

BARRY S. COHEN
PARTNER
bcohen@certilmanbalin.com

March 7, 2008

Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

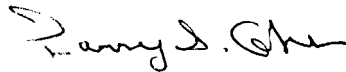
Re: *Applied Genetics, Inc., Dermatics*
Docket No.: CWA-02-2008-3305

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2008 MAR 11 PM 2:53
REGIONAL HEARING
CLERK

Dear Sir or Madam:

Enclosed please find Respondent's Answer in the above-referenced matter.

Sincerely,



Barry S. Cohen

BSC/gc
Enclosure
cc: Diane T. Gomes, Esq.

iManage:1974072.1

BARRY S. COHEN
PARTNER
bcohen@certilmanbalin.com

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2008 MAR 11 PM 2:54
REGIONAL HEARING
CLERK

March 7, 2008

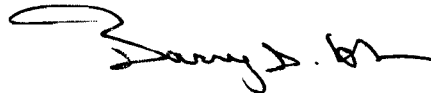
Regional Hearing Clerk
U.S. Environmental Protection Agency
290 Broadway, 16th Floor
New York, New York 10007-1866

Re: *Applied Genetics, Inc., Dermatics*
Docket No.:

Dear Sir or Madam:

Enclosed please find Respondent's Answer in the above-referenced matter.

Sincerely,



Barry S. Cohen

BSC/gc

Enclosure

cc: Diane T. Gomes, Esq.

iManage:1974072.1

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

-----X

IN THE MATTER OF:

Applied Genetics Inc., Dermatics
205 Buffalo Avenue
Freeport, New York 11520

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

-----X

Docket No: CWA-02-2008-3305

ANSWER

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2008 MAR 11 PM 2:54
REGIONAL HEARING
CLERK

Respondent, by its attorneys Certilman Balin Adler & Hyman, LLP, as and for its
Answer, alleges as follows:

1. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "1" of the complaint and refers to 33 U.S.C. §1319(g)(2)(A) for the contents thereof.
2. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "2" of the complaint and refers to 40 C.F.R. Part 22 to the contents thereof.
3. Respondent admits the allegations contained in paragraph "3" of the complaint.
4. Respondent admits the allegations contained in paragraph "4" of the complaint.
5. Respondent denies knowledge and information sufficient to form a belief as to the allegation contained in paragraph "5" of the complaint and refers to 33 U.S.C. §1362(6) for the contents thereof, but admits that it discharged wastewater into the Nassau County

Department of Public Works POTW.

6. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "6" of the complaint and refers to 33 U.S.C. §1316(a)(3) and 40 C.F.R. §403.3(i) for the contents thereof.

7. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "7" of the complaint and refers to 40 C.F.R. §§403.3(d) and 403.3(f) for the contents thereof.

8. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "8" of the complaint and refers to 33 U.S.C. §§1317(b) and 1318(a).

9. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "9" of the complaint and refers to 33 U.S.C. §1317 and 40 C.F.R. Part 403 for the contents thereof.

10. Respondent denies knowledge and information sufficient to form a belief as to the first allegation contained in paragraph "10" of the complaint and refers to 33 U.S.C. §1317(b) and 40 C.F.R. Part 439 for the contents thereof.

11. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "11" of the complaint and refers to 40 C.F.R. §§439.39, 439.40 and 439.46 for the contents thereof.

12. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "12" of the complaint and refers to 33 U.S.C. §1317(d) for the contents thereof.

13. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "13" of the complaint and refers to 33 U.S.C. §§1318 and 1342 for the contents thereof.

14. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "14" of the complaint and refers to 40 C.F.R. §403.12(b) for the contents thereof.

15. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "15" of the complaint and refers to 40 C.F.R. §§403.12(b) and 439.46 for the contents thereof.

16. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "16" of the complaint and refers to 33 U.S.C. §§1317(b) and 1318(a) and to 40 C.F.R. §12(e) for the contents thereof.

17. Respondent denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph "17" of the complaint and refers to 40 C.F.R. §§403.12(b) and (d) and 439.46 for the contents thereof.

18. Respondent denies the truth of the allegations contained in paragraph "18(c) and (d)" of the complaint.

19. Respondent admits the allegations contained in paragraph "19" of the complaint.

20. Respondent admits the allegations contained in paragraph "20" of the complaint.

21. Respondent admits the allegations contained in paragraph "21" of the

complaint.

22. Respondent admits the allegations contained in paragraph "22" of the

complaint.

23. Respondent admits the allegations contained in paragraph "23" of the

complaint.

24. Respondent denies the truth of the allegations contained in paragraph "24"

of the complaint, but admits that it did not provide SIC Codes.

25. Respondent admits the allegations contained in paragraph "25" of the

complaint.

26. Respondent denies knowledge and information sufficient to form a belief

as to the allegations contained in paragraph "26" of the complaint and refers to 40 C.F.R.

§§403.3(i) and 439.46 for the contents thereof..

27. Respondent denies knowledge and information sufficient to form a belief

as to the allegations contained in paragraph "27" of the complaint.

AFFIRMATIVE DEFENSES

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

28. Respondent is not subject to the statutory and regulatory provisions that

form the basis of the complaint.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

29. Complainant's claims are barred by the applicable statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

30. The proposed penalty is inappropriate.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

31. To the extent Respondent violated the law, Respondent's conduct was not willful.

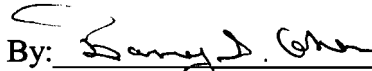
REQUEST FOR A HEARING

Respondent seeks to settle this matter, but if settlement cannot be achieved, Respondent requests a hearing.

WHEREFORE, Respondent demands an order dismissing the complaint, and for such other relief as is just and proper.

Dated: Hauppauge, New York
March 7, 2008

CERTILMAN BALIN ADLER & HYMAN, LLP

By: 

Barry S. Cohen
Attorneys for Respondent
1393 Veterans Memorial Highway, Suite 301S
Hauppauge, New York 11788
(631) 979-3000

TO:

DIANE T. GOMES, ESQ.
Attorney for Complainant
Assistant Regional Counsel
Office of Regional Counsel
United States Environmental Protection Agency, Region 2
290 Broadway, 1st Floor
New York, New York 10007-1866
(212) 627-3235

AFFIDAVIT OF SERVICE

STATE OF NEW YORK }
 }ss.:
COUNTY OF SUFFOLK }

GLORIA CLEMENTE, being duly sworn, deposes and says:

Deponent is not a party to this action, is over 18 years of age and resides at Elmont, New York.

On the 7th day of March, 2008 deponent served the within **ANSWER** upon:

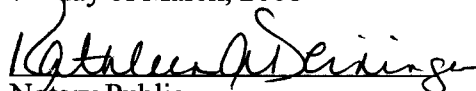
DIANE T. GOMES, ESQ.
Attorney for Complainant
Assistant Regional Counsel
Office of Regional Counsel
United States Environmental Protection Agency, Region 2
290 Broadway, 1st Floor
New York, New York 10007-1866

at the address designated for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.



GLORIA CLEMENTE

Sworn to before me this
7th day of March, 2008


Notary Public

KATHLEEN A. DEININGER
Notary Public State of New York
No. 01DE6171749
Qualified in Suffolk County
Commission Expires July 30, 20 11