is being used for its intended purpose – to assist stranded motorists. The Inspector General requests that within 60 days of the issuance of this report, DOT provide the Inspector General a progress report regarding the implementation and impact of any and all remedial measures.

### **Response of the Department of Transportation**

In response to the Inspector General's findings and recommendations, DOT advised that it intends to take disciplinary action against Lee and implement additional control over the HELP program.