



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592PACIFIC STREET Brooklyn,NY 11217	Summons No: 000940786Z et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- NESTLE WATERS NORTH AMERICA INC. Hearing Date: 01/23/2026 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
000940786Z	Sustained	08/15/2024	ON COURT ST BETWEEN CARROLL ST & 1st PLACE Brooklyn

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

Findings of Fact & Conclusions of Law

Petitioner, NYC Department of Environmental Protection, issued a summons to Respondent, Nestle Waters North America Inc., for violating NYC Administrative Code Section 24-163, Idling of motor vehicle engine for more than 3 minutes – 1st offense, for a Truck with NY Plate # 65159MM observed on August 15, 2024, from 10:51 a.m. to 10:54 a.m., on Court Street between Carroll Street and 1st Place, in Brooklyn, New York.

Section 24-163 states that “No person shall or permit the engine of a motor vehicle...to idle for longer than three minutes...” Section 24-163 (f) provides for exceptions when the engine is used to operate a processing device, for mechanical work, or to maintain appropriate temperature for passenger comfort.

At the hearing Petitioner, NYC Department of Environmental Protection, was represented by Inspector Monica Dorson. Ilma Babu appeared on behalf of Respondent, Nestle Waters North America Inc., as the authorized representative.

Petitioner submitted an evidence packet containing 2 photos of the vehicle identifying the license plate number and company name and logo; the redacted NYC Citizen's Idling Complaint; the NYC DMV Registration Information; a copy of the summons and Affirmation of Service; and a video taken by the civilian complainant (Petitioner's Exhibit 1).

Ms. Babu denied the violation and challenged the video evidence. Respondent's rep asserted that the video was taken by a bike rider and when he gets to truck you can't hear the engine sound. Additionally, you don't see the back of the truck in the video.

In response, Inspector Dorson cited Appeal No. 2400960 and submitted a copy as evidence (Petitioner's Exhibit 2). The Board held that the video is not fatal to the summons. Did the Respondent did not refute Petitioner's evidence or establish a defense with an affidavit from the driver etc. Inspector Dorson maintained that the Petitioner met the burden of clear and convincing evidence.

In this decision, the Board held that "while Petitioner is not required to submit the citizen complainant's video at the hearing, even where a video has been presented, it is not fatal to the summons that it does not clearly show the vehicle vibrating, producing visible emissions, or making audible engine noise. See DEP v. Hub Truck Rental Corp. Appeal No. 2001344 (February 11, 2021). Rather, per 48 RCNY § 6-12(a), once Petitioner established its prima facie case, the critical inquiry became whether Respondent sustained its burden to refute Petitioner's evidence or otherwise establish a defense, such as by testimony or an affidavit from the vehicle's driver. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (January 26, 2023). The Board finds no such evidence was presented here. In the absence of probative evidence to contest Petitioner's case, the summons was properly sustained. See DEP v. Genco Lee Renovation Inc., Appeal No. 2200829 (September 29, 2022)."

I credit the testimony and evidence submitted by the Petitioner. Respondent challenged Petitioner's video evidence asserting that there was no audible engine noise by the truck and the video did not show the back of the truck. I do not find that the Respondent offered any evidence or established a valid defense. As the Appeal Board held "In the absence of probative evidence to contest Petitioner's case, the summons was properly sustained."

Accordingly, this summons is Sustained.

Eva Marie Russo-Lane

02/12/2026

02/12/2026

Eva Marie Russo-Lane, Judicial Hearing Officer

Date