



Office of Administrative Trials and Hearings
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000722104R et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- C NESTLE WATERS NORTH AMERICA IN Hearing Date: 02/24/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000722104R	Sustained	07/06/2022	on 195th Street between Woodhull Avenue and Jamaica Avenue Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	\$350.00

Findings of Fact & Conclusions of Law

Petitioner New York City Department of Environmental Protection (DEP) was represented by DEP court representative LEAH SMITH.

Respondent NESTLE WATERS NORTH AMERICA INC was represented by authorized representative LANCE CHEBIN of the Nacmias Law Firm, PLLC.

Respondent was charged with a violation of § 24-163 of the Administrative Code of the City of New York (Code) for idling a motor vehicle engine for longer than three minutes.

In the summons, the Issuing Officer (IO) affirmed observing, based on information submitted by a citizen complainant (CC), that on July 6, 2022, on 195th Street between Woodhull Avenue and Jamaica Avenue in Queens, respondent caused or permitted the idling of a motor vehicle while parked, standing or stopped. The IO noted that as per DEP records, citizen observed TRUCK with NY License Plate #13200MJ idling for longer than three minutes from 1:47:53PM to 1:51:20PM.

Petitioner submitted into evidence (1) a photograph of the respondent's vehicle with the name of the respondent emblazoned on its side; (2) a photograph of the respondent's vehicle showing the vehicle's license plate; (3) a screenshot of the respondent's NYS DOS information; (4) the Affidavit of Service; (5) a DMV COMPASS search result which links READY REFRESH, BLUE TRITON and NESTLE WATERS; and (6) a video submitted by the Citizen Complainant detailing the violating conditions of the engine on, visible exhaust, engine noise and no loading or unloading, no liftgate in operation, 3 minutes and 43 seconds long.

I find the Issuing Officer's sworn-to summons narrative and submitted documentary evidence to be credible as to their observations.

Respondent's representative denied the violation, arguing that the evidence failed to link the named respondent, NESTLE WATERS, with BLUE TRITON, which is named as the legal entity from the NYS DOS search result, and moved for dismissal.

Code § 24-163(a) provides that no one shall permit the idling of a motor vehicle engine for longer than three minutes unless the engine is used to operate a loading, unloading, or processing device.

Motion to dismiss is DENIED. I find that the petitioner's documentation shows a clear ownership/control link between NESTLE WATERS and BLUE TRITON.

The credible evidence, here the sworn-to summons narrative of the Issuing Officer and the submitted credible evidence, is sufficient to establish, and I find, that respondent was in violation on the date of the offense. The violation is SUSTAINED, and I impose the penalty of \$350.



02/26/2025

02/26/2025

Mark Goichman, Hearing Officer

Date