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U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2008 FEB 26 PM 2:53
REGIONAL HEARING
CLERK

Via Regular Mail and Certified Mail

February 22, 2008

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16 floors
New York, New York 10007-1866

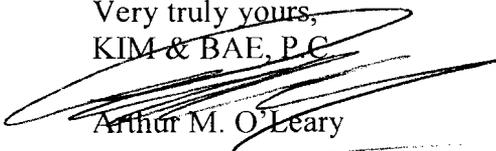
**Re: Frank H. Truck Corp.
7-02 154th Street
Whitestone, New York 11357
Docket No: CWV-02-2008-3306**

Dear Counselors:

Enclosed please find Frank H. Truck Corp. Answer with respect in this matter.

Thank you for your attention with this matter. Should you have any question please do not hesitate to contact me.

Very truly yours,
KIM & BAE, P.C.


Arthur M. O'Leary

Cc: Timothy Murphy
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region2
290 Broadway, 16th floor
New York, New York 10007-1866

Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
United States Environmental Protection Agency
Region 2
290 Broadway
New York, New York 10007

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KIM & BAE, P.C.
Attorneys at Law
110 East 59th Street, 29th Floor
New York, NY 10022
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IN THE MATTER OF:

Frank H. Truck Corp.
7-02 154th Street
Whitestone, New York 11357

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

Proceeding to Assess Class I
Civil Penalty under Section
309(g) of the Clean Water Act

Docket No. CWV-02-2008-3306

**ANSWER TO ALLEGED
FINDING OF VIOLATION, NOTICE OF PROPOSED
ASSESSMENT OF A CIVIL PENALTY, AND
NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

I. Statutory Authority

1. Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint, and on that basis denies each and every allegation contained therein.

2. Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint, and on that basis denies each and every allegation contained therein including but not limited to all allegations that Respondent committed any violations of the National Pollutant Discharge Elimination System ("NPDES") requirements

pursuant to Section 402 of the Act, 33 U.S.C. §1342 and section 301(a) of the Act 33 U.S.C. § 1311(a).

II. Findings of Violation

3. Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint, except admits that it is a corporation organized under the laws of the State of New York.

4. Respondent denies each and every allegation contained in paragraph 4 of the Complaint.

5. Respondent denies each and every allegation contained in paragraph 5 of the Complaint.

6. Respondent denies each and every allegation contained in paragraph 6 of the Complaint.

7. Respondent denies each and every allegation contained in paragraph 7 of the Complaint and refers all questions and interpretations of law to the court.

8. Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint, and on that basis denies each and every allegation contained therein and refers all questions and interpretations of law to the court.

9. Respondent denies knowledge or information sufficient to form a

belief as to the truth of the allegations contained in paragraph 9 of the Complaint, and on that basis denies each and every allegation contained therein and refers all questions and interpretations of law to the Court.

10. Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint, and on that basis denies each and every allegation contained therein.

11. Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11(a) (b) (c) (d)(e)(f) of the Complaint, and on that basis denies each and every allegation contained therein.

f) Respondent denies each and every allegation contained in paragraph 11(g) (h) (l) of the Complaint, and on that basis denies each and every allegation contained therein.

j) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11(j) of the Complaint, and on that basis denies each and every allegation contained therein.

12. Respondent denies each and every allegation contained in paragraph 12 of the Complaint.

III. Notice of Proposed Order Assessing a Civil Penalty

Respondent denies each and every allegation contained in Section III Notice of Proposed Order Assessing a Civil Penalty.

AFFIRMATIVE DEFENSES

Respondent alleges the following affirmative defenses to the Complaint. In asserting these affirmative defenses, Respondent does not assume the burden to establish any fact or proposition where that burden is properly imposed on Complainant.

1. Complainants have failed to state a claim upon which relief may be granted.

2. Complainants have failed to plead sufficient facts to establish a right to recover.

3. Complainants' claims are barred, either in whole or in part, by the absence of subject matter jurisdiction and lack of personal jurisdiction.

4. The Complaints is void as ultravires.

5. Complainants lack standing to maintain the claims asserted in the Complaint.

6. Complainants' claims are barred, either in whole or in part, because they allege wholly past violations that are not likely to be repeated.

7. The Complaints is barred by the statute of limitations under 28 U.S.C. §2462.

8. Complainants have failed to satisfy all conditions precedent to bringing this action.

9. Complainant and each cause of action therein may be barred, in whole or in part, to the extent Complainant have waived or are estopped from, or

are barred by the doctrine of laches from, asserting such causes of action.

10. Complainants have failed to join indispensable parties including but not limited to Tropicana Products Inc. and Tropicana Products Sales Inc.

11. Respondent had no interest in the subject premises except as agent for Tropicana Products Inc. and Tropicana Products Sales Inc.

12. Respondent only utilized premises which were owned, operated, constructed and controlled by Tropicana Product Inc. and Tropicana Products Sales Inc.

13. Respondent had no knowledge of or reason to know of any alleged discharge into any waterway and did not exceed regulated discharge amounts.

14. Respondent presently has insufficient knowledge or information on which to form a belief as to whether they may have additional defenses that are revealed by further investigation or by discovery.

Hearing Request

Respondent requests a HEARING upon all issues alleged in the Complaint.

Prayer

WHEREFORE, Frank H. Truck Corp. prays for judgment or relief against the as follows:

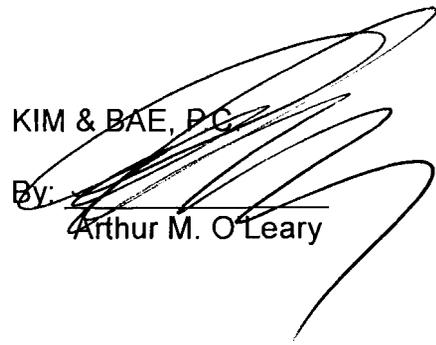
1. That the claim against Respondent is dismissed with prejudice;

2. That Respondent be awarded its attorneys' fees, costs and disbursements incurred in defending this matter; and

3. Such other and further relief, including declaratory, equitable relief and damages, as this Court deems just and proper.

Dated: February 21, 2008

KIM & BAE, P.C.

By: 

Arthur M. O'Leary

NOTE: THIS CERTIFICATE VOIDS AND SUPERSEDES
PREVIOUS CERTIFICATE OF COMPLETION NO. 3787
ISSUED APRIL 14, 1966 FOR PERMIT 650841.

E2-1M sets-903164(69)

Nº 306

Date May 23, 1988

THE CITY OF NEW YORK

DEPARTMENT OF PORTS, INTERNATIONAL TRADE and COMMERCE

BATTERY MARITIME BUILDING
NEW YORK, N. Y. 10004

CERTIFICATE OF COMPLETION

This is to certify that the structure located at..... Foot of 154th Street
..... East River, Whitestone Borough of QUEENS, N.Y.

Plan
7090

Application No. 870288..... Dated Feb. 26, 1988 Filed by TROPICANA OF NEW YORK, INC.
7-02 154th Street, Whitestone, Queens, N.Y. 11357

described as Change "USE" of existing Building constructed under Permit
No. 650841 from a Storage Building to a Truck Repair Shop.

(Class Construction 3, Occupancy Group 5)

has been satisfactorily completed in accordance with approved plans and specifications and the
rules and regulation of the Department of P. I. T. and C; and therefore it is hereby permitted

to occupy said structure for the use of TRUCK REPAIRS WITH ACCESSORY BURNING and
WELDING. (Zoning Use Group 16)

subject to compliance with all the requirements and regulations of the Fire Department and other
City, State and Federal Departments.

No changes of use not consistent with this certificate shall be made unless first approved by the
Commissioner of Ports, International Trade and Commerce.

No structural changes shall be made unless an approval of same has been obtained from the
Commissioner of Ports, International Trade and Commerce.

Joseph H. Medda
Chief Engineer

APPLICANT'S COPY



PEPSICO



Notice to Tenant to Comply with Tropicana Products Inc.
Demand to cease use of drains and use of water.

August 9th, 2008

Frank H. Trucking;
A.K.A. Wang's Garage
7-02, 154th Street
Whitestone, New York
11357

Dear Mr. Wang:

As tenant of the premises located at 7-02 154th Street Whitestone New York, you are hereby requested to make comply with the following demands:

- Cease the use of the three floor drains and the sink drain that have been plugged;
- Do not disturb any of the plugs that have been installed;
- Cease the use of any water supply at the leased property. Do not disturb any of the locking devices that have been installed. Water supply includes both water sources that have been locked out by the landlord, and any other water sources that may be available.

These changes have been made at the express request of the federal government. Any attempt to reverse the steps the landlord has taken will result in harsh penalties and substantial liability to Frank H. Trucking and you personally.

Please contact us if you have any questions.

Sincerely, Art Stanton,

Tropicana Products Inc.
Whitestone, New York 11357
201-767-5900 Ex 228