DFH Envron. Service v. Kephart Truckin
2005-541-CD

05-541-CD
DFH Environmental vs. Kephart

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) : | No. 05-541-CD |
| vs. | ) : | Type of Pleading Filed: |
| KEPHART TRUCKING COMPANY, Defendant | ) : | Complaint |
| | ) : | Filed on Behalf of: Plaintiff |
| | ) : | Attorney of Record for this Party: |
| | ) : | Robert A. Mix, Esquire<br>LEE, GREEN & REITER, INC.<br>115 East High Street<br>P.O. Box 179<br>Bellefonte, PA 16823<br>814-355-4769 |

FILED icc Shff
m/2:20 Atty pd.
APR 18 2005 85.00
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) | |
| | : | |
| | ) | No. |
| vs. | : | |
| | ) | |
| KEPHART TRUCKING COMPANY, Defendant | : | |
| | ) | |

**NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
Clearfield, Pennsylvania 16830
814-765-2641 ext. 5982

LEE, GREEN & REITER, INC.

By: _____

Robert A. Mix, Esq., ID #16164
Attorney for Plaintiff
115 E. High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) | |
| | ) | No. |
| vs. | ) | |
| KEPHART TRUCKING COMPANY, Defendant | ) | |

**COMPLAINT**

Now Comes DFH Environmental Services, Inc., by its attorneys, Lee, Green & Reiter, Inc., and respectfully represents:

1. Plaintiff is DFH Environmental Services, Inc., a New Jersey corporation, with a place of business located at 15 North Salem Street, Dover, New Jersey 07801.

2. Defendant is Kephart Trucking Company, a Pennsylvania corporation with a place of business located at Route 322 West, Bigler, Pennsylvania 16825.

**Count I – Breach of Contract**

3. On or about December 17, 2001, Plaintiff entered into an oral contract with Defendant wherein Plaintiff agreed to transport waste materials for Defendant and Defendant agreed to pay Plaintiff at the rate of twenty eight ($28.00) dollars per ton for such transportation services between Patterson, New Jersey and Kersey, Pennsylvania and at the rate of sixteen $16.00) dollars per ton for such transportation services between Fairview, New Jersey and Conestoga, Pennsylvania.

4. Between December 2001 and February 2003, Plaintiff transported various loads of waste materials for Defendant on the dates, at the weights, on the terms, and for the prices set

forth in the invoices, true and correct copies of which are attached hereto, incorporated herein and marked Exhibit "A".

5. Defendant received and accepted said transportation services.

6. The prices charged for said transportation services were fair and reasonable and the prices Defendant agreed to pay.

7. The principal sum of $10,773.30 is currently due and owing to Plaintiff by Defendant for said transportation services.

8. Pursuant to their contract, Defendant agreed to pay a finance charge/interest of 1.75% per month on any sums not paid when due.

9. The sum of $5,962.42 in finance charges/interest is currently due and owing to Plaintiff by Defendant.

10. Despite a demand therefore, Defendant has failed and refused to pay said sums to Plaintiff.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in the amount of $16,735.72, plus further finance charges/interest and costs.

**Count II– Breach of Contract / Breach of Implied Contract**

11. The averments of paragraphs 1 through 10 above are incorporated herein by reference.

12. On various occasions commencing on or about December 2001, Defendant paid Plaintiff's invoices for said transportation services by presenting checks drawn on Defendant's account(s) at its bank(s).

13. When presenting said checks to Plaintiff for payment of its invoices, Defendant represented, expressly or impliedly, that said checks were legal tender and would be honored by Defendant's bank(s).

14. On various occasions commencing on or about December 2001, Plaintiff presented Defendant's checks for payment and said checks were not honored by Defendant's bank(s) due to insufficient funds in Defendant's account(s).

15. On said occasions, Defendant knew or should have known that its account(s) did not have sufficient funds to cover the checks it presented to Plaintiff for payment.

16. When presenting Defendant's checks for payment, Plaintiff reasonably relied upon Defendant's representation that said checks were legal tender and would be honored by its bank(s).

17. As a result of the dishonor of Defendant's checks, Plaintiff has incurred charges from its bank in the sum of $2,451.00. True and correct copies of Plaintiff's invoices pertaining to said charges are attached hereto, incorporated herein and marked Exhibit "B".

18. Despite a demand therefore, Defendant has refused to pay said sum to Plaintiff.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in the amount of $2,451.00, plus further finance charges/ interest and costs.

**Count III – Negligence / Negligent Misrepresentation**

19. The averments of paragraphs 1 through 18 above are incorporated herein by reference.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in the amount of $2,451.00, plus further finance charges/ interest and costs.

**Count IV – Unjust Enrichment / Quantum Meruit**

20. The averments of paragraphs 1 through 18 above are incorporated herein by reference.

19. During the time Plaintiff provided transportation services for Defendant, Plaintiff utilized trailers owned by Defendant and from time to time Plaintiff installed tires and equipment and made repairs to said trailers, the fair and reasonable value of which was $1,816.00.

20. Defendant has retaken possession of the trailers, thus precluding Plaintiff's further use of them.

21. Despite a demand therefore, Defendant has failed and refused to repay Plaintiff said sum for installing tires and equipment and making repairs to said trailers.

22. Defendant will be unjustly enriched at Plaintiff's expense if Defendant is not required to pay Plaintiff said sum.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in the amount of $1,816.00, plus interest, plus costs.

LEE, GREEN & REITER, INC.

By: _____

Robert A. Mix, Esq., ID #16164
Attorney for Plaintiff
115 E. High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/5/2002 | 4410 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 3/5/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.37 | Tons | 2/20/02 045310<br>Brooklyn to Conestoga | 20.00 | 447.40 |
| 22.03 | Tons | 2/25/02 045635<br>Brooklyn to Conestoga | 20.00 | 440.60 |
| 20.93 | Tons | 2/25/02 045653<br>Brooklyn to Conestoga | 20.00 | 418.60 |
| 21.02 | Tons | 2/26/02 045739<br>Brooklyn to Conestoga | 20.00 | 420.40 |
| 21.65 | Tons | 2/26/02 045749<br>Brooklyn to Conestoga | 20.00 | 433.00 |
| 21.58 | Tons | 2/27/02 045813<br>Brooklyn to Conestoga | 20.00 | 431.60 |
| 21.46 | Tons | 2/28/02 045883<br>Brooklyn to Conestoga | 20.00 | 429.20 |
| 21.63 | Tons | 3/1/02 046022<br>Brooklyn to Conestoga | 20.00 | 432.60 |
| 21.6 | Tons | 3/1/02 045968<br>Brooklyn to Conestoga | 20.00 | 432.00 |
| 21.18 | Tons | 3/1/02 046023<br>Brooklyn to Conestoga | 20.00 | 423.60 |
| | | Boris can not get paper for load 045310 | | |

4047/Eastern Trucking, Inc.

**Total** $4,309.00

EXHIBIT
A

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/12/2002 | 4425 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 3/12/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 20 | Tons | 1/28/02 0327718<br>20 ton minimum<br>Fairview to Kersey | 28.00 | 560.00 |
| 20 | Tons | 2/14/02 0330159<br>20 ton minimum<br>Fairview to Kersey | 28.00 | 560.00 |

4062/Joel

**Total** $1,120.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/19/2002 | 4443 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 3/19/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.75 | Tons | 3/11/02 046593 | 20.00 | 435.00 |
| 22.01 | Tons | 3/11/02 046584 | 20.00 | 440.20 |
| 21.33 | Tons | 3/12/02 046664 | 20.00 | 426.60 |
| 21.75 | Tons | 3/12/02 046666 | 20.00 | 435.00 |
| 21.56 | Tons | 3/14/02 046857 | 20.00 | 431.20 |
| 22.14 | Tons | 3/14/02 046858 | 20.00 | 442.80 |
| 21.92 | Tons | 3/14/02 046862 | 20.00 | 438.40 |
| 21.28 | Tons | 3/16/02 046998 | 20.00 | 425.60 |
| 4.57 | Tons | 3/13/02 046743 | 20.00 | 91.40 |
| 17.54 | Tons | 3/13/02 005916 | 20.00 | 350.80 |
| | | All Loads from Brooklyn toConestoga | | |

4047/Eastern Trucking, Inc.

**Total** $3,917.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/16/2002 | 4490 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 4/16/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.7 | Tons | 6/29/01 297223 | 28.00 | 635.60 |

4046/South Atlantic Trucking

**Total** $635.60

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/31/2002 | 4570 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 5/31/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.63 | Tons | 5/14/02 125170<br>This load was tipped off at the the landfill for us at Mr. Tom Hampton,s request and I was told to bill this with only the paper work that I have.<br><br>Sincerly<br>Teri | 28.00 | 605.64 |

4009/Duval

**Total** $605.64

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/31/2002 | 4571 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 5/31/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 20 | Tons | 5/24/02 126693<br>20 ton minimun | 16.00 | 320.00 |
| 20.48 | Tons | 5/24/02 126691 | 16.00 | 327.68 |
| 20.84 | Tons | 5/28/02 126811 | 16.00 | 333.44 |
| 20 | Tons | 5/28/02 126812<br>20 ton minimum | 16.00 | 320.00 |
| 20.67 | Tons | 5/29/02 126954 | 16.00 | 330.72 |
| 20.4 | Tons | 5/29/02 127039 | 16.00 | 326.40 |
| 21.52 | Tons | 5/29/02 126956 | 16.00 | 344.32 |
| 21.86 | Tons | 5/30/02 127274 | 16.00 | 349.76 |
| 21.13 | Tons | 5/30/02 127269 | 16.00 | 338.08 |
| 20.87 | Tons | 5/30/02 127178<br>Fairview to Conestoga | 16.00 | 333.92 |

4009/Duval

**Total** $3,324.32

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 6/24/2002 | 4618 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 6/24/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.79 | Tons | 6/19/02 129647 | 16.00 | 348.64 |
| 22.22 | Tons | 6/20/02 129811 | 16.00 | 355.52 |
| | | Fairview to Conestoga | | |

4047/Eastern Trucking, Inc.

**Total** $704.16

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/7/2002 | 4774 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/7/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.88 | Tons | 09/30/02 | 143289 | 16.00 | 350.08 |
| 22.1 | Tons | 09/30/02 | 166416 | 16.00 | 353.60 |
| 21.85 | Tons | 09/30/02 | 143315 | 16.00 | 349.60 |
| 21.76 | Tons | 10/01/02 | 143484 | 16.00 | 348.16 |
| 21.84 | Tons | 10/02/02 | 143644 | 16.00 | 349.44 |
| 22.12 | Tons | 10/02/02 | 143750 | 16.00 | 353.92 |
| 22 | Tons | 10/03/02 | 143895 | 16.00 | 352.00 |
| 21.62 | Tons | 10/03/02 | 143830 | 16.00 | 345.92 |
| 22.2 | Tons | 10/04/02 | 144007 | 16.00 | 355.20 |
| 21.61 | Tons | 10/04/02 | 143957 | 16.00 | 345.76 |
| 21.78 | Tons | 10/05/02 | 144184 | 16.00 | 348.48 |
| 21.61 | Tons | 10/05/02 | 144181 | 16.00 | 345.76 |
| | | Fairview to Conestoga | | | |

4047/Eastern Trucking, Inc.

**Total** $4,197.92

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/14/2002 | 4783 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/14/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.09 | Tons | 10/05/02 144234 | 16.00 | 353.44 |
| 22.3 | Tons | 10/05/02 144244 | 16.00 | 356.80 |
| 21.92 | Tons | 10/07/02 144324 | 16.00 | 350.72 |
| 21.94 | Tons | 10/07/02 144339 | 16.00 | 351.04 |
| 20.82 | Tons | 10/07/02 144376 | 16.00 | 333.12 |
| 23 | Tons | 10/07/02 144443 | 16.00 | 368.00 |
| 21.99 | Tons | 10/07/02 144436 | 16.00 | 351.84 |
| 21.91 | Tons | 10/08/02 144524 | 16.00 | 350.56 |
| 22.33 | Tons | 10/08/02 144530 | 16.00 | 357.28 |
| 21.62 | Tons | 10/08/02 144643 | 16.00 | 345.92 |
| 21.91 | Tons | 10/09/02 144729 | 16.00 | 350.56 |
| 21.64 | Tons | 10/09/02 144738 | 16.00 | 346.24 |
| 21.61 | Tons | 10/10/02 144826 | 16.00 | 345.76 |
| 21.77 | Tons | 10/10/02 144906 | 16.00 | 348.32 |
| 21.93 | Tons | 10/10/02 144972 | 16.00 | 350.88 |
| 21.68 | Tons | 10/10/02 144927 | 16.00 | 346.88 |
| 22 | Tons | 10/11/02 145080 | 16.00 | 352.00 |
| 21.54 | Tons | 10/11/02 145108 | 16.00 | 344.64 |
| 20.34 | Tons | 10/12/02 145175 | 16.00 | 325.44 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $6,629.44

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/23/2002 | 4791 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/23/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 20.99 | Tons | 10/21/02 146254 | 16.00 | 335.84 |
| 21.3 | Tons | 10/22/02 146407 | 16.00 | 340.80 |
| 21.04 | Tons | 10/22/02 146533 | 16.00 | 336.64 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $1,013.28

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/28/2002 | 4802 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/28/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.49 | Tons | 10/23/02 | 146655 | 36.00 | 773.64 |
| 22.15 | Tons | 10/23/02 | 146664 | 36.00 | 797.40 |

4047/Eastern Trucking, Inc.

**Total** $1,571.04

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/4/2002 | 4814 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 11/4/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 22.26 | Tons | 10/25/02 | 147083 | 16.00 | 356.16 |
| 22.28 | Tons | 10/28/02 | 147329 | 16.00 | 356.48 |
| 21.94 | Tons | 10/28/02 | 147246 | 16.00 | 351.04 |
| 21.75 | Tons | 10/29/02 | 147344 | 16.00 | 348.00 |
| 21.28 | Tons | 10/29/02 | 147393 | 16.00 | 340.48 |
| 22.01 | Tons | 10/29/02 | 147467 | 16.00 | 352.16 |
| 20.98 | Tons | 10/29/02 | 147514 | 16.00 | 335.68 |
| 21.96 | Tons | 10/29/02 | 147515 | 16.00 | 351.36 |
| 22.25 | Tons | 10/30/02 | 147628 | 16.00 | 356.00 |
| 21.92 | Tons | 10/30/02 | 147634 | 16.00 | 350.72 |
| 22.43 | Tons | 10/26/02 | 147126 | 16.00 | 358.88 |
| 22.15 | Tons | 10/31/02 | 147760 | 16.00 | 354.40 |
| 21.49 | Tons | 10/31/02 | 147763 | 16.00 | 343.84 |
| 21.21 | Tons | 11/01/02 | 147889 | 16.00 | 339.36 |
| 22.11 | Tons | 11/01/02 | 148023 | 16.00 | 353.76 |
| 20.96 | Tons | 11/01/02 | 148036 | 16.00 | 335.36 |
| 21.36 | Tons | 11/01/02 | 148045 | 16.00 | 341.76 |

4047/Eastern Trucking, Inc.

**Total** $5,925.44

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/14/2002 | 4828 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 11/14/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 23.79 | Tons | 11/09/02 | 45315 | 28.00 | 666.12 |
| 24.34 | Tons | 11/13/02 | 45624 | 28.00 | 681.52 |
| 21.81 | Tons | 11/14/02 | 45697 | 28.00 | 610.68 |

4068/Herberton

**Total** $1,958.32

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/15/2002 | 4834 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 11/18/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 20.79 | Tons | 11/09/02 | 149021 | 16.00 | 332.64 |
| 20.69 | Tons | 11/12/02 | 149457 | 16.00 | 331.04 |
| 21.41 | Tons | 11/14/02 | 149698 | 16.00 | 342.56 |
| 21.48 | Tons | 11/14/02 | 149741 | 16.00 | 343.68 |
| 21.23 | Tons | 11/15/02 | 149806 | 16.00 | 339.68 |
| 22.16 | Tons | 11/15/02 | 149858 | 16.00 | 354.56 |
| 21.21 | Tons | 11/15/02 | 149953 | 16.00 | 339.36 |

4047/Eastern Trucking, Inc.

**Total** $2,383.52

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/27/2002 | 4847 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 11/27/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 22.01 | Tons | 11/23/02 | 046742 | 28.00 | 616.28 |
| 22.87 | Tons | 11/25/02 | 046805 | 28.00 | 640.36 |
| 20.86 | Tons | 11/26/02 | 046969 | 28.00 | 584.08 |
| 22.2 | Tons | 11/27/02 | 047128 | 28.00 | 621.60 |

4070/ Nestor

**Total** $2,462.32

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/4/2002 | 4856 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/4/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.99 | Tons | 12/02/02 047431 | 28.00 | 643.72 |
| 22.1 | Tons | 12/03/02 047569 | 28.00 | 618.80 |
| 22.23 | Tons | 12/03/02 047586<br>PATERSON TO KERSEY | 28.00 | 622.44 |
| 21.77 | Tons | 12/02/02 152094<br>FAIRVIEW TO CONESTOGA | 16.00 | 348.32 |

4047/Eastern Trucking, Inc.

**Total** $2,233.28

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/9/2002 | 4860 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/9/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.09 | Tons | 12/05/02 047757 | 28.00 | 618.52 |
| 22.35 | Tons | 12/07/02 0478051 | 28.00 | 625.80 |
| | | PATERSON TO KERSEY | | |
| 21.57 | Tons | 11/29/02 151603 | 16.00 | 345.12 |
| 21.08 | Tons | 12/04/02 152202 | 16.00 | 337.28 |
| 21.73 | Tons | 12/05/02 152284 | 16.00 | 347.68 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $2,274.40

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/18/2002 | 4869 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/18/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.77 | Tons | 12/14/02 | 153508 | 16.00 | 348.32 |
| 21.67 | Tons | 12/16/02 | 153641 | 16.00 | 346.72 |
| 21.79 | Tons | 12/16/02 | 153741 | 16.00 | 348.64 |
| 21.31 | Tons | 12/17/02 | 153898 | 16.00 | 340.96 |

4047/Eastern Trucking, Inc.

**Total** $1,384.64

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/23/2002 | 4875 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/23/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.59 | Tons | 12/13/02 | 153450 | 16.00 | 345.44 |
| 20.7 | Tons | 12/19/02 | 154201 | 16.00 | 331.20 |

4047/Eastern Trucking, Inc.

**Total** $676.64

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/27/2002 | 4880 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/27/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.57 | Tons | 12/21/02 049231 | 28.00 | 631.96 |

4045/Paulo

**Total** $631.96

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 1/3/2003 | 4887 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 1/3/2003 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 23.08 | Tons | 01/02/03 049993 | 28.00 | 646.24 |

4045/Paulo

**Total** $646.24

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 1/14/2003 | 4892 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 1/14/2003 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.22 | Tons | 01/08/03 | 156258 | 16.00 | 339.52 |
| 21.77 | Tons | 01/10/03 | 156650 | 16.00 | 348.32 |
| 22.22 | Tons | 01/10/03 | 156545 | 16.00 | 355.52 |

4047/Eastern Trucking, Inc.

**Total** $1,043.36

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 1/17/2003 | 4893 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 1/17/2003 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 23.61 | Tons | 01/11/03 050767 | 28.00 | 661.08 |

4045/Paulo

**Total** $661.08

Bal due $ 50.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/15/2002 | 4431 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/15/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 14 | Charge | DFH Environmetal, inc. Bank Charges for Insufficient Funds<br>against bad Kephart's check # 12404 of the amount $ 26,215.00 | 31.00 | 434.00 |
| | | | Total | $434.00 |

EXHIBIT

tabbies

B

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/18/2002 | 4436 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/18/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 1 | Charge | Bank Service Charge Check # 2640 | 7.00 | 7.00 |
| 1 | Charge | Bank Service Charge Check # 2660 | 10.00 | 10.00 |
| 4 | Charge | Bank Service Charge Check #2652,2563,2654,2657 | 20.00 | 80.00 |

Thank you for your business.

**Total** $97.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/18/2002 | 4438 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/18/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 1 | Charge | BANK SERVICE CHARGE, CHECK # 2658 | 10.00 | 10.00 |
| 6 | Charge | BANK SERVICE CHARGE, CHECK# 675, 664, 675, 678, 679, 683 | 30.00 | 180.00 |

Thank you for your business.

**Total** $190.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/20/2002 | 4444 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/20/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 14 | Charge | Bank Service Charge for the Checks# 2652,2653, 2658, 2657, 2554, 2650, 2670, 2641, 2651, 2664, 2640, 2639, 2661, 2659 | 31.00 | 434.00 |

Thank you for your business.

**Total** $434.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/20/2002 | 4445 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/20/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 1 | Charge | Bank Service Charge for the Checks # 2009, 2650 | 50.00 | 50.00 |

Thank you for your business.

**Total** $50.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/25/2002 | 4453 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/25/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 2 | Charge | Bank Service Charges for the Check #675 and 676 | 30.00 | 60.00 |

Thank you for your business.

**Total** $60.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/26/2002 | 4455 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/26/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 2 | Charge | BANK SERVICE CHARGE, CHECK # 2658 AND CHECK #2670 | 25.00 | 50.00 |

Thank you for your business.

**Total** $50.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/9/2002 | 4474 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/9/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 7 | Charge | BANK SERVICE CHARGE FOR INSUFFICIENT FUNDS KEPHART CHECK # 12767 AMOUNT $ 11,697.68. THIS INSUFFICIENT FUNDS OVERDRAFT OUR ACCOUNT AND CAUSED BANK CHARGES ON CHECKS # 2658, 2773, 2813, 2816, 2794, 2815 | 31.00 | 217.00 |

Thank you for your business.

**Total** $217.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/9/2002 | 4475 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/1/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 12 | Charge | BANK SERVICE CHARGE AGAINST INSUFFICIANT FUNDS CAUSED BY KEPHART CHECK # 12280 | 30.00 | 360.00 |
| 1 | Charge | SERVICE FEE FOR RETURNED DEPOSITED ITEM | 10.00 | 10.00 |

Thank you for your business.

**Total** $370.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/11/2002 | 4482 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/11/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 17 | Charge | BANK SERVICE CHARGE FOR INSUFFICIENT FUNDS CAUSED BY KEPHART CHECK, DFH CHECKS # 2806, 3744, 3755,3760, 3703, 3756, 3704, 3695, 3745, 3742, 3706, 3736, 3725, 3720, 3630, 3544, 3730, 3727. | 25.00 | 425.00 |

Thank you for your business.

**Total** $425.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/16/2002 | 4491 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/16/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 3 | Charge | BANK SERVICE CHARGE AGAINST INSUFFICIENT FUNDS KEPHART CHECK # 12767 | 31.00 | 93.00 |

Thank you for your business.

**Total** $93.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/16/2002 | 4493 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/16/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 1 | Charge | BANK SERVICE CHARGE<br>INSUFFICIENT FUNDS KEPHART CHECK # 30270<br>OF THE AMOUNT $ 4,942.24 | 31.00 | 31.00 |

Thank you for your business.

**Total** $31.00

## VERIFICATION

David Hoffman, President of DFH Environmental Services, Inc., states that he is acquainted with the facts set forth in the foregoing Complaint; that the same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

David Hoffman

# IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100411
NO: 05-541-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: DFH ENVIRONMENTAL SERVICES INC
vs.
DEFENDANT: KEPHART TRUCKING COMPANY

## SHERIFF RETURN

NOW, April 22, 2005 AT 1:43 PM SERVED THE WITHIN COMPLAINT ON KEPHART TRUCKING COMPANY DEFENDANT AT RT. 322 WEST, BIGLER, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DAVID KEPHART, VICE-PRESIDENT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

FILED
0/3:05/
APR 27 2005

William A. Shaw
Prothonotary/Clerk of Courts

| PURPOSE | VENDOR | CHECK # | AMOUNT |
|---|---|---|---|
| SURCHARGE | LEE | 12036 | 10.00 |
| SHERIFF HAWKINS | LEE | 12036 | 24.85 |

Sworn to Before Me This

_____ Day of _____ 2005

_____

So Answers,

Chester A. Hawkins
Sheriff

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

Type of Pleading:
Preliminary Objections

Filed on Behalf of:
Defendant:
Kephart Trucking Co.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
Pa. I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 3cc
03:25pm Atty Koerber
MAY 05 2005
William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

## PRELIMINARY OBJECTIONS OF DEFENDANT

COMES NOW Defendant Kephart Trucking Co., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within Preliminary Objections to the Complaint filed herein by Plaintiff.

## I.
## INSUFFICIENCY OF PLEADING

1. Pa. R.C.P. 1028(a)(3) provides that Preliminary Objections may be filed for insufficiency of pleading.

2. The Complaint filed herein is insufficient in the following manner:

(a) In paragraph 7, Plaintiff alleges that $10,773.30 is due and owing to Plaintiff for past transportation services, but it presents no documentation or details for determining how that sum was computed, leaving totally unaddressed

the issue of what shipment, what invoice, what tonnage, and what rate was allegedly not fully paid by the Defendant. In this regard, Defendant would point out that while Exhibit A is attached pertaining to past invoices, nowhere in Exhibit A is there any indication as to which, if any, of those past invoices were not paid. The number of invoices presented makes it obvious that the majority of the invoices obviously were paid because the sum total of Exhibit A invoices equals $50,308.60.

(b) Paragraph 8 is deficient due to insufficiency of pleading, because the Plaintiff alleges that there was a financing charge/interest of 1.75% per month, but it points to no date of when the alleged agreement occurred, where the financing charges were set forth, or the individuals that specifically would have been involved in allegedly agreeing to such finance charges.

(c) Paragraph 9 is insufficient because the Plaintiff has alleged financing charges of $5,962.42 are due and owing, but has presented no accounting for that, with there being no itemization or any detail of any nature whatsoever to show how the figure was computed.

(d) Paragraph 19 is insufficient, as the Plaintiff alleges that the sum of $1,816.00 represents the fair and reasonable value of tires, equipment and repairs that were made, but no itemization of any nature is given to show how this figure was computed or what portion of it relates to tires, to equipment or repairs, and to what trailers the alleged improvements were made.

3. Because of the absence of facts to support the cause of action alleged, Count I and Count IV are insufficient and should be stricken as a matter of law.

WHEREFORE, Plaintiff prays that its Preliminary Objections be granted and that judgment be entered in its favor for Count I and Count IV.

## II.
## FAILURE TO COMPLY WITH RULE OF LAW

4. Pa. R.C.P. 1028(a)(2) provides that Preliminary Objections may be filed for failure to conform to a rule of law.

5. Pa. R.C.P. 1019 sets forth the contents that are required for a pleading and provides as pertinent, at 1019(f), that averments of special damages shall be specifically stated.

6. The Complaint herein filed by Plaintiff is deficient, contrary to the requirements of Pa. R.C.P. 1019(f) for the following reasons:

(a) The damages of $10,773.30 in paragraph 7 are not set forth with any specificity because it cannot be determined what they pertain to.

(b) The finance charge of $5,962.42 as set forth in paragraph 9 fails to meet the requirement that special damages be stated with specificity, because it cannot be determined how they were computed and what they pertain to.

(c) The damages of $1,816.00 in paragraph 19 pertaining to tires, equipment and repairs to trailers are special damages and have not been set

forth with specificity.

7. Counts I and IV are therefore not in compliance with Rule 1019(f) of the Pennsylvania Rules of Civil Procedure and should therefore be stricken.

WHEREFORE, Plaintiff prays that its Preliminary Objections be granted and that Counts I and IV be granted for failure to comply with a rule of law.

## III.
## DEMURRER

8. In paragraph 9, Plaintiff alleges an entitlement to recover a certain sum of money for financing charges. At the same time, it attaches Exhibit A, covering the invoices for which it is now seeking financing charges, and none of those invoices makes reference to any financing charges.

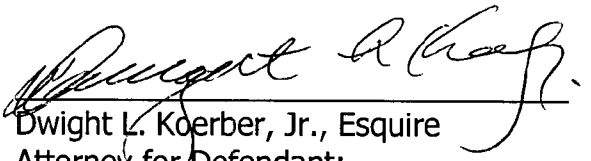
9. As a matter of law, where Plaintiff has attached a document that purports to be an invoice showing its entitlement to receive payment, and that document does not have a written charge showing an entitlement to assess financing charges, Defendant submits that Plaintiff is not entitled to assess any financing charges.

10. Accordingly, if the evidence presented by Plaintiff is read in its most favorable light, it fails to establish an entitlement to even claim financing charges, as set forth in paragraph 9, in view of the absence of such charges from the actual invoices themselves, as shown in Exhibit A. of the Complaint.

WHEREFORE, Plaintiff prays that its Preliminary Objections in the form of a

demurrer be granted and that the claim for any sum of financing charges be stricken from Count I of the Complaint.

Respectfully submitted,



Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

**CERTIFICATE OF SERVICE**

This is to certify that on the 5th day of May 2005, the undersigned served a true and correct copy of the Preliminary Objections in the above-captioned matter upon counsel for Plaintiff. Such documents were served via United States First Class Mail upon the following:

Robert A. Mix, Esquire
LEE, GREEN & REITER, INC.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC. | : | |
| vs. | : | No. 05-541-CD |
| KEPHART TRUCKING COMPANY | : | |

**ORDER**

AND NOW, this 31st day of May, 2005, upon consideration of Defendant's Preliminary Objections filed in the above matter, it is the Order of the Court that argument has been scheduled for the 20th day of June, 2005, at 3:00 P.M, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

FREDRIC J. AMMERMAN
President Judge

FILED 2cc
01 9:23 BY Atty Koerber
JUN 01 2005 w/service memo
William A. Shaw
Prothonotary/Clerk of Courts

OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830
PHONE: (814) 765-2641
FAX: 1-814-765-7649

DAVID S. MEHOLICK
COURT ADMINISTRATOR

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

***** Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

Type of Pleading:
Certificate of Service

Filed on Behalf of:
Defendant:
Kephart Trucking Co.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
Pa. I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

3cc
01:3:17 BY Atty Koerber
JUN 0 2 2005
Prothonotary/Clerk of Courts

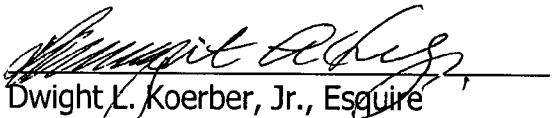
**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

## CERTIFICATE OF SERVICE

This is to certify that on the 5th day of May 2005, the undersigned served a true and correct copy of the Scheduling Order in the above-captioned matter upon counsel for Plaintiff. Such documents were served via United States First Class Mail upon the following:

Robert A. Mix, Esquire
LEE, GREEN & REITER, INC.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179



Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

Type of Pleading:
Motion for Continuance

Filed on Behalf of:
Defendant:
Kephart Trucking Co.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
Pa. I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

3 cc
Atty
Koerber
JUN 07 2005
William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

**MOTION FOR CONTINUANCE**

COMES NOW Dwight L. Koerber, Jr., Esquire, counsel for Defendant Kephart Trucking Co. and files the within Motion for Continuance in the above-captioned matter.

1. Argument on the Preliminary Objections is currently scheduled on June 20, 2005 at 3:00 p.m. in Courtroom No. 1 at the Clearfield County Courthouse. On that date I will be out of town, in Boston, in transit to a seminar in Philadelphia on June 21, 2005.

2. I have spoken with opposing counsel, Robert A. Mix, Esquire, who said that he does not object to the continuance. Moreover, Mr. Mix has indicated that he anticipates filing an Amended Complaint addressing the issues in the Preliminary Objections.

3. I would respectfully request that a continuance be granted.

Respectfully submitted,

Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

Type of Pleading:
Certificate of Service

Filed on Behalf of:
Defendant:
Kephart Trucking Co.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
Pa. I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

JUN 07 2005
3cc Atty Koerber
William A. Shaw
Prothonotary/Clerk of Courts

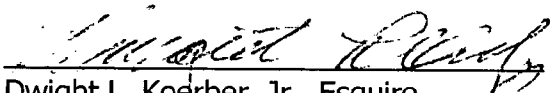
**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

**CERTIFICATE OF SERVICE**

This is to certify that on the 7th day of June 2005 the undersigned served a true and correct copy of the Motion for Continuance and Scheduling Order in the above-captioned matter upon counsel for Plaintiff. Such documents were served via United States First Class Mail upon the following:

Robert A. Mix, Esquire
LEE, GREEN & REITER, INC.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179



Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

CA

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

**ORDER**

AND NOW, this 8th day of June, 2005, upon consideration of Defendant's Motion for Continuance of Argument on Defendant's Preliminary Objections scheduled in the above-captioned matter, it is the Order of the Court that the Continuance is granted and Argument has been rescheduled for the 8 day of July, 2005, at 1:30 P.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

By the Court:

Fredric J. Ammerman

Fredric J. Ammerman, President Judge

3CC
01 2:24 BA Atty Koerber
JUN 08 2005
GK
Prothonotary Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | *<br>*<br>*<br>* | Docket No. 05-541-CD |
| v. | *<br>*<br>* | |
| Kephart Trucking Company,<br>Defendant | *<br>* | |

Type of Pleading:
CERTIFICATE OF SERVICE

Filed on Behalf of:
Defendant:
KEPHART TRUCKING CO.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr., Esquire
PA I.D. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.
110 N. Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

JUN 10 2005
3:12 PM
1cc Atty Koerber
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | *<br>*<br>*<br>* | Docket No. 05-541-CD |
| v. | *<br>*<br>* | |
| Kephart Trucking Company,<br>Defendant | *<br>* | |

## CERTIFICATE OF SERVICE

This is to certify that on the 9th day of June, 2005 the undersigned served a true and correct copy of the Order rescheduling Argument on Preliminary Objections in the above-captioned matter upon counsel for Plaintiff. Such documents were served via United States First Class Mail upon the following:

Robert A. Mix, Esquire
LEE, GREEN & REITER, INC.
115 East High Street
P. O. Box 179
Bellefonte, PA 16823-0179

Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

Type of Pleading:
PRAECIPE TO WITHDRAW
PRELIMINARY OBJECTIONS
TO ORIGINAL COMPLAINT

Filed on behalf of:
DEFENDANT,
Kephart Trucking Co.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 3cc
01 1:07 BV Atty Koerber
JUL 07 2005
William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

**PRAECIPE TO WITHDRAW PRELIMINARY OBJECTIONS TO ORIGINAL COMPLAINT**

TO: William A. Shaw, Prothonotary
CLEARFIELD COUNTY COURTHOUSE
230 East Market Street
Clearfield, PA 16830

Please mark the docket to show that the Preliminary Objections Defendant filed on or about May 5, 2005 to the original Complaint have been withdrawn in view of the Amended Complaint filed by Plaintiff.

Respectfully Submitted,

Dwight L. Koerber, Jr.
Attorney for Defendant
Kephart Trucking Co.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

## CERTIFICATE OF SERVICE

This is to certify that on the 7th day of July 2005 the undersigned served a true and correct copy of the PRAECIPE TO WITHDRAW PRELIMINARY OBJECTIONS TO ORIGINAL COMPLAINT in the above captioned matter upon counsel for Plaintiff. Such document was served via United States First Class Mail upon the following:

Robert A. Mix, Esquire
LEE, GREEN & REITER, INC.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Dwight L. Koerber, Jr. Esquire
Attorney for Defendant,
Kephart Trucking Co.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) : | No. 05-541-CD |
| vs. | ) : | Type of Pleading Filed: |
| KEPHART TRUCKING COMPANY, Defendant | ) : | Amended Complaint |
| | ) : | Filed on Behalf of: Plaintiff |
| | ) : | Attorney of Record for this Party: |
| | ) : | Robert A. Mix, Esquire<br>LEE, GREEN & REITER, INC.<br>115 East High Street<br>P.O. Box 179<br>Bellefonte, PA 16823<br>814-355-4769 |

FILED no cc
m/11:44 cc
JUL 07 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) | |
| | : | |
| | ) | No. 05-541-CD |
| vs. | : | |
| | ) | |
| KEPHART TRUCKING COMPANY, Defendant | : | |
| | ) | |

**NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
Clearfield, Pennsylvania 16830
814-765-2641 ext. 5982

LEE, GREEN & REITER, INC.

By: _____

Robert A. Mix, Esq., ID #16164
Attorney for Plaintiff
115 E. High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) : ) | No. 05-541-CD |
| vs. | : ) | |
| KEPHART TRUCKING COMPANY, Defendant | : ) | |

**AMENDED COMPLAINT**

Now Comes DFH Environmental Services, Inc., by its attorneys, Lee, Green & Reiter, Inc., and respectfully represents:

1. Plaintiff is DFH Environmental Services, Inc., a New Jersey corporation, with a place of business located at 15 North Salem Street, Dover, New Jersey 07801.

2. Defendant is Kephart Trucking Company, a Pennsylvania corporation with a place of business located at Route 322 West, Bigler, Pennsylvania 16825.

**Count I – Breach of Contract**

3. On or about December 17, 2001, Plaintiff entered into an oral contract with Defendant wherein Plaintiff agreed to transport waste materials for Defendant and Defendant agreed to pay Plaintiff at the rate of twenty eight ($28.00) dollars per ton for such transportation services between Patterson, New Jersey and Kersey, Pennsylvania and at the rate of sixteen $16.00) dollars per ton for such transportation services between Fairview, New Jersey and Conestoga, Pennsylvania.

4. Between December 2001 and February 2003, Plaintiff transported various loads of waste materials for Defendant on the dates, at the weights, on the terms, and for the prices set forth in the invoices attached hereto, incorporated herein and marked Exhibit "A".

5. Defendant received and accepted said transportation services.

6. The prices charged for said transportation services were fair and reasonable and the prices Defendant agreed to pay.

7. The remaining balance of the principal due and owing on each of said invoices is set forth in the statement attached hereto, incorporated herein and marked Exhibit "B".

8. The principal balance of $10,773.30 is currently due and owing to Plaintiff by Defendant for said transportation services.

9. Pursuant to Pennsylvania law, Defendant is entitled to interest of 6% per annum on any sums not paid when due.

10. The sum of $1,920.38 in interest is currently due and owing to Plaintiff by Defendant.

11. Despite a demand therefore, Defendant has failed and refused to pay said sums to Plaintiff.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in the amount of $10,733.30, plus interest in the amount of $1,920.38, plus additional interest to the date of judgment, plus costs.

**Count II– Breach of Contract / Breach of Implied Contract**

12. The averments of paragraphs 1 through 11 above are incorporated herein by reference.

13. On various occasions commencing on or about December 2001, Defendant paid Plaintiff's invoices for said transportation services by presenting checks drawn on Defendant's account(s) at its bank(s).

14. When presenting said checks to Plaintiff for payment of its invoices, Defendant represented, expressly or impliedly, that said checks were legal tender and would be honored by Defendant's bank(s).

15. On various occasions commencing on or about December 2001, Plaintiff presented Defendant's checks for payment and said checks were not honored by Defendant's bank(s) due to insufficient funds in Defendant's account(s).

16. On said occasions, Defendant knew or should have known that its account(s) did not have sufficient funds to cover the checks it presented to Plaintiff for payment.

17. When presenting Defendant's checks for payment, Plaintiff reasonably relied upon Defendant's representation that said checks were legal tender and would be honored by its bank(s).

18. As a result of the dishonor of Defendant's checks, Plaintiff has incurred charges from its bank in the sum of $2,451.00. True and correct copies of Plaintiff's invoices pertaining to said charges are attached hereto, incorporated herein and marked Exhibit "C".

19. Despite a demand therefore, Defendant has refused to pay said sum to Plaintiff.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in the amount of $2,451.00, plus interest, plus costs.

**Count III – Negligence / Negligent Misrepresentation**

19. The averments of paragraphs 1 through 18 above are incorporated herein by reference.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in the amount of $2,451.00, plus interest, plus costs.

**Count IV – Unjust Enrichment / Quantum Meruit**

20. The averments of paragraphs 1 through 18 above are incorporated herein by reference.

20. During the time Plaintiff provided transportation services for Defendant, Plaintiff utilized trailers owned by Defendant and from time to time Plaintiff installed tires and equipment and made repairs to said trailers, the fair and reasonable value of which was $3,647.00 as set forth in the invoices attached hereto, incorporated herein and marked Exhibit "D".

21. Defendant has retaken possession of the trailers, thus precluding Plaintiff's further use of them.

22. Despite a demand therefore, Defendant has failed and refused to repay Plaintiff said sum for installing tires and equipment and making repairs to said trailers.

23. Defendant will be unjustly enriched at Plaintiff's expense if Defendant is not required to pay Plaintiff said sum.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant in the amount of $3,647, plus interest, plus costs.

LEE, GREEN & REITER, INC.

By: _____

Robert A. Mix, Esq., ID #16164
Attorney for Plaintiff
115 E. High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/5/2002 | 4410 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 3/5/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.37 | Tons | 2/20/02 045310<br>Brooklyn to Conestoga | 20.00 | 447.40 |
| 22.03 | Tons | 2/25/02 045635<br>Brooklyn to Conestoga | 20.00 | 440.60 |
| 20.93 | Tons | 2/25/02 045653<br>Brooklyn to Conestoga | 20.00 | 418.60 |
| 21.02 | Tons | 2/26/02 045739<br>Brooklyn to Conestoga | 20.00 | 420.40 |
| 21.65 | Tons | 2/26/02 045749<br>Brooklyn to Conestoga | 20.00 | 433.00 |
| 21.58 | Tons | 2/27/02 045813<br>Brooklyn to Conestoga | 20.00 | 431.60 |
| 21.46 | Tons | 2/28/02 045883<br>Brooklyn to Conestoga | 20.00 | 429.20 |
| 21.63 | Tons | 3/1/02 046022<br>Brooklyn to Conestoga | 20.00 | 432.60 |
| 21.6 | Tons | 3/1/02 045968<br>Brooklyn to Conestoga | 20.00 | 432.00 |
| 21.18 | Tons | 3/1/02 046023<br>Brooklyn to Conestoga | 20.00 | 423.60 |
| | | Boris can not get paper for load 045310 | | |

4047/Eastern Trucking, Inc.

EXHIBIT
A

Total $4,309.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/12/2002 | 4425 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 3/12/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 20 | Tons | 1/28/02 0327718<br>20 ton minimum<br>Fairview to Kersey | 28.00 | 560.00 |
| 20 | Tons | 2/14/02 0330159<br>20 ton minimum<br>Fairview to Kersey | 28.00 | 560.00 |

4062/Joel

**Total** $1,120.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/19/2002 | 4443 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 3/19/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.75 | Tons | 3/11/02 046593 | 20.00 | 435.00 |
| 22.01 | Tons | 3/11/02 046584 | 20.00 | 440.20 |
| 21.33 | Tons | 3/12/02 046664 | 20.00 | 426.60 |
| 21.75 | Tons | 3/12/02 046666 | 20.00 | 435.00 |
| 21.56 | Tons | 3/14/02 046857 | 20.00 | 431.20 |
| 22.14 | Tons | 3/14/02 046858 | 20.00 | 442.80 |
| 21.92 | Tons | 3/14/02 046862 | 20.00 | 438.40 |
| 21.28 | Tons | 3/16/02 046998 | 20.00 | 425.60 |
| 4.57 | Tons | 3/13/02 046743 | 20.00 | 91.40 |
| 17.54 | Tons | 3/13/02 005916 | 20.00 | 350.80 |
| | | All Loads from Brooklyn toConestoga | | |

4047/Eastern Trucking, Inc.

**Total** $3,917.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/16/2002 | 4490 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 4/16/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.7 | Tons | 6/29/01 297223 | 28.00 | 635.60 |

4046/South Atlantic Trucking

**Total** $635.60

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/31/2002 | 4570 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 5/31/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.63 | Tons | 5/14/02 125170<br>This load was tipped off at the the landfill for us at Mr. Tom Hampton,s request and I was told to bill this with only the paper work that I have.<br><br>Sincerly<br>Teri | 28.00 | 605.64 |

4009/Duval

**Total** $605.64

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/31/2002 | 4571 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 5/31/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 20 | Tons | 5/24/02 126693<br>20 ton minimun | 16.00 | 320.00 |
| 20.48 | Tons | 5/24/02 126691 | 16.00 | 327.68 |
| 20.84 | Tons | 5/28/02 126811 | 16.00 | 333.44 |
| 20 | Tons | 5/28/02 126812<br>20 ton minimum | 16.00 | 320.00 |
| 20.67 | Tons | 5/29/02 126954 | 16.00 | 330.72 |
| 20.4 | Tons | 5/29/02 127039 | 16.00 | 326.40 |
| 21.52 | Tons | 5/29/02 126956 | 16.00 | 344.32 |
| 21.86 | Tons | 5/30/02 127274 | 16.00 | 349.76 |
| 21.13 | Tons | 5/30/02 127269 | 16.00 | 338.08 |
| 20.87 | Tons | 5/30/02 127178<br>Fairview to Conestoga | 16.00 | 333.92 |

4009/Duval

**Total** $3,324.32

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 6/24/2002 | 4618 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 6/24/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.79 | Tons | 6/19/02 129647 | 16.00 | 348.64 |
| 22.22 | Tons | 6/20/02 129811 | 16.00 | 355.52 |
| | | Fairview to Conestoga | | |

4047/Eastern Trucking, Inc.

**Total** $704.16

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/7/2002 | 4774 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/7/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.88 | Tons | 09/30/02 | 143289 | 16.00 | 350.08 |
| 22.1 | Tons | 09/30/02 | 166416 | 16.00 | 353.60 |
| 21.85 | Tons | 09/30/02 | 143315 | 16.00 | 349.60 |
| 21.76 | Tons | 10/01/02 | 143484 | 16.00 | 348.16 |
| 21.84 | Tons | 10/02/02 | 143644 | 16.00 | 349.44 |
| 22.12 | Tons | 10/02/02 | 143750 | 16.00 | 353.92 |
| 22 | Tons | 10/03/02 | 143895 | 16.00 | 352.00 |
| 21.62 | Tons | 10/03/02 | 143830 | 16.00 | 345.92 |
| 22.2 | Tons | 10/04/02 | 144007 | 16.00 | 355.20 |
| 21.61 | Tons | 10/04/02 | 143957 | 16.00 | 345.76 |
| 21.78 | Tons | 10/05/02 | 144184 | 16.00 | 348.48 |
| 21.61 | Tons | 10/05/02 | 144181 | 16.00 | 345.76 |
| | | Fairview to Conestoga | | | |

4047/Eastern Trucking, Inc.

**Total** $4,197.92

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/14/2002 | 4783 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/14/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.09 | Tons | 10/05/02 144234 | 16.00 | 353.44 |
| 22.3 | Tons | 10/05/02 144244 | 16.00 | 356.80 |
| 21.92 | Tons | 10/07/02 144324 | 16.00 | 350.72 |
| 21.94 | Tons | 10/07/02 144339 | 16.00 | 351.04 |
| 20.82 | Tons | 10/07/02 144376 | 16.00 | 333.12 |
| 23 | Tons | 10/07/02 144443 | 16.00 | 368.00 |
| 21.99 | Tons | 10/07/02 144436 | 16.00 | 351.84 |
| 21.91 | Tons | 10/08/02 144524 | 16.00 | 350.56 |
| 22.33 | Tons | 10/08/02 144530 | 16.00 | 357.28 |
| 21.62 | Tons | 10/08/02 144643 | 16.00 | 345.92 |
| 21.91 | Tons | 10/09/02 144729 | 16.00 | 350.56 |
| 21.64 | Tons | 10/09/02 144738 | 16.00 | 346.24 |
| 21.61 | Tons | 10/10/02 144826 | 16.00 | 345.76 |
| 21.77 | Tons | 10/10/02 144906 | 16.00 | 348.32 |
| 21.93 | Tons | 10/10/02 144972 | 16.00 | 350.88 |
| 21.68 | Tons | 10/10/02 144927 | 16.00 | 346.88 |
| 22 | Tons | 10/11/02 145080 | 16.00 | 352.00 |
| 21.54 | Tons | 10/11/02 145108 | 16.00 | 344.64 |
| 20.34 | Tons | 10/12/02 145175 | 16.00 | 325.44 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $6,629.44

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/23/2002 | 4791 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/23/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 20.99 | Tons | 10/21/02 146254 | 16.00 | 335.84 |
| 21.3 | Tons | 10/22/02 146407 | 16.00 | 340.80 |
| 21.04 | Tons | 10/22/02 146533 | 16.00 | 336.64 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $1,013.28

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/28/2002 | 4802 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/28/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.49 | Tons | 10/23/02 | 146655 | 36.00 | 773.64 |
| 22.15 | Tons | 10/23/02 | 146664 | 36.00 | 797.40 |

4047/Eastern Trucking, Inc.

**Total** $1,571.04

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/4/2002 | 4814 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 11/4/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 22.26 | Tons | 10/25/02 | 147083 | 16.00 | 356.16 |
| 22.28 | Tons | 10/28/02 | 147329 | 16.00 | 356.48 |
| 21.94 | Tons | 10/28/02 | 147246 | 16.00 | 351.04 |
| 21.75 | Tons | 10/29/02 | 147344 | 16.00 | 348.00 |
| 21.28 | Tons | 10/29/02 | 147393 | 16.00 | 340.48 |
| 22.01 | Tons | 10/29/02 | 147467 | 16.00 | 352.16 |
| 20.98 | Tons | 10/29/02 | 147514 | 16.00 | 335.68 |
| 21.96 | Tons | 10/29/02 | 147515 | 16.00 | 351.36 |
| 22.25 | Tons | 10/30/02 | 147628 | 16.00 | 356.00 |
| 21.92 | Tons | 10/30/02 | 147634 | 16.00 | 350.72 |
| 22.43 | Tons | 10/26/02 | 147126 | 16.00 | 358.88 |
| 22.15 | Tons | 10/31/02 | 147760 | 16.00 | 354.40 |
| 21.49 | Tons | 10/31/02 | 147763 | 16.00 | 343.84 |
| 21.21 | Tons | 11/01/02 | 147889 | 16.00 | 339.36 |
| 22.11 | Tons | 11/01/02 | 148023 | 16.00 | 353.76 |
| 20.96 | Tons | 11/01/02 | 148036 | 16.00 | 335.36 |
| 21.36 | Tons | 11/01/02 | 148045 | 16.00 | 341.76 |

4047/Eastern Trucking, Inc.

**Total** $5,925.44

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/14/2002 | 4828 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 11/14/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 23.79 | Tons | 11/09/02 | 45315 | 28.00 | 666.12 |
| 24.34 | Tons | 11/13/02 | 45624 | 28.00 | 681.52 |
| 21.81 | Tons | 11/14/02 | 45697 | 28.00 | 610.68 |

4068/Herberton

**Total** $1,958.32

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/15/2002 | 4834 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 11/18/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 20.79 | Tons | 11/09/02 | 149021 | 16.00 | 332.64 |
| 20.69 | Tons | 11/12/02 | 149457 | 16.00 | 331.04 |
| 21.41 | Tons | 11/14/02 | 149698 | 16.00 | 342.56 |
| 21.48 | Tons | 11/14/02 | 149741 | 16.00 | 343.68 |
| 21.23 | Tons | 11/15/02 | 149806 | 16.00 | 339.68 |
| 22.16 | Tons | 11/15/02 | 149858 | 16.00 | 354.56 |
| 21.21 | Tons | 11/15/02 | 149953 | 16.00 | 339.36 |

4047/Eastern Trucking, Inc.

**Total** $2,383.52

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/27/2002 | 4847 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 11/27/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 22.01 | Tons | 11/23/02 | 046742 | 28.00 | 616.28 |
| 22.87 | Tons | 11/25/02 | 046805 | 28.00 | 640.36 |
| 20.86 | Tons | 11/26/02 | 046969 | 28.00 | 584.08 |
| 22.2 | Tons | 11/27/02 | 047128 | 28.00 | 621.60 |

4070/ Nestor

**Total** $2,462.32

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/4/2002 | 4856 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/4/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.99 | Tons | 12/02/02 047431 | 28.00 | 643.72 |
| 22.1 | Tons | 12/03/02 047569 | 28.00 | 618.80 |
| 22.23 | Tons | 12/03/02 047586<br>PATERSON TO KERSEY | 28.00 | 622.44 |
| 21.77 | Tons | 12/02/02 152094<br>FAIRVIEW TO CONESTOGA | 16.00 | 348.32 |

4047/Eastern Trucking, Inc.

**Total** $2,233.28

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/9/2002 | 4860 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/9/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.09 | Tons | 12/05/02 047757 | 28.00 | 618.52 |
| 22.35 | Tons | 12/07/02 0478051 | 28.00 | 625.80 |
| | | PATERSON TO KERSEY | | |
| 21.57 | Tons | 11/29/02 151603 | 16.00 | 345.12 |
| 21.08 | Tons | 12/04/02 152202 | 16.00 | 337.28 |
| 21.73 | Tons | 12/05/02 152284 | 16.00 | 347.68 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $2,274.40

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/18/2002 | 4869 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/18/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.77 | Tons | 12/14/02 | 153508 | 16.00 | 348.32 |
| 21.67 | Tons | 12/16/02 | 153641 | 16.00 | 346.72 |
| 21.79 | Tons | 12/16/02 | 153741 | 16.00 | 348.64 |
| 21.31 | Tons | 12/17/02 | 153898 | 16.00 | 340.96 |

4047/Eastern Trucking, Inc.

**Total** $1,384.64

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/23/2002 | 4875 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/23/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.59 | Tons | 12/13/02 | 153450 | 16.00 | 345.44 |
| 20.7 | Tons | 12/19/02 | 154201 | 16.00 | 331.20 |

4047/Eastern Trucking, Inc.

**Total** $676.64

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/27/2002 | 4880 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/27/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.57 | Tons | 12/21/02 049231 | 28.00 | 631.96 |

4045/Paulo

**Total** $631.96

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 1/3/2003 | 4887 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 1/3/2003 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 23.08 | Tons | 01/02/03 049993 | 28.00 | 646.24 |

4045/Paulo

**Total** $646.24

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 1/14/2003 | 4892 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 1/14/2003 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.22 | Tons | 01/08/03 | 156258 | 16.00 | 339.52 |
| 21.77 | Tons | 01/10/03 | 156650 | 16.00 | 348.32 |
| 22.22 | Tons | 01/10/03 | 156545 | 16.00 | 355.52 |

4047/Eastern Trucking, Inc.

**Total** $1,043.36

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 1/17/2003 | 4893 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 1/17/2003 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 23.61 | Tons | 01/11/03 050767 | 28.00 | 661.08 |

4045/Paulo

**Total** $661.08

Bal due $ 50.00

05/06/04

# DFH ENVIRONMENTAL, INC.
## Customer Open Balance
### All Transactions

| Type | Date | Num | Memo | Due Date | Open Balance | Amount |
|---|---|---|---|---|---|---|
| **Kephart Trucking Co.** | | | | | | |
| Invoice | 3/5/2002 | 4410 | | 3/20/2002 | 447.40 | 4,309.00 |
| Invoice | 3/12/2002 | 4425 | | 3/27/2002 | 239.12 | 1,120.00 |
| Invoice | 3/15/2002 | 4431 | | 3/30/2002 | 434.00 | 434.00 |
| Invoice | 3/18/2002 | 4436 | | 4/2/2002 | 97.00 | 97.00 |
| Invoice | 3/18/2002 | 4438 | | 4/2/2002 | 190.00 | 190.00 |
| Invoice | 3/19/2002 | 4443 | | 4/3/2002 | 14.57 | 3,917.00 |
| Invoice | 3/20/2002 | 4444 | | 4/4/2002 | 434.00 | 434.00 |
| Invoice | 3/20/2002 | 4445 | | 4/4/2002 | 50.00 | 50.00 |
| Invoice | 3/25/2002 | 4453 | | 4/9/2002 | 60.00 | 60.00 |
| Invoice | 3/26/2002 | 4455 | | 4/10/2002 | 50.00 | 50.00 |
| Invoice | 4/9/2002 | 4474 | | 4/24/2002 | 217.00 | 217.00 |
| Invoice | 4/9/2002 | 4475 | | 4/24/2002 | 370.00 | 370.00 |
| Invoice | 4/11/2002 | 4482 | | 4/26/2002 | 425.00 | 425.00 |
| Invoice | 4/16/2002 | 4490 | | 5/1/2002 | 635.60 | 635.60 |
| Invoice | 4/16/2002 | 4491 | | 5/1/2002 | 93.00 | 93.00 |
| Invoice | 4/16/2002 | 4493 | | 5/1/2002 | 31.00 | 31.00 |
| Invoice | 5/31/2002 | 4570 | | 6/15/2002 | 25.00 | 605.64 |
| Invoice | 5/31/2002 | 4571 | | 6/15/2002 | 14.24 | 3,324.32 |
| Invoice | 6/24/2002 | 4618 | | 7/9/2002 | 16.64 | 704.16 |
| Invoice | 10/7/2002 | 4774 | | 10/22/2002 | 500.00 | 4,197.92 |
| Invoice | 10/14/2002 | 4783 | | 10/29/2002 | 532.50 | 6,629.44 |
| Invoice | 10/23/2002 | 4791 | | 11/7/2002 | 500.00 | 1,013.28 |
| Invoice | 10/28/2002 | 4802 | | 11/12/2002 | 500.00 | 1,571.04 |
| Invoice | 11/4/2002 | 4814 | | 11/19/2002 | 500.00 | 5,925.44 |
| Invoice | 11/14/2002 | 4828 | | 11/29/2002 | 500.00 | 1,958.32 |
| Invoice | 11/15/2002 | 4834 | | 11/30/2002 | 500.00 | 2,383.52 |
| Invoice | 11/27/2002 | 4847 | | 12/12/2002 | 517.23 | 2,462.32 |
| Invoice | 12/4/2002 | 4856 | | 12/19/2002 | 500.00 | 2,233.28 |
| Invoice | 12/9/2002 | 4860 | | 12/24/2002 | 500.00 | 2,274.40 |
| Invoice | 12/18/2002 | 4869 | | 1/2/2003 | 500.00 | 1,384.64 |
| Invoice | 12/23/2002 | 4875 | | 1/7/2003 | 500.00 | 676.64 |
| Invoice | 12/27/2002 | 4880 | | 1/11/2003 | 500.00 | 631.96 |
| Invoice | 1/3/2003 | 4887 | | 1/18/2003 | 500.00 | 646.24 |
| Invoice | 1/14/2003 | 4892 | | 1/29/2003 | 450.00 | 1,043.36 |
| Invoice | 1/17/2003 | 4893 | | 2/1/2003 | 50.00 | 661.08 |
| Invoice | 5/5/2004 | 5179 | | 5/20/2004 | 1,831.00 | 1,831.00 |
| Invoice | 5/5/2004 | FC 279 | Finance Charge | 5/5/2004 | 3,888.56 | 3,888.56 |
| Invoice | 5/5/2004 | 5181 | | 5/20/2004 | 1,816.00 | 1,816.00 |
| Total Kephart Trucking Co. | | | | | 18,928.86 | 60,295.16 |
| **TOTAL** | | | | | **18,928.86** | **60,295.16** |

EXHIBIT

B

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/15/2002 | 4431 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/15/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 14 | Charge | DFH Environmetal, inc. Bank Charges for Insufficient Funds<br>against bad Kephart's check # 12404 of the amount $ 26,215.00 | 31.00 | 434.00 |
| | | | Total | $434.00 |

EXHIBIT
C

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/18/2002 | 4436 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/18/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 1 | Charge | Bank Service Charge Check # 2640 | 7.00 | 7.00 |
| 1 | Charge | Bank Service Charge Check # 2660 | 10.00 | 10.00 |
| 4 | Charge | Bank Service Charge Check #2652,2563,2654,2657 | 20.00 | 80.00 |

Thank you for your business.

**Total** $97.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/18/2002 | 4438 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/18/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 1 | Charge | BANK SERVICE CHARGE, CHECK # 2658 | 10.00 | 10.00 |
| 6 | Charge | BANK SERVICE CHARGE, CHECK# 675, 664, 675, 678, 679, 683 | 30.00 | 180.00 |

Thank you for your business.

**Total** $190.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/20/2002 | 4444 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/20/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 14 | Charge | Bank Service Charge for the Checks# 2652,2653, 2658, 2657, 2554, 2650, 2670, 2641, 2651, 2664, 2640, 2639, 2661, 2659 | 31.00 | 434.00 |

Thank you for your business.

**Total** $434.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/20/2002 | 4445 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/20/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 1 | Charge | Bank Service Charge for the Checks # 2009, 2650 | 50.00 | 50.00 |

Thank you for your business.

**Total** $50.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/25/2002 | 4453 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/25/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 2 | Charge | Bank Service Charges for the Check #675 and 676 | 30.00 | 60.00 |

Thank you for your business.

**Total** $60.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/26/2002 | 4455 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 3/26/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 2 | Charge | BANK SERVICE CHARGE, CHECK # 2658 AND CHECK #2670 | 25.00 | 50.00 |

Thank you for your business.

**Total** $50.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/9/2002 | 4474 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/9/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 7 | Charge | BANK SERVICE CHARGE FOR INSUFFICIENT FUNDS KEPHART CHECK # 12767 AMOUNT $ 11,697.68. THIS INSUFFICIENT FUNDS OVERDRAFT OUR ACCOUNT AND CAUSED BANK CHARGES ON CHECKS # 2658, 2773, 2813, 2816, 2794, 2815 | 31.00 | 217.00 |

Thank you for your business.

**Total** $217.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/9/2002 | 4475 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/1/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 12 | Charge | BANK SERVICE CHARGE AGAINST INSUFFICIANT FUNDS CAUSED BY KEPHART CHECK # 12280 | 30.00 | 360.00 |
| 1 | Charge | SERVICE FEE FOR RETURNED DEPOSITED ITEM | 10.00 | 10.00 |

Thank you for your business.

**Total** $370.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/11/2002 | 4482 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/11/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 17 | Charge | BANK SERVICE CHARGE FOR INSUFFICIENT FUNDS CAUSED BY KEPHART CHECK, DFH CHECKS # 2806, 3744, 3755,3760, 3703, 3756, 3704, 3695, 3745, 3742, 3706, 3736, 3725, 3720, 3630, 3544, 3730, 3727. | 25.00 | 425.00 |

Thank you for your business.

**Total** $425.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/16/2002 | 4491 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/16/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 3 | Charge | BANK SERVICE CHARGE AGAINST INSUFFICIENT FUNDS KEPHART CHECK # 12767 | 31.00 | 93.00 |

Thank you for your business.

**Total** $93.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/16/2002 | 4493 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 4/16/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 1 | Charge | BANK SERVICE CHARGE<br>INSUFFICIENT FUNDS KEPHART CHECK # 30270<br>OF THE AMOUNT $ 4,942.24 | 31.00 | 31.00 |

Thank you for your business.

**Total** $31.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/5/2004 | 5181 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 11/13/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 6 | NEW TIRES | NEW FIRESTONE 11R225 TIRES | 249.00 | 1,494.00 |
| 6 | DISMOUNT | DISMOUNT- REMOUNT ON RIMS | 10.00 | 60.00 |
| 6 | DISPOSALS | DISPOSAL 6 TIRES | 7.00 | 42.00 |
| 4 | Labor | Labor | 55.00 | 220.00 |

Thank you for your business.

EXHIBIT
D

Total $1,816.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/5/2004 | 5179 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/13/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 6 | NEW TIRES | NEW FIRESTONE 11R225 TIRES | 249.00 | 1,494.00 |
| 6 | DISPOSALS | DISPOSAL 6 TIRES | 7.00 | 42.00 |
| 5 | DISMOUNT | DISMOUNT- REMOUNT ON RIMS | 15.00 | 75.00 |
| 4 | Labor | Labor | 55.00 | 220.00 |

Thank you for your business.

**Total** $1,831.00

## VERIFICATION

David Hoffman, President of DFH Environmental Services, Inc., states that he is acquainted with the facts set forth in the foregoing Complaint; that the same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

David Hoffman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) | |
| | : | |
| | ) | No. 05-541-CD |
| vs. | : | |
| | ) | |
| KEPHART TRUCKING COMPANY, Defendant | : | |
| | ) | |

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Amended Complaint was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 6th day of July, 2005 addressed to the following:

Dwight Koerber, Esq.
110 N. Second Street
PO Box 1320
Clearfield, PA 16830

Robert A. Mix, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) : | |
| | ) | No. 05-541-CD |
| vs. | : | |
| | ) | |
| KEPHART TRUCKING COMPANY, Defendant | : ) | |

**CONSENT TO FILING OF AMENDED COMPLAINT**

I, Dwight L. Koerber, Jr., counsel for Defendant Kephart Trucking Company, hereby consent to Plaintiff DFH Environmental Services, Inc.'s filing of an Amended Complaint and certify that I am authorized to do so.

Dwight L. Koerber, Jr., Esquire
Attorney for Defendant
110 North Second Street
PO Box 1320
Clearfield, PA 16830
814-765-9611

FILED NO CC
m/1:46 pm
JUL 12 2005
William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

Type of Pleading:
Certificate of Service

Filed on Behalf of:
Defendant:
Kephart Trucking Co.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
Pa. I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 3cc
at 3:23 Atty Koerber
AUG 23 2005
William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

## CERTIFICATE OF SERVICE

This is to certify that on the 23rd day of August 2005, the undersigned served the Original and Two (2) Copies of Set I Interrogatories and Request for Production of Documents Directed to Plaintiff in the above-captioned matter upon counsel for Plaintiff. Such documents were served via United States First Class Mail upon the following:

Robert A. Mix, Esquire
LEE, GREEN & REITER, INC.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

Type of Pleading:
Answer and New Matter
Of Defendant

Filed on Behalf of:
Defendant:
Kephart Trucking Co.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
Pa. I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 3cc
013:23 Atty Koerber
AUG 23 2005 GR

William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

## NOTICE TO PLAINTIFF

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE ENCLOSED ANSWER AND NEW MATTER WITHIN TWENTY (20) DAYS FROM SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

## ANSWER AND NEW MATTER OF DEFENDANT

COMES NOW Kephart Trucking Co., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within Answer and New Matter to the Complaint of Plaintiff.

1. Admitted.

2. Admitted.

## COUNT I

3. Admitted in part and denied in part. It is admitted that the parties entered into an oral contract, but it was a series of oral contracts covering different rate levels from different origins and destinations, and not just that which is set forth in paragraph 3.

4. Denied. Upon reasonable investigation Defendant has been unable to confirm the accuracy of all of the details set forth in Exhibit A and requires strict proof of same at trial.

5. Admitted with the understanding that certain portions of the services provided were with trailer equipment owned by Defendant. See New Matter.

6. Admitted with the understanding that certain portions of the services provided were with trailer equipment owned by Defendant. See New Matter.

7. Denied. It is denied that the balance shown on the various invoices attached as Exhibit B accurately and correctly reflect the status of the account between Plaintiff and Defendant. See New Matter.

8. Denied, legal conclusion. See New Matter. Defendant specifically denies that there is any indebtedness owed for past transportation services and requires strict proof of same at trial.

9. Denied, legal conclusion. Furthermore, Defendant disputes the legal proposition that any interest in chargeable, as there is no liquidated amount of money that is due to Plaintiff and collectable against Defendant.

10. Denied. No indebtedness is owed and no interest is therefore owed. There is no legal justification for seeking or for awarding prejudgment interest.

11. Admitted in part and denied in part. It is admitted that a demand for payment has been made by Plaintiff. It is denied that Defendant failed and refused to make payment, as Defendant does not owe the money which Plaintiff is seeking to collect.

WHEREFORE, Defendant prays that judgment be entered in its favor and that Count I of the Complaint be dismissed.

## COUNT II

12. No answer required. Furthermore, Defendant hereby incorporates by reference the answers to the paragraphs referenced herein.

13. Admitted.

14. Admitted.

15. Defendant acknowledges that payment for certain checks was not honored, but denies that all of the exhibits marked as Exhibit C correctly and properly set forth the amount of additional charges that were assessed to Plaintiff by its bank, and therefore requires strict proof of same at trial.

16. Defendant acknowledges that payment for certain checks was not honored, but denies that all of the exhibits marked as Exhibit C correctly and properly set forth the amount of additional charges that were assessed to Plaintiff by its bank, and therefore requires strict proof of same at trial.

17. Defendant acknowledges that payment for certain checks was not honored, but denies that all of the exhibits marked as Exhibit C correctly and properly set forth the amount of additional charges that were assessed to Plaintiff by its bank, and therefore requires strict proof of same at trial.

18. Denied. Defendant acknowledges that payment for certain checks was not honored, but denies that all of the exhibits marked as Exhibit C correctly and properly set forth the amount of additional charges that were assessed to Plaintiff by its bank, and therefore requires strict proof of same at trial.

19. It is denied that the full amount listed in Exhibit C is due and owing. Defendant requires strict proof of same at trial.

WHEREFORE, Defendant prays that judgment be entered in its favor and that Count II of the Complaint be dismissed.

**COUNT III**

19. (Repeat Number) No answer required. By way of reference, Defendant hereby incorporates by reference the answers to the said paragraphs as set forth above.

WHEREFORE, Defendant prays that judgment be entered in its favor and that Count III of the Complaint be dismissed.

**COUNT IV**

20. No answer required. By way of reference, Defendant hereby incorporates by reference the answers to the said paragraphs as set forth above.

20. (Repeat Number) Admitted in part and denied in part. It is admitted that Plaintiff utilized trailers owned by Defendant but it is denied that Defendant made improvements in the value alleged herein. Strict proof of same is required at trial. Furthermore, Defendant would refer to New Matter, where it sets forth the circumstances under which trailers were furnished to Plaintiff.

21. Admitted subject to the explanation set forth in New Matter.

22. It is denied that a demand for reimbursement as alleged has been made. It is further denied that Plaintiff is entitled to any type of reimbursement for the tires, equipment and repairs that it allegedly made to the trailer.

23. Denied, legal conclusion. See New Matter.

WHEREFORE, Defendant prays that judgment be entered in its favor and that Count IV of the Complaint be dismissed.

**NEW MATTER**

24. In further support of its position, Defendant offers the within New Matter.

25. During the time that Plaintiff and Defendant had a business relationship between one another, whereby Plaintiff provided certain transportation services for Defendant, the parties entered into an oral lease whereby Defendant would make available certain trailers for Plaintiff to use in conjunction with a portion of the power equipment that Plaintiff furnished.

26. At all times when the said trailers were furnished to Plaintiff, there was a clear understanding that there would be a rental charge, in accordance with certain terms and conditions under which the equipment was furnished.

27. While providing trailers for Plaintiff to use, Defendant furnished the "standard" rental lease and rental agreement that it used in furnishing the equipment to other subcontract haulers that worked through it, and made the trailers available with the express understanding that the terms and conditions would be in accordance with

Defendant's customary leasing practices.

28. Plaintiff failed and refused to sign the equipment lease of Defendant, but at the same time continued to use the trailers of Defendant, thereby impliedly consenting to pay the customary charges that Defendant was assessing to other contractors that were providing service under circumstances similar to those involving the arrangement of Plaintiff and Defendant.

29. Attached hereto as Exhibit A is a true and correct copy of the lease which Defendant uses when its equipment is used by contract subhaulers in order to provide transportation services through Defendant's oversight.

30. Under the terms and conditions of the written contract as set forth in Exhibit A, attached hereto, certain specific rental terms were set forth, which provide that the rental charges are to be deducted from the statement of charges that Plaintiff would submit covering the transportation services that it provided. In accordance with the established practice and the terms of the contract which the parties were operating under, Defendant deducted the proper rental charges from the statement which Plaintiff was otherwise paid for transportation services rendered.

31. By continuing to provide transportation services to Defendant and by continuing to use its trailers, Plaintiff impliedly or expressly, as the case may be, agreed and consented to the terms and conditions under which the trailers were furnished to it, all of which is set forth in the document attached hereto as Exhibit A.

32. Under the terms and conditions of the lease agreement covering the said

trailers, not only was a weekly rental charge assessed for the use of the trailers, but Plaintiff was required to perform maintenance and repairs on the trailers, in accordance with paragraph 8 of the agreement. Accordingly, whatever maintenance and repairs that Plaintiff provided, as alleged in Count IV of its Complaint involving a claim for unjust enrichment, represented maintenance and repairs that Plaintiff was contractually obligated to perform on the said trailers.

33. Based upon the fact that Plaintiff knew or should have known that the terms set forth in the rental contract, attached hereto as Exhibit A, were terms and conditions that were used by other companies that Defendant dealt with on a subcontract hauling basis, Plaintiff should be estopped from alleging that it is not contractually obligated to honor those same terms, as they are customary and usual, such that Plaintiffs would be unjustly enriched if they were not held to the same contractual terms as other trucking subcontractors in the same setting were paying to Defendant.

WHEREFORE, Defendant prays that the within New Matter be considered and that judgment in Counts I – IV be entered in its favor and that the Complaint as a whole be dismissed.

Respectfully submitted,

Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

**EXHIBIT A**

Attached hereto as Exhibit A is a true and correct copy of the lease which Defendant uses when its equipment is used by contract subhaulers.

# EQUIPMENT LEASE AGREEMENT

THIS EQUIPMENT LEASE AGREEMENT ("Agreement" and/or "Lease") is by and between KEPHART TRUCKING CO., a Pennsylvania Corporation, having its principal place of business at P. O. Box 386, Bigler, Pennsylvania, 16825, referred to hereinafter as "LESSOR",

AND

DFH Environmental
P.O. Box 985
Dover, NJ 07801

referred to hereinafter as "LESSEE".

W I T N E S S E T H:

1. Trailer Lease and Rental - LESSOR hereby agrees to Lease to LESSEE, and LESSEE hereby agrees to Lease from LESSOR, the trailers specified in Schedule A, attached hereto, at the rental charge per trailer, as set forth in said Schedule A. When used in this Agreement, the term "trailer" shall mean a trailer Leased hereunder with all equipment included on the trailer on the time of the signing of this Agreement.

2. Condition of Trailers - LESSEE hereby warrants that he has carefully inspected the trailers that are the subject of this Lease and has noted any defects or flaws in the condition of the said trailers, as shown by Schedule B(s), attached hereto. The parties agree that the trailers are leased strictly on an "AS IS WHERE IS" basis, whereby LESSEE is bearing the risk and responsibility for repairs, including major repairs or an accident, that is required on the said trailers from the date of the signing of this Agreement until the trailers are returned or the Lease is otherwise lawfully terminated. Lessee acknowledges that the rental charge and the residual value for the trailers at the end of the rental term are set at a price that is based upon the "as is where is" condition of the trailers and Lessee has the entire responsibility for repairs of the trailers without there being any warranties from Lessor.

3. Ownership of Trailers - This Agreement is an agreement of lease only and may not be construed as a contract for the sale of the said trailers. LESSEE acknowledges that LESSOR is the owner of the trailers hereunder, and that the trailers are subject to encumbrances and/or liens on the title of the trailers. LESSEE further agrees that he does not acquire any legal entitlement or equity in the leased trailers but shall merely have the possessory right to use and operate the trailers, with the possessory right being forfeited upon the default, termination or expiration of this Lease as provided under the terms and conditions of this Agreement.

4. Prohibition Against Leasing or Subleasing - Without the written consent of LESSOR, LESSEE may not lease or sublease the trailers covered by this Agreement.

5. Payment of Rent - LESSEE shall make payment of rent at the rate specified in Schedule A. In order to facilitate payment, LESSEE agrees to sign Schedule C, which directs the automatic payment to LESSOR. LESSOR shall keep an orderly account of the monies received from such payments, and will properly credit LESSEE's account when payment is made. In the event that LESSEE fails to make his payments at the time specified in Schedule A, a late charge shall be assessed, in addition to the rent, in the amount of one and one-half (1 1/2%) percent per month on all arrears that are owed. This late charge shall be in addition to all rights and remedies that LESSOR has if LESSEE is in default of his obligations under this Agreement.

6. Registration, Insurance and Licensing - LESSEE shall be responsible for paying the cost of collision and comprehensive insurance, covering fire and theft, for the trailers covered by this Lease. As an administrative convenience, if the LESSEE desires, LESSOR will arrange for such insurance coverage and invoice LESSEE for this expense. LESSOR shall furnish periodic updates of what the cost of insurance is, with such insurance to have a $1,000.00 deductible. LESSEE shall be responsible for payment of such deductible when due. The loss beneficiary for such insurance policy shall be designated as LESSOR. The cost of the insurance, if paid for by LESSOR, shall be directly assessed to LESSEE and included in the payments owed to LESSOR. Any time there is an expenditure or change in rating for the insurance, pertaining to the said trailers, LESSOR shall promptly notify LESSEE of the charges. LESSEE warrants that he will take all steps necessary to properly process any and all claims for insurance covering the said trailers.

7. Taxes - LESSEE shall pay and bear all federal, state and local taxes including sales, use, personal or property tax covering the said trailers.

8. Repairs and Maintenance - It shall be the responsibility of LESSEE to keep and maintain the said leased trailers in good operating condition, including major repairs and damage caused by an accident. LESSEE shall make all necessary repairs and replacements to the said trailers to the extent that they are needed. Repairs shall include tires, lubricants, and any and all replacement parts necessary to enable the trailers to properly operate. Failure to provide maintenance as provided herein shall be considered a default under this lease. LESSOR shall have the right to inspect the said trailers to determine whether LESSEE has satisfied his duty to maintain and repair the trailers, and may enter onto the property of LESSEE in order to perform such an inspection.

9. Return of Leased Trailers - Upon the expiration or termination of this Lease for any cause, said trailers shall be returned forthwith and without delay to LESSOR's principal place of business in Bigler, Pennsylvania. Except for ordinary wear and tear, the trailers shall be returned in the same condition as when this Lease was initially undertaken. LESSEE shall be responsible for providing for the transportation for the return of the trailers, as well as any and all costs associated with the trailers if LESSEE does not return the trailers himself. LESSOR reserves the right to charge LESSEE for the cost of transporting, cleaning, repairing or reconditioning the said unit after it is returned, if LESSEE has failed to properly maintain and repair it.

10. Indemnification - LESSEE shall defend, indemnify and hold LESSOR harmless, including its officers, directors, employees and representatives, from and against any and all damages, loss, theft or destruction to the said trailers, and against all losses, liabilities, damages, injuries and claims of any nature, including legal fees and costs, arising out of the operation of the said trailers under this Lease. LESSEE agrees to pay the cost of attorneys' fees that LESSOR occurs as a result of LESSEE's failure to comply with any term or condition of this Agreement.

11. Default by LESSEE - If LESSEE fails to pay in full on the due date any payment due hereunder, or if in the event of bankruptcy or insolvency by LESSEE, or the failure of LESSEE to comply with any term or condition of this Agreement, the LESSOR shall have the right to take immediate possession of the trailers wherever found, with or without process of law, and to terminate the Lease with respect to said trailers, and the LESSEE expressly authorizes LESSOR and its agents to enter on any premises where the trailers may be located for the purpose of repossessing the said trailers. In the event there is a default or termination of this Lease, LESSEE expressly waives any further interest in the trailers and any right of action arising out of the entry and repossession of the said trailers by LESSOR. If LESSOR is in default of any term or condition of this Agreement, or if LESSOR fails to comply with all lawful terms and conditions imposed upon him under the terms of this Agreement, the full term of this Lease shall be immediately due and payable. This remedy shall be in addition to the right of repossession as provided herein. In the event there is a default, LESSOR shall be entitled to retain all monies held in an escrow account, as a set off against payments that are due to LESSOR, provided that if escrow funds are used in this way, full and complete accounting shall be made to LESSEE.

12. Obligations of LESSEE Under This Agreement - During the duration of this Agreement, in addition to the terms and conditions set forth in this Agreement, LESSEE shall at all times comply with the following requirements:

a. Use the said trailers in a common carrier operation so as to make it eligible for a sales tax exemption under Pennsylvania law.

b. Permit the trailers to be operated only by a properly licensed driver in full compliance with all pertinent DOT safety regulations.

c. Perform all repairs needed to insure that the said trailers is always in a road worthy condition.

d. Comply with all pertinent federal, state, and local laws.

e. Make all payments in accordance with the various Schedules attached to this Agreement and in accordance with invoices sent to it by LESSOR covering charges that are assessable under the terms of this Agreement.

13. Option of LESSEE - Upon the termination of this Agreement, LESSEE shall have the right to purchase the said unit by paying the residual value specified in Schedule D. The right to purchase the said trailers by obtaining the residual value shall exist only if LESSEE has complied with all terms and conditions of this Agreement and has paid the full payment throughout the entire term of this Lease. LESSEE shall be responsible for all expenses associated with exercising his option to purchase the trailers by paying the sum of money specified in Schedule D, attached hereto.

14. Pennsylvania Law to Apply - In the event that questions should arise concerning the application or meaning of any term or provision of this Agreement, the laws of the Commonwealth of Pennsylvania shall apply.

IN WITNESS WHEREOF, the parties hereunto have signed this Agreement on the date specified below, doing so with the intention of being legally bound.

| | |
|---|---|
| LESSOR: | LESSEE: |
| KEPHART TRUCKING CO. | DFH Environmental |
| By: _____ | By : _____ |
| Date: _____ | Date: _____ |

SCHEDULE A

Specifications for Trailers and Summary of Rental Terms

A. SUMMARY OF TERMS

1. Year of Make: 2000
2. Name of Manufacturer: East
3. Model Number: Tipper
4. VIN Number: _____
5. Additional Equipment: _____
6. Rental Charge: $336.48/week
7. Date for Payment: _____
8. Term of Agreement (Number of Months): 24 months

B. TOTAL MONTHLY PAYMENT

1. Rental: $336.48
2. Insurance: _____
3. Miscellaneous _____

TOTAL: _____

| LESSOR: | LESSEE: |
|---|---|
| KEPHART TRUCKING CO. | DFH Environmental |
| By: _____ | By: _____ |
| Date: _____ | Date: _____ |

SCHEDULE B

Initial Inspection of Trailer

Attached hereto is the initial inspection of the trailer leased under this Agreement. It is recognized that the trailer is leased on an "as is where is" basis.

| LESSOR: | LESSEE: |
| --- | --- |
| KEPHART TRUCKING CO. | DFH Environmental |
| By: _____ | By: _____ |
| Date: _____ | Date: _____ |

SCHEDULE C

Assignment of Payment

I, the undersigned individual, hereby direct that monthly payments in the amount specified below be automatically withheld from any settlement/payment due to me and paid directly to Kephart Trucking Co.

Name and address of trucking company to whom payment is directed:

Kephart Trucking Co.

PO BOX 386

Bigler Pa. 16825

Amount of Monthly Payment: $_____

_____
(Printed Name)

_____
(Signature)

Date: _____

SCHEDULE D
Residual Value

The residual value for the trailers identified in Schedule A is: $ $1.00

**VERIFICATION**

I certify that the statements made in the foregoing document are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

David J. Kephart, Vice President
Kephart Trucking Co.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

## CERTIFICATE OF SERVICE

This is to certify that on the 23rd day of August 2005, the undersigned served a true and correct copy of the Answer and New Matter of Defendant in the above-captioned matter upon counsel for Plaintiff. Such documents were served via United States First Class Mail upon the following:

Robert A. Mix, Esquire
LEE, GREEN & REITER, INC.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) : | No. 05-541-CD |
| vs. | ) : | Type of Pleading Filed: |
| KEPHART TRUCKING COMPANY, Defendant | ) : | Reply to New Matter |
| | ) : | Filed on Behalf of: Plaintiff |
| | ) : | Attorney of Record for this Party: |
| | ) : | Robert A. Mix, Esquire<br>LEE, GREEN & REITER, INC.<br>115 East High Street<br>P.O. Box 179<br>Bellefonte, PA 16823<br>814-355-4769 |

m/11:50 NO CC
SEP 28 2005 GK

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) : | |
| | ) | No. 05-541-CD |
| vs. | : ) | |
| KEPHART TRUCKING COMPANY, Defendant | : ) | |

**REPLY TO NEW MATTER**

Now Comes DFH Environmental Services, Inc., by its attorneys, Lee, Green & Reiter, Inc., and respectfully represents:

24. Neither admitted or denied inasmuch as no reply is required.

25. Denied. To the contrary, Defendant initially made the trailers available for Plaintiff's use in performing said transportation services without any oral or written understanding or agreement pertaining to the specific terms and conditions of said use. Plaintiff and Defendant understood that they would subsequently negotiate the specific terms and conditions of such use. Although Plaintiff and Defendant discussed and negotiated the specific terms and conditions of a lease / purchase agreement pertaining to such use, they never entered into a final oral or written lease / purchase agreement.

26. Denied. To the contrary, the averments of paragraph 25 above are incorporated herein by reference.

27. Denied that the described rental / lease agreement is the standard agreement used by Defendant when furnishing equipment to other subcontract haulers. After

reasonable investigation, Plaintiff is without knowledge or information sufficient to form a belief as to the proof of the averments and strict proof is demanded at trial. The remaining averments are denied. To the contrary, after Plaintiff began using the trailers in providing said transportation services, Defendant forwarded a proposed Equipment Lease Agreement, in the form attached to Defendant's Answer and New Matter as Exhibit "A," to Plaintiff for its review and response. Plaintiff refused to enter into the Equipment Lease Agreement and forwarded proposed changes to it to Defendant for its review and response. Defendant failed to respond thereto.

28. Admitted that Plaintiff refused to sign the Equipment Lease Agreement and continued to use the trailers in performing said transportation services while the parties continued to negotiate the specific terms and conditions of a lease / purchase agreement.

    The remaining averments are neither admitted nor denied inasmuch as they state a conclusion of law to which no reply is required.

29. Denied that the document attached to Defendant's Answer and New Matter as Exhibit "A," is the standard agreement used by Defendant when furnishing equipment to other subcontract haulers. After reasonable investigation, Plaintiff is without knowledge or information sufficient to form a belief as to the proof of the averments and strict proof is demanded at trial.

30. The Equipment Lease Agreement speaks for itself and the provisions thereof are incorporated herein by reference.

The remaining averments are denied. To the contrary, the parties never entered into the Equipment Lease Agreement, either expressly or impliedly. By way of further reply, the averments of paragraphs 25 through 29 above are incorporated herein by reference.

31. Neither admitted nor denied inasmuch as the averments state a conclusion of law to which no reply is required.

    If it is judicially determined that a reply is required, then the averments are denied. To the contrary, the averments of paragraphs 25 through 30 above are incorporated herein by reference.

32. The Equipment Lease Agreement speaks for itself and the provisions thereof are incorporated herein by reference.

    The remaining averments, to the extent they state facts, are denied. To the contrary, the parties never entered into the Equipment Lease Agreement, either expressly or impliedly. By way of further reply, the averments of paragraphs 25 through 31 above are incorporated herein by reference. By way of further reply, Plaintiff performed maintenance and repairs on the trailers beyond those contemplated by the Equipment Lease Agreement in the anticipation that the parties would enter into a lease / purchase agreement and that it would eventually purchase and own the trailers.

    The remaining averments, to the extent they state conclusions of law, are neither admitted nor denied inasmuch as no reply is required.

33. To the extent the averments state facts, they are denied. To the contrary, the averments of paragraphs 25 through 32 above are incorporated herein by reference.

To the extent the averments state conclusions of law, they are neither admitted nor denied inasmuch as no reply is required.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant as set forth in its Complaint.

LEE, GREEN & REITER, INC.

By: _____

Robert A. Mix, Esq., ID #16164
Attorney for Plaintiff
115 E. High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) | |
| | : | |
| | ) | No. 05-541-CD |
| vs. | : | |
| | ) | |
| KEPHART TRUCKING COMPANY, Defendant | : | |
| | ) | |

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Reply to New Matter was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 27th day of September, 2005 addressed to the following:

Dwight Koerber, Esq.
110 N. Second Street
PO Box 1320
Clearfield, PA 16830

Robert A. Mix, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | * | |
| -vs- | * | Docket No. 05-541-CD |
| KEPHART TRUCKING CO., Defendant | * | |
| | * | |

Type of pleading:
CERTIFICATE OF SERVICE

Filed on behalf of:
DEFENDANT, Kephart Trucking Co.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED
01 3:41 PM
SEP 01 2006
William A. Shaw
Prothonotary/Clerk of Courts

Atty Koerber

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | * | |
| -vs- | * | Docket No. 05-541-CD |
| KEPHART TRUCKING CO., Defendant | * | |

**CERTIFICATE OF SERVICE**

I certify that on the 31st day of August, 2006, a Notice of Taking Deposition of David Hoffman, to occur on September 7, 2006 at 11:00 A.M., was served upon his attorney by United States First Class Mail at the following name and address:

Robert A. Mix, Esquire
LEE, GREEN & REITER, INC.
115 East High Street
P. O. Box 179
Bellefonte, PA 16823

Dwight L. Koerber, Jr., Esquire

# IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA

DFH ENVIRONMENTAL SERVICES, INC.
**(Plaintiff)**

P.O. BOX 985
**(Street Address)**

DOVER, NJ 07801
**(City, State ZIP)**

**CIVIL ACTION**

**No.** 05-541-CD

**Type of Case:** CIVIL

**Type of Pleading:** CERTIFICATE OF READINESS

**VS.**

KEPHART TRUCKING COMPANY
**(Defendant)**

ROUTE 322 WEST
**(Street Address)**

BIGLER, PA 16825
**(City, State ZIP)**

**Filed on Behalf of:**

PLAINTIFF
**(Plaintiff/Defendant)**

ROBERT A. MIX, ESQUIRE
**(Filed by)**

115 E. HIGH STREET, BELLEFONTE, PA 16823
**(Address)**

(814) 355-4769
**(Phone)**

**(Signature)**

FILED Atty Mix
DEC 10 2008 11:07 AM pd 20.00
No CC
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Civil Trial Listing/Certificate of Readiness

Plaintiff(s): DFH ENVIRONMENTAL SERVICES, INC.

Case Number: 05-541-CD

Defendant(s): KEPHART TRUCKING COMPANY

**To the Prothonotary:**

Arbitration Limit: 25,000.00
Type Trial Requested: _____ Jury _____ Non-Jury XX Arbitration
Estimated Trial Time: _____

Jury Demand Filed By: _____
Date Jury Demand Filed: _____

Please place the above-captioned case on the trial list. I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.

(Signature) 12/8/08 (Date)

For the Plaintiff: Robert A. Mix, Esquire 814-355-4769 Telephone Number

For the Defendant: Dwight Koerber, Esquire 814-765-9611 Telephone Number

For Additional Defendant: _____ _____ Telephone Number

Certification of Current Address for all parties or counsel of record:

| | | |
|---|---|---|
| Name: Robert A. Mix, Esq. | Address: 115 E. High St. | City/State/Zip: Bellefonte, PA 16823 |
| Name: Dwight Koerber, Esq. | Address: P O Box 1320 | City/State/Zip: Clearfield, PA 16830 |
| Name: | Address: | City/State/Zip: |
| Name: | Address: | City/State/Zip: |
| Name: | Address: | City/State/Zip: |
| Name: | Address: | City/State/Zip: |

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC.<br>Plaintiff | ) | |
| | ) | No. 05-541-CD |
| vs. | ) | |
| | ) | |
| KEPHART TRUCKING COMPANY,<br>Defendant | ) | |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Civil Trial Listing / Certificate of Readiness was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 8th day of December, 2008, addressed to the following:

Dwight Koerber, Esquire
110 N. Second Street
P.O. Box 1320
Clearfield, PA 16830

LEE, GREEN & REITER, INC.:

By: _____
Robert A. Mix, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC. | : | |
| vs. | : | No. 05-541-CD |
| KEPHART TRUCKING COMPANY | : | |

**ORDER**

NOW, this 13th day of February, 2009, it is the ORDER of the Court that the above-captioned matter is scheduled for Arbitration on **Thursday, March 5, 2009 at 1:00 P.M.** in the Conference/Hearing Room No. 3, 2nd Floor, Clearfield County Courthouse, Clearfield, PA. The following have been appointed as Arbitrators:

Paula M. Cherry, Esquire, Chairman

Theron G. Noble, Esquire

Lea Ann Heltzel, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. **The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators.** For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form in enclosed as well as a copy of said Local Rule of Court.

BY THE COURT:

FREDRIC J. AMMERMAN
President Judge

FILED 6cc
014:00 CIA
FEB 17 2009
William A. Shaw
Prothonotary/Clerk of Courts

Notices to Attys
Mix & Koerber
3/6/09

FILED
MAR 05 2009
01:30/w
William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY**
**PENNSYLVANIA**

DFH Environmental Services, Inc.
vs.
Kephart Trucking Company

No. 2005-00541-CD

## OATH OR AFFIRMATION OF ARBITRATORS

Now, this 5th day of March, 2009, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

Paula M. Cherry, Esq. — Chairperson

Theron G. Noble, Esq.
Lea Ann Heltzel, Esq.

Sworn to and subscribed before me this
5th day of March, 2009

Prothonotary

## AWARD OF ARBITRATORS

Now, this 5TH day of March, 2009, we the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows:

Judgment for Plaintiff in the Amount of $1,823.50

Chairman

(Continue if needed on reverse.)

## ENTRY OF AWARD

Now, this 6th day of March, 2009, I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

**WITNESS MY HAND AND THE SEAL OF THE COURT**

Prothonotary
By _____

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DFH Environmental Services, Inc. :

Vs. : No. 2005-00541-CD
:

Kephart Trucking Company

NOTICE OF AWARD

TO: Dwight Koerber, Esq.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on March 5, 2009 and have awarded:

Judgment for Plaintiff in the amount of $1,823.50

William A. Shaw, Prothonotary

March 5, 2009
Date

This notice of award was placed on the docket and given by mail to the parties or their attorneys on March 6, 2009, at 9:47 a.m.

An Appeal from Award of Arbitration must be filed within thirty (30) days of date of award. Filing fee is fifty percent (50%) of the total award or the amount of compensation paid to the arbitrators, whichever is the least. Arbitrators' compensation to be paid upon appeal: $825.00.

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DFH Environmental Services, Inc. :

Vs. : No. 2005-00541-CD
:

Kephart Trucking Company

NOTICE OF AWARD

TO: Robert A. Mix, Esq.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on March 5, 2009 and have awarded:

Judgment for Plaintiff in the amount of $1,823.50

William A. Shaw, Prothonotary

March 5, 2009
Date

This notice of award was placed on the docket and given by mail to the parties or their attorneys on March 6, 2009, at 9:47 a.m.

An Appeal from Award of Arbitration must be filed within thirty (30) days of date of award. Filing fee is fifty percent (50%) of the total award or the amount of compensation paid to the arbitrators, whichever is the least. Arbitrators' compensation to be paid upon appeal: $825.00.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC.<br>Plaintiff | ) | |
| | ) | No. 05-541-CD |
| vs. | ) | |
| | ) | |
| KEPHART TRUCKING COMPANY,<br>Defendant | ) | |

**PRAECIPE**

TO THE PROTHONOTARY:

No timely appeal having been taken, please enter judgment on the award of the board of arbitrators dated March 5, 2009 in favor of Plaintiff DFH Environmental Services, Inc. and against Defendant Kephart Trucking Company in the amount of $1,823.50.

LEE, GREEN & REITER, INC.

By: _____

Robert A. Mix, Esq., ID #16164
Attorney for Plaintiff
115 East High Street
PO Box 179
Bellefonte, PA 16823
814-355-4769

FILED Atty Mix
m/1:55 pm pd 20.00
APR 23 2009 Notice to Def (Atty Koesbes)
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC.<br>Plaintiff | ) | |
| | ) | No. 05-541-CD |
| vs. | ) | |
| | ) | |
| KEPHART TRUCKING COMPANY,<br>Defendant | ) | |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 28 day of April, 2009, addressed to the following:

Dwight Koerber, Esquire
110 N. Second Street
P.O. Box 1320
Clearfield, PA 16830

LEE, GREEN & REITER, INC.

By: _____
Robert A. Mix, Esquire

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

DFH Environmental Services, Inc.

Vs. No. 2005-00541-CD

Kephart Trucking Company

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of $1,823.50 on April 23, 2009.

William A. Shaw
Prothonotary

William A. Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC. Plaintiff | ) | |
| | ) | No. 05-541-CD |
| vs. | ) | |
| KEPHART TRUCKING COMPANY, Defendant | ) | |

FILED pd $ 7.00 Atty
m 10:31 am No cc + No GA of sat.
AUG 19 2009
William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE TO SATISFY

TO THE PROTHONOTARY:

Kindly mark the judgment entered in the above-captioned matter satisfied.

LEE, GREEN & REITER, INC.:

Date: August 18, 2009

By: _____

Robert A. Mix, Esquire, ID #16164
Attorney for Plaintiff
115 E. High Street
P.O. Box 179
Bellefonte, PA 16823
(814) 355-4769

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC.<br>Plaintiff | ) | |
| | ) | No. 05-541-CD |
| vs. | ) | |
| | ) | |
| KEPHART TRUCKING COMPANY,<br>Defendant | ) | |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 18th day of August, 2009, addressed to the following:

Dwight Koerber, Esquire
110 N. Second Street
P.O. Box 1320
Clearfield, PA 16830

LEE, GREEN & REITER, INC.:

By: _____
Robert A. Mix, Esquire

Arb. 3/5.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC., Plaintiff | ) | |
| | ) | No. 05-541-CD |
| vs. | ) | |
| KEPHART TRUCKING COMPANY, Defendant | ) | |

**PLAINTIFF'S PRE-TRIAL MEMORANDUM**

**STATEMENT OF THE CASE**

The parties to this civil action are Plaintiff DFH Environmental Services, Inc. (DFH), a New Jersey corporation, with a place of business located at 15 North Salem Street, Dover, New Jersey 07801 and Defendant is Kephart Trucking Company (Kephart), a Pennsylvania corporation with a place of business located at Route 322 West, Bigler, Pennsylvania 16825.

At all times relevant to this civil action, both parties were engaged in the business of transporting municipal and other waste from various waste transfer stations to landfills throughout northeastern United States. On or about December 17, 2001, DFH entered into an oral contract with Kephart wherein DFH agreed to transport waste materials for Kephart and Kephart agreed to pay DFH at the rate of twenty eight ($28.00) dollars per ton for such transportation services between Patterson, New Jersey and Kersey, Pennsylvania and at the rate of sixteen ($16.00) dollars per ton for such transportation services between Fairview, New Jersey and Conestoga, Pennsylvania. In performing these transportation services, DFH utilized various trailers owned by Kephart.

Kephart wanted to sell the various trailers utilized by DFH in performing the transportation services and proposed an equipment lease / lease purchase agreement pertaining thereto. Although the parties discussed the agreement, no oral or written agreement was entered into.

Between December 2001 and February 2003, DFH transported various loads of waste materials for Kephart as set forth in the invoices attached to the Complaint as Exhibit "A". The remaining balance of the principal due and owing on each of said invoices is $10,773.30 as set forth in the statement of account attached to the Complaint as Exhibit "B". In addition, pursuant to their contract, Kephart agreed to pay a finance charge/interest of 1.75% per month on any sums not paid when due. The remaining balance of finance charges/interest due and owing is $15,016.77.

In its defense, Kephart contends that the parties entered into an equipment lease / lease purchase agreement for the various trailers utilized by DFH in transporting waste for it, which provided for a monthly rental of $500.00. For this reason, Kephart started deducting $500.00 from the amount due on each invoice submitted by DFH on or about October 22, 2002 and thereafter.

During the time DFH utilized the various trailers in transporting waste for Kephart, it installed tires and equipment and made repairs to them at a cost of $3,647.00. Kephart eventually retook possession of the various trailers and has refused to pay DFH for the cost expended on them.

In its defense, Kephart contends that under the equipment lease / lease purchase agreement, DFH was obligated to bear the cost of such repairs.

## THEORIES OF LIABILITY AND DEFENSE

As regards its claim for the amount due and owing for transportation services provided to Kephart (Count 1), DFH asserts a cause of action in breach of contract. DFH contends that the contract for transportation services, which the parties entered into and the equipment lease / lease purchase agreement, which they did not were two separate and distinct contracts. As the parties never entered into the equipment lease / lease purchase agreement, Kephart was not entitled to deduct the sums which it did from the amounts due and owing for transportation services.

Standard principles of contract law will apply. DFH anticipates that the evidence produced at the arbitration hearing will show that there was an offer and acceptance between the parties pertaining to the contract for transportation services, but not as to the equipment lease / lease purchase agreement. Although the equipment lease and the subsequent lease purchase agreement were discussed by the parties, there was never any final agreement and they were never executed. Kephart contends that it should be implied that DFH agreed to enter into the equipment lease and / or the subsequent lease purchase agreement, however, this contention is not persuasive. An implied contract is one created by law for reasons to prevent injustice; however, it is clear that the parties never had the intent to enter into the equipment lease and / or the subsequent lease purchase agreement and such a contract need not be implied to prevent injustice between the parties. See *Crouse v. Cyclops Industries*, 704 A. 2d 1090 (Pa. Super. 1997).

As regards its claim for the amount due and owing for insufficient fund checks provided by Kephart (Counts 2 & 3), the parties have resolved these causes of action.

As regards its claim for the amount due and owing for equipment provided and repairs made to the various trailers owned by Kephart (Count 4), DFH asserts a cause of action in unjust

enrichment / quantum meruit. Since the parties did not enter into the equipment lease and / or the subsequent lease purchase agreement, DFH was not obligated to pay the cost of repairing the trailers. These repairs have inured to Kephart's benefit, as they have retaken possession of the various trailers. It would be inequitable for Kephart to retain the value of the benefits, without paying their value. *Styer v. Hugo*, 619 A 2d 347 (Pa. Super. 1993)

**WITNESSES**

David Hoffman

David Kephart, as on cross examination

**STATEMENT OF DAMAGES**

DFH contends that it is entitled to the following damages for transportation services:

| | |
|---|---|
| Principal due | $10,773.30 |
| Finance charges/interest | $15,016.77 |
| Cost of tires, equipment & repairs | $3,647.00 |

See attached invoices and other documents.

LEE, GREEN & REITER, INC.

By: Robert A. Mix

Robert A. Mix, Esq., ID #16164
Attorney for Plaintiff
115 E. High Street, PO Box 179
Bellefonte, PA 16823
814-355-4769

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/5/2002 | 4410 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 3/5/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.37 | Tons | 2/20/02 045310<br>Brooklyn to Conestoga | 20.00 | 447.40 |
| 22.03 | Tons | 2/25/02 045635<br>Brooklyn to Conestoga | 20.00 | 440.60 |
| 20.93 | Tons | 2/25/02 045653<br>Brooklyn to Conestoga | 20.00 | 418.60 |
| 21.02 | Tons | 2/26/02 045739<br>Brooklyn to Conestoga | 20.00 | 420.40 |
| 21.65 | Tons | 2/26/02 045749<br>Brooklyn to Conestoga | 20.00 | 433.00 |
| 21.58 | Tons | 2/27/02 045813<br>Brooklyn to Conestoga | 20.00 | 431.60 |
| 21.46 | Tons | 2/28/02 045883<br>Brooklyn to Conestoga | 20.00 | 429.20 |
| 21.63 | Tons | 3/1/02 046022<br>Brooklyn to Conestoga | 20.00 | 432.60 |
| 21.6 | Tons | 3/1/02 045968<br>Brooklyn to Conestoga | 20.00 | 432.00 |
| 21.18 | Tons | 3/1/02 046023<br>Brooklyn to Conestoga | 20.00 | 423.60 |
| | | Boris can not get paper for load 045310 | | |

4047/Eastern Trucking, Inc.

EXHIBIT
4

Total $4,309.00

DFH ENVIRONMENTAL, INC.

# Invoice

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

| DATE | INVOICE # |
|---|---|
| 3/12/2002 | 4425 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 3/12/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 20 | Tons | 1/28/02 0327718<br>20 ton minimum<br>Fairview to Kersey | 28.00 | 560.00 |
| 20 | Tons | 2/14/02 0330159<br>20 ton minimum<br>Fairview to Kersey | 28.00 | 560.00 |

4062/Joel

**Total** $1,120.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 3/19/2002 | 4443 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 3/19/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.75 | Tons | 3/11/02 046593 | 20.00 | 435.00 |
| 22.01 | Tons | 3/11/02 046584 | 20.00 | 440.20 |
| 21.33 | Tons | 3/12/02 046664 | 20.00 | 426.60 |
| 21.75 | Tons | 3/12/02 046666 | 20.00 | 435.00 |
| 21.56 | Tons | 3/14/02 046857 | 20.00 | 431.20 |
| 22.14 | Tons | 3/14/02 046858 | 20.00 | 442.80 |
| 21.92 | Tons | 3/14/02 046862 | 20.00 | 438.40 |
| 21.28 | Tons | 3/16/02 046998 | 20.00 | 425.60 |
| 4.57 | Tons | 3/13/02 046743 | 20.00 | 91.40 |
| 17.54 | Tons | 3/13/02 005916 | 20.00 | 350.80 |
| | | All Loads from Brooklyn toConestoga | | |

4047/Eastern Trucking, Inc.

**Total** $3,917.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 4/16/2002 | 4490 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 4/16/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.7 | Tons | 6/29/01 297223 | 28.00 | 635.60 |

4046/South Atlantic Trucking

**Total** $635.60

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/31/2002 | 4570 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 5/31/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.63 | Tons | 5/14/02 125170<br>This load was tipped off at the the landfill for us at Mr. Tom Hampton,s request and I was told to bill this with only the paper work that I have.<br><br>Sincerly<br>Teri | 28.00 | 605.64 |

4009/Duval

**Total** $605.64

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/31/2002 | 4571 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 5/31/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 20 | Tons | 5/24/02 126693<br>20 ton minimun | 16.00 | 320.00 |
| 20.48 | Tons | 5/24/02 126691 | 16.00 | 327.68 |
| 20.84 | Tons | 5/28/02 126811 | 16.00 | 333.44 |
| 20 | Tons | 5/28/02 126812<br>20 ton minimum | 16.00 | 320.00 |
| 20.67 | Tons | 5/29/02 126954 | 16.00 | 330.72 |
| 20.4 | Tons | 5/29/02 127039 | 16.00 | 326.40 |
| 21.52 | Tons | 5/29/02 126956 | 16.00 | 344.32 |
| 21.86 | Tons | 5/30/02 127274 | 16.00 | 349.76 |
| 21.13 | Tons | 5/30/02 127269 | 16.00 | 338.08 |
| 20.87 | Tons | 5/30/02 127178<br>Fairview to Conestoga | 16.00 | 333.92 |

4009/Duval

**Total** $3,324.32

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 6/24/2002 | 4618 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 6/24/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.79 | Tons | 6/19/02 129647 | 16.00 | 348.64 |
| 22.22 | Tons | 6/20/02 129811 | 16.00 | 355.52 |
| | | Fairview to Conestoga | | |

4047/Eastern Trucking, Inc.

**Total** $704.16

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/7/2002 | 4774 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/7/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.88 | Tons | 09/30/02 | 143289 | 16.00 | 350.08 |
| 22.1 | Tons | 09/30/02 | 166416 | 16.00 | 353.60 |
| 21.85 | Tons | 09/30/02 | 143315 | 16.00 | 349.60 |
| 21.76 | Tons | 10/01/02 | 143484 | 16.00 | 348.16 |
| 21.84 | Tons | 10/02/02 | 143644 | 16.00 | 349.44 |
| 22.12 | Tons | 10/02/02 | 143750 | 16.00 | 353.92 |
| 22 | Tons | 10/03/02 | 143895 | 16.00 | 352.00 |
| 21.62 | Tons | 10/03/02 | 143830 | 16.00 | 345.92 |
| 22.2 | Tons | 10/04/02 | 144007 | 16.00 | 355.20 |
| 21.61 | Tons | 10/04/02 | 143957 | 16.00 | 345.76 |
| 21.78 | Tons | 10/05/02 | 144184 | 16.00 | 348.48 |
| 21.61 | Tons | 10/05/02 | 144181 | 16.00 | 345.76 |
| | | Fairview to Conestoga | | | |

4047/Eastern Trucking, Inc.

**Total** $4,197.92

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/14/2002 | 4783 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/14/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.09 | Tons | 10/05/02 144234 | 16.00 | 353.44 |
| 22.3 | Tons | 10/05/02 144244 | 16.00 | 356.80 |
| 21.92 | Tons | 10/07/02 144324 | 16.00 | 350.72 |
| 21.94 | Tons | 10/07/02 144339 | 16.00 | 351.04 |
| 20.82 | Tons | 10/07/02 144376 | 16.00 | 333.12 |
| 23 | Tons | 10/07/02 144443 | 16.00 | 368.00 |
| 21.99 | Tons | 10/07/02 144436 | 16.00 | 351.84 |
| 21.91 | Tons | 10/08/02 144524 | 16.00 | 350.56 |
| 22.33 | Tons | 10/08/02 144530 | 16.00 | 357.28 |
| 21.62 | Tons | 10/08/02 144643 | 16.00 | 345.92 |
| 21.91 | Tons | 10/09/02 144729 | 16.00 | 350.56 |
| 21.64 | Tons | 10/09/02 144738 | 16.00 | 346.24 |
| 21.61 | Tons | 10/10/02 144826 | 16.00 | 345.76 |
| 21.77 | Tons | 10/10/02 144906 | 16.00 | 348.32 |
| 21.93 | Tons | 10/10/02 144972 | 16.00 | 350.88 |
| 21.68 | Tons | 10/10/02 144927 | 16.00 | 346.88 |
| 22 | Tons | 10/11/02 145080 | 16.00 | 352.00 |
| 21.54 | Tons | 10/11/02 145108 | 16.00 | 344.64 |
| 20.34 | Tons | 10/12/02 145175 | 16.00 | 325.44 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $6,629.44

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/23/2002 | 4791 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/23/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 20.99 | Tons | 10/21/02 146254 | 16.00 | 335.84 |
| 21.3 | Tons | 10/22/02 146407 | 16.00 | 340.80 |
| 21.04 | Tons | 10/22/02 146533 | 16.00 | 336.64 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $1,013.28

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 10/28/2002 | 4802 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | TK | 10/28/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 21.49 | Tons | 10/23/02 146655 | 36.00 | 773.64 |
| 22.15 | Tons | 10/23/02 146664 | 36.00 | 797.40 |

4047/Eastern Trucking, Inc.

**Total** $1,571.04

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/4/2002 | 4814 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 11/4/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 22.26 | Tons | 10/25/02 | 147083 | 16.00 | 356.16 |
| 22.28 | Tons | 10/28/02 | 147329 | 16.00 | 356.48 |
| 21.94 | Tons | 10/28/02 | 147246 | 16.00 | 351.04 |
| 21.75 | Tons | 10/29/02 | 147344 | 16.00 | 348.00 |
| 21.28 | Tons | 10/29/02 | 147393 | 16.00 | 340.48 |
| 22.01 | Tons | 10/29/02 | 147467 | 16.00 | 352.16 |
| 20.98 | Tons | 10/29/02 | 147514 | 16.00 | 335.68 |
| 21.96 | Tons | 10/29/02 | 147515 | 16.00 | 351.36 |
| 22.25 | Tons | 10/30/02 | 147628 | 16.00 | 356.00 |
| 21.92 | Tons | 10/30/02 | 147634 | 16.00 | 350.72 |
| 22.43 | Tons | 10/26/02 | 147126 | 16.00 | 358.88 |
| 22.15 | Tons | 10/31/02 | 147760 | 16.00 | 354.40 |
| 21.49 | Tons | 10/31/02 | 147763 | 16.00 | 343.84 |
| 21.21 | Tons | 11/01/02 | 147889 | 16.00 | 339.36 |
| 22.11 | Tons | 11/01/02 | 148023 | 16.00 | 353.76 |
| 20.96 | Tons | 11/01/02 | 148036 | 16.00 | 335.36 |
| 21.36 | Tons | 11/01/02 | 148045 | 16.00 | 341.76 |

4047/Eastern Trucking, Inc.

**Total** $5,925.44

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/14/2002 | 4828 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 11/14/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 23.79 | Tons | 11/09/02 | 45315 | 28.00 | 666.12 |
| 24.34 | Tons | 11/13/02 | 45624 | 28.00 | 681.52 |
| 21.81 | Tons | 11/14/02 | 45697 | 28.00 | 610.68 |

4068/Herberton

**Total** $1,958.32

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/15/2002 | 4834 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | MP | 11/18/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 20.79 | Tons | 11/09/02 | 149021 | 16.00 | 332.64 |
| 20.69 | Tons | 11/12/02 | 149457 | 16.00 | 331.04 |
| 21.41 | Tons | 11/14/02 | 149698 | 16.00 | 342.56 |
| 21.48 | Tons | 11/14/02 | 149741 | 16.00 | 343.68 |
| 21.23 | Tons | 11/15/02 | 149806 | 16.00 | 339.68 |
| 22.16 | Tons | 11/15/02 | 149858 | 16.00 | 354.56 |
| 21.21 | Tons | 11/15/02 | 149953 | 16.00 | 339.36 |

4047/Eastern Trucking, Inc.

**Total** $2,383.52

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 11/27/2002 | 4847 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 11/27/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 22.01 | Tons | 11/23/02 | 046742 | 28.00 | 616.28 |
| 22.87 | Tons | 11/25/02 | 046805 | 28.00 | 640.36 |
| 20.86 | Tons | 11/26/02 | 046969 | 28.00 | 584.08 |
| 22.2 | Tons | 11/27/02 | 047128 | 28.00 | 621.60 |

4070/ Nestor

**Total** $2,462.32

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/4/2002 | 4856 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/4/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.99 | Tons | 12/02/02 047431 | 28.00 | 643.72 |
| 22.1 | Tons | 12/03/02 047569 | 28.00 | 618.80 |
| 22.23 | Tons | 12/03/02 047586 | 28.00 | 622.44 |
| | | PATERSON TO KERSEY | | |
| 21.77 | Tons | 12/02/02 152094 | 16.00 | 348.32 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $2,233.28

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/9/2002 | 4860 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/9/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.09 | Tons | 12/05/02 047757 | 28.00 | 618.52 |
| 22.35 | Tons | 12/07/02 0478051 | 28.00 | 625.80 |
| | | PATERSON TO KERSEY | | |
| 21.57 | Tons | 11/29/02 151603 | 16.00 | 345.12 |
| 21.08 | Tons | 12/04/02 152202 | 16.00 | 337.28 |
| 21.73 | Tons | 12/05/02 152284 | 16.00 | 347.68 |
| | | FAIRVIEW TO CONESTOGA | | |

4047/Eastern Trucking, Inc.

**Total** $2,274.40

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/18/2002 | 4869 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/18/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.77 | Tons | 12/14/02 | 153508 | 16.00 | 348.32 |
| 21.67 | Tons | 12/16/02 | 153641 | 16.00 | 346.72 |
| 21.79 | Tons | 12/16/02 | 153741 | 16.00 | 348.64 |
| 21.31 | Tons | 12/17/02 | 153898 | 16.00 | 340.96 |

4047/Eastern Trucking, Inc.

**Total** $1,384.64

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/23/2002 | 4875 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/23/2002 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.59 | Tons | 12/13/02 | 153450 | 16.00 | 345.44 |
| 20.7 | Tons | 12/19/02 | 154201 | 16.00 | 331.20 |

4047/Eastern Trucking, Inc.

**Total** $676.64

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 12/27/2002 | 4880 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/27/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 22.57 | Tons | 12/21/02 049231 | 28.00 | 631.96 |

4045/Paulo

**Total** $631.96

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 1/3/2003 | 4887 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 1/3/2003 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 23.08 | Tons | 01/02/03 049993 | 28.00 | 646.24 |

4045/Paulo

**Total** $646.24

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 1/14/2003 | 4892 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 1/14/2003 | | |

| QTY | ITEM | DESCRIPTION | | RATE | AMOUNT |
|---|---|---|---|---|---|
| 21.22 | Tons | 01/08/03 | 156258 | 16.00 | 339.52 |
| 21.77 | Tons | 01/10/03 | 156650 | 16.00 | 348.32 |
| 22.22 | Tons | 01/10/03 | 156545 | 16.00 | 355.52 |

4047/Eastern Trucking, Inc.

**Total** $1,043.36

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 1/17/2003 | 4893 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 1/17/2003 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 23.61 | Tons | 01/11/03 050767 | 28.00 | 661.08 |

4045/Paulo

**Total** $661.08

Bal due $ 50.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/5/2004 | 5181 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 11/13/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 6 | NEW TIRES | NEW FIRESTONE 11R225 TIRES | 249.00 | 1,494.00 |
| 6 | DISMOUNT | DISMOUNT- REMOUNT ON RIMS | 10.00 | 60.00 |
| 6 | DISPOSALS | DISPOSAL 6 TIRES | 7.00 | 42.00 |
| 4 | Labor | Labor | 55.00 | 220.00 |

Thank you for your business.

EXHIBIT
D

**Total** $1,816.00

DFH ENVIRONMENTAL, INC.

PO BOX 985
DOVER, NJ 07801
TEL. (973) -925-2100
FAX. (973) -925-2900

# Invoice

| DATE | INVOICE # |
|---|---|
| 5/5/2004 | 5179 |

| BILL TO | SHIP TO |
|---|---|
| Kephart Trucking, Co.<br>Rt.322 West<br>Bigler, PA 16825 | |

| P.O. NO. | TERMS | REP | SHIP DATE | SHIP VIA | PROJECT |
|---|---|---|---|---|---|
| | Net 15 | DFH | 12/13/2002 | | |

| QTY | ITEM | DESCRIPTION | RATE | AMOUNT |
|---|---|---|---|---|
| 6 | NEW TIRES | NEW FIRESTONE 11R225 TIRES | 249.00 | 1,494.00 |
| 6 | DISPOSALS | DISPOSAL 6 TIRES | 7.00 | 42.00 |
| 5 | DISMOUNT | DISMOUNT- REMOUNT ON RIMS | 15.00 | 75.00 |
| 4 | Labor | Labor | 55.00 | 220.00 |

Thank you for your business.

**Total** $1,831.00

DFH ENVIRONMENTAL SERVICES, INC
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

# FAX TRANSMITTAL SHEET.

TO: Mr. David Kilhart

COMPANY: Kilhart Trucking

FAX #: 814-857-7250

FROM: Mr. David Heffman

DATE: 11/12/2001

TIME:

FAX # 973-925-2100

# OF PAGES TO FOLLOW (INCLUDING COVER SHEET): ____

IF THERE ARE ANY PROBLEMS WITH THIS TRANSMITTAL, PLEASE CALL 973-925-2100

David, Please fax back lease-purchase agreements. Also attached please find draft transportation agreement. Things I'm still not sure about and have not included are:

Fuel, inspections
cost of insurance, registration; 901's

Please call with questions
Thanks
David

EXHIBIT
1

phart Trucking Co.
O. Box 388
gler, PA 16825

KEPHART

Phone: (814) 857-7704
Fax: (814) 857-7250

FACSIMILE TRANSMISSION COVER PAGE

DATE SENT: 11/12 TIME SENT: 5:40 PM

TO: DFH

Attn: DAVE HOFFMAN

FAX NUMBER: 973-925-2900

FROM: DAVE KEPHART

FAX NUMBER: (814) 857-7250

DESCRIPTION OF DOCUMENTS: LEASE

NUMBER OF PAGES TRANSMITTED AFTER COVER PAGE: 8

CONTACT SENDER AT THE PHONE NUMBER LISTED ABOVE FOR ANY QUESTIONS REGARDING THIS TRANSMISSION.

EXHIBIT 2

# EQUIPMENT LEASE AGREEMENT

THIS EQUIPMENT LEASE AGREEMENT ("Agreement" and/or "Lease") is by and between KEPHART TRUCKING CO., a Pennsylvania Corporation, having its principal place of business at P. O. Box 386, Bigler, Pennsylvania, 16825, referred to hereinafter as "LESSOR",

AND

DFH Environmental
P.O. Box 985
Dover, NJ 07801

referred to hereinafter as "LESSEE".

WITNESSETH:

1. Trailer Lease and Rental - LESSOR hereby agrees to Lease to LESSEE, and LESSEE hereby agrees to Lease from LESSOR, the trailers specified in Schedule A, attached hereto, at the rental charge per trailer, as set forth in said Schedule A. When used in this Agreement, the term "trailer" shall mean a trailer Leased hereunder with all equipment included on the trailer on the time of the signing of this Agreement.

2. Condition of Trailers - LESSEE hereby warrants that he has carefully inspected the trailers that are the subject of this Lease and has noted any defects or flaws in the condition of the said trailers, as shown by Schedule B(s), attached hereto. The parties agree that the trailers are leased strictly on an "AS IS WHERE IS" basis, whereby LESSEE is bearing the risk and responsibility for repairs, including major repairs or an accident, that is required on the said trailers from the date of the signing of this Agreement until the trailers are returned or the Lease is otherwise lawfully terminated. Lessee acknowledges that the rental charge and the residual value for the trailers at the end of the rental term are set at a price that is based upon the "as is where is" condition of the trailers and Lessee has the entire responsibility for repairs of the trailers without there being any warranties from Lessor.

3. Ownership of Trailers - This Agreement is an agreement of lease only and may not be construed as a contract for the sale of the said trailers. LESSEE acknowledges that LESSOR is the owner of the trailers hereunder, and that the trailers are subject to encumbrances and/or liens on the title of the trailers. LESSEE further agrees that he does not acquire any legal entitlement or equity in the leased trailers but shall merely have the possessory right to use and operate the trailers, with the possessory right being forfeited upon the default, termination or expiration of this Lease as provided under the terms and conditions of this Agreement.

4. Prohibition Against Leasing or Subleasing - Without the written consent of LESSOR, LESSEE may not lease or sublease the trailers covered by this Agreement.

5. Payment of Rent - LESSEE shall make payment of rent at the rate specified in Schedule A. In order to facilitate payment, LESSEE agrees to sign Schedule C, which directs the automatic payment to LESSOR. LESSOR shall keep an orderly account of the monies received from such payments, and will properly credit LESSEE's account when payment is made. In the event that LESSEE fails to make his payments at the time specified in Schedule A, a late charge shall be assessed, in addition to the rent, in the amount of one and one-half (1 1/2%) percent per month on all arrears that are owed. This late charge shall be in addition to all rights and remedies that LESSOR has if LESSEE is in default of his obligations under this Agreement.

6. Registration, Insurance and Licensing - LESSEE shall be responsible for paying the cost of collision and comprehensive insurance, covering fire and theft, for the trailers covered by this Lease. As an administrative convenience, if the LESSEE desires, LESSOR will arrange for such insurance coverage and invoice LESSEE for this expense. LESSOR shall furnish periodic updates of what the cost of insurance is, with such insurance to have a $1,000.00 deductible. LESSEE shall be responsible for payment of such deductible when due. The loss beneficiary for such insurance policy shall be designated as LESSOR. The cost of the insurance, if paid for by LESSOR, shall be directly assessed to LESSEE and included in the payments owed to LESSOR. Any time there is an expenditure or change in rating for the insurance, pertaining to the said trailers, LESSOR shall promptly notify LESSEE of the charges. LESSEE warrants that he will take all steps necessary to properly process any and all claims for insurance covering the said trailers.

7. Taxes - LESSEE shall pay and bear all federal, state and local taxes including sales, use, personal or property tax covering the said trailers.

8. Repairs and Maintenance - It shall be the responsibility of LESSEE to keep and maintain the said leased trailers in good operating condition, including major repairs and damage caused by an accident. LESSEE shall make all necessary repairs and replacements to the said trailers to the extent that they are needed. Repairs shall include tires, lubricants, and any and all replacement parts necessary to enable the trailers to properly operate. Failure to provide maintenance as provided herein shall be considered a default under this lease. LESSOR shall have the right to inspect the said trailers to determine whether LESSEE has satisfied his duty to maintain and repair the trailers, and may enter onto the property of LESSEE in order to perform such an inspection.

9. Return of Leased Trailers - Upon the expiration or termination of this Lease for any cause, said trailers shall be returned forthwith and without delay to LESSOR's principal place of business in Bigler, Pennsylvania. Except for ordinary wear and tear, the trailers shall be returned in the same condition as when this Lease was initially undertaken. LESSEE shall be responsible for providing for the transportation for the return of the trailers, as well as any and all costs associated with the trailers if LESSEE does not return the trailers himself. LESSOR reserves the right to charge LESSEE for the cost of transporting, cleaning, repairing or reconditioning the said unit after it is returned, if LESSEE has failed to properly maintain and repair it.

10. Indemnification - LESSEE shall defend, indemnify and hold LESSOR harmless, including its officers, directors, employees and representatives, from and against any and all damages, loss, theft or destruction to the said trailers, and against all losses, liabilities, damages, injuries and claims of any nature, including legal fees and costs, arising out of the operation of the said trailers under this Lease. LESSEE agrees to pay the cost of attorneys' fees that LESSOR occurs as a result of LESSEE's failure to comply with any term or condition of this Agreement.

11. Default by LESSEE - If LESSEE fails to pay in full on the due date any payment due hereunder, or if in the event of bankruptcy or insolvency by LESSEE, or the failure of LESSEE to comply with any term or condition of this Agreement, the LESSOR shall have the right to take immediate possession of the trailers wherever found, with or without process of law, and to terminate the Lease with respect to said trailers, and the LESSEE expressly authorizes LESSOR and its agents to enter on any premises where the trailers may be located for the purpose of repossessing the said trailers. In the event there is a default or termination of this Lease, LESSEE expressly waives any further interest in the trailers and any right of action arising out of the entry and repossession of the said trailers by LESSOR. If LESSOR is in default of any term or condition of this Agreement, or if LESSOR fails to comply with all lawful terms and conditions imposed upon him under the terms of this Agreement, the full term of this Lease shall be immediately due and payable. This remedy shall be in addition to the right of repossession as provided herein. In the event there is a default, LESSOR shall be entitled to retain all monies held in an escrow account, as a set off against payments that are due to LESSOR, provided that if escrow funds are used in this way, full and complete accounting shall be made to LESSEE.

12. Obligations of LESSEE Under This Agreement - During the duration of this Agreement, in addition to the terms and conditions set forth in this Agreement, LESSEE shall at all times comply with the following requirements:

a. Use the said trailers in a common carrier operation so as to make it eligible for a sales tax exemption under Pennsylvania law.

b. Permit the trailers to be operated only by a properly licensed driver in full compliance with all pertinent DOT safety regulations.

c. Perform all repairs needed to insure that the said trailers is always in a road worthy condition.

d. Comply with all pertinent federal, state, and local laws.

e. Make all payments in accordance with the various Schedules attached to this Agreement and in accordance with invoices sent to it by LESSOR covering charges that are assessable under the terms of this Agreement.

13. Option of LESSEE – Upon the termination of this Agreement, LESSEE shall have the right to purchase the said unit by paying the residual value specified in Schedule D. The right to purchase the said trailers by obtaining the residual value shall exist only if LESSEE has complied with all terms and conditions of this Agreement and has paid the full payment throughout the entire term of this Lease. LESSEE shall be responsible for all expenses associated with exercising his option to purchase the trailers by paying the sum of money specified in Schedule D, attached hereto.

14. Pennsylvania Law to Apply - In the event that questions should arise concerning the application or meaning of any term or provision of this Agreement, the laws of the Commonwealth of Pennsylvania shall apply.

IN WITNESS WHEREOF, the parties hereunto have signed this Agreement on the date specified below, doing so with the intention of being legally bound.

LESSOR:

KEPHART TRUCKING CO.

By: _____

Date: _____

LESSEE:

DFH Environmental

By : _____

Date: _____

# SCHEDULE A

## Specifications for Trailers and Summary of Rental Terms

A. SUMMARY OF TERMS

1. Year of Make: 2000
2. Name of Manufacturer: East
3. Model Number: Tipper
4. VIN Number:
5. Additional Equipment:
6. Rental Charge: $336.48/week
7. Date for Payment:
8. Term of Agreement (Number of Months): 24 months

B. TOTAL MONTHLY PAYMENT

1. Rental: $336.48
2. Insurance:
3. Miscellaneous

TOTAL:

LESSOR:

KEPHART TRUCKING CO.

By:

Date:

LESSEE:

DFH Environmental

By:

Date:

## SCHEDULE B
Initial Inspection of Trailer

Attached hereto is the initial inspection of the trailer leased under this Agreement. It is recognized that the trailer is leased on an "as is where is" basis.

LESSOR:

KEPHART TRUCKING CO.

By: _____

Date: _____

LESSEE:

DFH Environmental

By: _____

Date: _____

## SCHEDULE C
### Assignment of Payment

I, the undersigned individual, hereby direct that monthly payments in the amount specified below be automatically withheld from any settlement/payment due to me and paid directly to Kephart Trucking Co.

Name and address of trucking company to whom payment is directed:

Kephart Trucking Co.

PO BOX 386

Bigler Pa. 16825

Amount of Monthly Payment: $_____

_____
(Printed Name)

_____
(Signature)

Date: _____

SCHEDULE D
Residual Value

The residual value for the trailers identified in Schedule A is: $ $1.00

DFH ENVIRONMENTAL SERVICES, INC.
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

# FAX TRANSMITTAL SHEET.

TO: Mr. David Kephart

COMPANY Kephart Trucking

FAX #: 814-857-7250

FROM: Mr. David Hoffman

DATE: 12/17/2002

TIME:

FAX # 973-925-2100

# OF PAGES TO FOLLOW (INCLUDING COVER SHEET): 2

IF THERE ARE ANY PROBLEMS WITH THIS TRANSMITTAL,
PLEASE CALL 973-925-2100

David,
ATTACHED PLEASE FIND THE LEASE PURCHASE AGREEMENT WITH CHANGES FROM THE
ORIGINAL. SCHEDULE "A" HAS MY OFFER PRICE OF $224 FOR 36 MONTHS
WITH WHAT WE CAN OF COURSE DISCUSS. I'LL CALL YOU TOMORROW. PLEASE
LOOK INTO THE OLD RECONDITIONING MATTERS FOR ME.

THANKS
DAVID

EXHIBIT
3

# EQUIPMENT LEASE AGREEMENT

THIS EQUIPMENT LEASE AGREEMENT ("Agreement" and/or "Lease") is by and between KEPHART TRUCKING CO., a Pennsylvania Corporation, having its principal place of business at P. O. Box 386, Bigler, Pennsylvania, 16825, referred to hereinafter as "LESSOR",

AND

DFH Environmental
P.O. Box 985
Dover, NJ 07801

referred to hereinafter as "LESSEE".

WITNESSETH:

1. Trailer Lease and Rental - LESSOR hereby agrees to Lease to LESSEE, and LESSEE hereby agrees to Lease from LESSOR, the trailers specified in Schedule A, attached hereto, at the rental charge per trailer, as set forth in said Schedule A. When used in this Agreement, the term "trailer" shall mean a trailer Leased hereunder with all equipment included on the trailer on the time of the signing of this Agreement.

2. Condition of Trailers - LESSEE hereby warrants that he has carefully inspected the trailers that are the subject of this Lease and has noted any defects or flaws in the condition of the said trailers, as shown by Schedule B(s), attached hereto. The parties agree that the trailers are leased strictly on an "AS IS WHERE IS" basis, whereby LESSEE is bearing the risk and responsibility for repairs, including major repairs or an accident, that is required on the said trailers from the date of the signing of this Agreement until the trailers are returned or the Lease is otherwise lawfully terminated. Lessee acknowledges that the rental charge and the residual value for the trailers at the end of the rental term are set at a price that is based upon the "as is where is" condition of the trailers and Lessee has the entire responsibility for repairs of the trailers without there being any warranties from Lessor.

3. Ownership of Trailers - This Agreement is an agreement of lease only and may not be construed as a contract for the sale of the said trailers. LESSEE acknowledges that LESSOR is the owner of the trailers hereunder, and that the trailers are subject to encumbrances and/or liens on the title of the trailers. LESSEE further agrees that he does not acquire any legal entitlement or equity in the leased trailers but shall merely have the possessory right to use and operate the trailers, with the possessory right being forfeited upon the default, termination or expiration of this Lease as provided under the terms and conditions of this Agreement.

4. Prohibition Against Leasing or Subleasing - Without the written consent of LESSOR, LESSEE may not lease or sublease the trailers covered by this Agreement.

5. Payment of Rent - LESSEE shall make payment of rent at the rate specified in Schedule A. In order to facilitate payment, LESSEE agrees to sign Schedule C, which directs the automatic payment to LESSOR. LESSOR shall keep an orderly account of the monies received from such payments, and will properly credit LESSEE's account when payment is made. In the event that LESSEE fails to make his payments at the time specified in Schedule A, a late charge shall be assessed, in addition to the rent, in the amount of one and one-half (1 1/2%) percent per month on all arrears that are owed. This late charge shall be in addition to all rights and remedies that LESSOR has if LESSEE is in default of his obligations under this Agreement.

6. Registration, Insurance and Licensing - LESSEE shall be responsible for paying the cost of collision and comprehensive insurance, covering fire and theft, for the trailers covered by this Lease. As an administrative convenience, if the LESSEE desires, LESSOR will arrange for such insurance coverage and invoice LESSEE for this expense. LESSOR shall furnish periodic updates of what the cost of insurance is, with such insurance to have a $1,000.00 deductible. LESSEE shall be responsible for payment of such deductible when due. The loss beneficiary for such insurance policy shall be designated as LESSOR. The cost of the insurance, if paid for by LESSOR, shall be directly assessed to LESSEE and included in the payments owed to LESSOR. Any time there is an expenditure or change in rating for the insurance, pertaining to the said trailers, LESSOR shall promptly notify LESSEE of the charges. LESSEE warrants that he will take all steps necessary to properly process any and all claims for insurance covering the said trailers.

7. Taxes - LESSEE shall pay and bear all federal, state and local taxes including sales, use, personal or property tax covering the said trailers.

8. Repairs and Maintenance - It shall be the responsibility of LESSEE to keep and maintain the said leased trailers in good operating condition, including major repairs and damage caused by an accident. LESSEE shall make all necessary repairs and replacements to the said trailers to the extent that they are needed. Repairs shall include tires, lubricants, and any and all replacement parts necessary to enable the trailers to properly operate. Failure to provide maintenance as provided herein shall be considered a default under this lease. LESSOR shall have the right to inspect the said trailers to determine whether LESSEE has satisfied his duty to maintain and repair the trailers, and may enter onto the property of LESSEE in order to perform such an inspection.

9. Return of Leased Trailers - Upon the expiration or termination of this Lease for any cause, said trailers shall be returned forthwith and without delay to LESSOR's principal place of business in Bigler, Pennsylvania. Except for ordinary wear and tear, the trailers shall be returned in the same condition as when this Lease was initially undertaken. LESSEE shall be responsible for providing for the transportation for the return of the trailers, as well as any and all costs associated with the trailers if LESSEE does not return the trailers himself. LESSOR reserves the right to charge LESSEE for the cost of transporting, cleaning, repairing or reconditioning the said unit after it is returned, if LESSEE has failed to properly maintain and repair it.

10. Indemnification - LESSEE shall defend, indemnify and hold LESSOR harmless, including its officers, directors, employees and representatives, from and against any and all damages, loss, theft or destruction to the said trailers, and against all losses, liabilities, damages, injuries and claims of any nature, including legal fees and costs, arising out of the operation of the said trailers under this Lease. LESSEE agrees to pay the cost of attorneys' fees that LESSOR occurs as a result of LESSEE's failure to comply with any term or condition of this Agreement.

11. Default by LESSEE - If LESSEE fails to pay in full on the due date any payment due hereunder, or if in the event of bankruptcy or insolvency by LESSEE, or the failure of LESSEE to comply with any term or condition of this Agreement, the LESSOR shall have the right to take immediate possession of the trailers wherever found, with or without process of law, and to terminate the Lease with respect to said trailers, and the LESSEE expressly authorizes LESSOR and its agents to enter on any premises where the trailers may be located for the purpose of repossessing the said trailers. In the event there is a default or termination of this Lease, LESSEE expressly waives any further interest in the trailers and any right of action arising out of the entry and repossession of the said trailers by LESSOR. If LESSOR is in default of any term or condition of this Agreement, or if LESSOR fails to comply with all lawful terms and conditions imposed upon him under the terms of this Agreement, the full term of this Lease shall be immediately due and payable. This remedy shall be in addition to the right of repossession as provided herein. In the event there is a default, LESSOR shall be entitled to retain all monies held in an escrow account, as a set off against payments that are due to LESSOR, provided that if escrow funds are used in this way, full and complete accounting shall be made to LESSEE.

12. Obligations of LESSEE Under This Agreement - During the duration of this Agreement, in addition to the terms and conditions set forth in this Agreement, LESSEE shall at all times comply with the following requirements:

a. Use the said trailers in a common carrier operation so as to make it eligible for a sales tax exemption under Pennsylvania law.

b. Permit the trailers to be operated only by a properly licensed driver in full compliance with all pertinent DOT safety regulations.

c. Perform all repairs needed to insure that the said trailers is always in a road worthy condition.

d. Comply with all pertinent federal, state, and local laws.

e. Make all payments in accordance with the various Schedules attached to this Agreement and in accordance with invoices sent to it by LESSOR covering charges that are assessable under the terms of this Agreement.

13. Option of LESSEE - Upon the termination of this Agreement, LESSEE shall have the right to purchase the said unit by paying the residual value specified in Schedule D. The right to purchase the said trailers by obtaining the residual value shall exist only if LESSEE has complied with all terms and conditions of this Agreement and has paid the full payment throughout the entire term of this Lease. LESSEE shall be responsible for all expenses associated with exercising his option to purchase the trailers by paying the sum of money specified in Schedule D, attached hereto.

14. Pennsylvania Law to Apply - In the event that questions should arise concerning the application or meaning of any term or provision of this Agreement, the laws of the Commonwealth of Pennsylvania shall apply.

IN WITNESS WHEREOF, the parties hereunto have signed this Agreement on the date specified below, doing so with the intention of being legally bound.

LESSOR:

KEPHART TRUCKING CO.

By: _____

Date: _____

LESSEE:

DFH Environmental

By: _____

Date: _____

# SCHEDULE A

## Specifications for Trailers and Summary of Rental Terms

A. SUMMARY OF TERMS

1. Year of Make: 2000
2. Name of Manufacturer: East
3. Model Number: Tipper
4. VIN Number:
5. Additional Equipment:
6. Rental Charge: $336.48/week
7. Date for Payment:
8. Term of Agreement (Number of Months): 24 months

{224.30/wk

36 MONTHS

B. TOTAL MONTHLY PAYMENT

1. Rental: $336.48
2. Insurance:
3. Miscellaneous

TOTAL:

LESSOR:

KEPHART TRUCKING CO.

By:

Date:

LESSEE:

DFH Environmental

By:

Date:

## SCHEDULE B

Initial Inspection of Trailer

Attached hereto is the initial inspection of the trailer leased under this Agreement. It is recognized that the trailer is leased on an "as is where is" basis.

**LESSOR:**

KEPHART TRUCKING CO.

By: _____

Date: _____

**LESSEE:**

DFH Environmental

By: _____

Date: _____

## SCHEDULE C
### Assignment of Payment

I, the undersigned individual, hereby direct that monthly payments in the amount specified below be automatically withheld from any settlement/payment due to me and paid directly to Kephart Trucking Co.

Name and address of trucking company to whom payment is directed:

Kephart Trucking Co.

PO BOX 386

Bigler Pa. 16825

Amount of Monthly Payment: $_____

_____
(Printed Name)

_____
(Signature)

Date: _____

SCHEDULE D
Residual Value

The residual value for the trailers identified in Schedule A is: $ $1.00

DFH ENVIRONMENTAL SERVICES, INC.
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

04/25/2002

Kephart Trucking, Co.
Rt.322 West
Bigler, PA 16825
Dear Mark:

As of April 25, 2002 Kephart Trucking, Co. has a balance of $ 946.32 on short payments for DFH Environmental, Inc. Invoices. The following invoices showing balance amount of short payments:

| Inv. No. | Inv. Date | Due Date | Inv. Amount | Balance |
|---|---|---|---|---|
| 4193 | 11/26/2001 | 12/11/2001 | $3,780.28 | $47.32 |
| 4207 | 12/03/2001 | 12/18/2001 | $3,845.80 | $0.36 |
| 4231 | 12/17/2001 | 01/01/2002 | $40.00 | $40.00 |
| 4263 | 12/28/2001 | 01/12/2002 | $679.00 | $15.68 |
| 4267 | 12/31/2001 | 01/15/2002 | $2,262.68 | $20.16 |
| 4268 | 12/31/2001 | 01/15/2002 | $2,240.00 | $126.28 |
| 4273 | 01/07/2002 | 01/22/2002 | $7,021.56 | $19.32 |
| 4285 | 01/14/2002 | 01/29/2002 | $2,333.52 | $20.72 |
| 4308 | 01/25/2002 | 02/09/2002 | $3,765.16 | $18.48 |
| 4310 | 01/30/2002 | 02/14/2002 | $2,397.36 | $5.76 |
| 4315 | 01/30/2002 | 02/14/2002 | $1,694.28 | $27.16 |
| 4316 | 01/30/2002 | 02/14/2002 | $3,509.80 | $18.48 |
| 4352 | 02/12/2002 | 02/27/2002 | $1,622.56 | $3.36 |
| 4393 | 02/27/2002 | 03/14/2002 | $560.00 | $2.52 |
| 4403 | 03/01/2002 | 03/16/2002 | $1,690.64 | $23.80 |
| 4421 | 03/08/2002 | 03/23/2002 | $1,715.68 | $320.00 |
| 4425 | 03/12/2002 | 03/27/2002 | $1,120.00 | $239.12 |
| 4440 | 03/19/2002 | 04/03/2002 | $3,635.36 | $1.76 |
| 4443 | 03/19/2002 | 04/03/2002 | $3,917.00 | $19.84 |

Please send a payment in the amount o $ 946.32 to clear these long overdue balances. If these I any reason that of these balances will not be paid please respond in writing.

Thank you for your prompt attention to this matter.

Sincerely,

Maria Pawlak
Accounts Receiable
DFH ENVIRONMENTAL, INC.

EXHIBIT
4

DFH ENVIRONMENTAL SERVICES, INC.
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

MARIA, IF YOU REQUIRED NO RESPONSE YOU NEED TO TYPE (ON THE COMPUTER) A LETTER TO TIM. CARBON COPY THE ACCOUNTANT AT KEPHART AND MYSELF. SHOW ME A DRAFT BEFORE YOU ~~SEND~~ SEND/FAX LETTER.

FAX TRANSMITTAL SHEET

TO: Tim

COMPANY: Kephart

FAX #: 814 857 7250

FROM: Maria

DATE: 7/23/02

TIME: 11:34 AM

FAX # 973-925-2100

# OF PAGES TO FOLLOW (INCLUDING COVER SHEET): 2

IF THERE ARE ANY PROBLEMS WITH THIS TRANSMITTAL, PLEASE CALL 973-925-2100

Tim, please I need collect monies for Invoices Bank Change and Inv # 4579 Repairs

Thank you

Maria

EXHIBIT 5

07/23/02

# DFH ENVIRONMENTAL, INC.
## Customer Open Balance
### All Transactions

| Type | Date | Num | Memo | Due Date | Open Balance |
|---|---|---|---|---|---|
| | KEPHART ACCOUNT | | | | |
| Invoice | 12/17/2001 | 4231 | | 01/01/2002 | 40.00 BANK CHARGES |
| Invoice | 12/31/2001 | 4268 | | 01/15/2002 | 124.44 SHORT PAYMENT |
| Invoice | 01/14/2002 | 4285 | | 01/29/2002 | 20.72 SHORT PAYMENT |
| Invoice | 01/25/2002 | 4308 | | 02/09/2002 | 18.48 SHORT PAYMENT |
| Invoice | 01/30/2002 | 4315 | | 02/14/2002 | 27.16 SHORT PAYMENT |
| Invoice | 01/30/2002 | 4316 | | 02/14/2002 | 18.48 SHORT PAYMENT |
| Invoice | 02/20/2002 | 4378 | | 03/07/2002 | 438.00 BANK CHARGES |
| Invoice | 03/01/2002 | 4403 | | 03/16/2002 | 23.80 SHORT PAYMENT |
| Invoice | 03/05/2002 | 4410 | | 03/20/2002 | 447.40 SHORT PAYMENT |
| Invoice | 03/05/2002 | 4411 | | 03/20/2002 | 324.16 |
| Invoice | 03/12/2002 | 4425 | | 03/27/2002 | 239.12 SHORT PAYMENT |
| Invoice | 03/15/2002 | 4431 | | 03/30/2002 | 434.00 BANK CHARGES |
| Invoice | 03/18/2002 | 4436 | | 04/02/2002 | 97.00 BANK CHARGES |
| Invoice | 03/18/2002 | 4438 | | 04/02/2002 | 190.00 BANK CHARGES |
| Invoice | 03/19/2002 | 4443 | | 04/03/2002 | 19.84 SHORT PAYMENT |
| Invoice | 03/20/2002 | 4444 | | 04/04/2002 | 434.00 BANK CHARGES |
| Invoice | 03/20/2002 | 4445 | | 04/04/2002 | 50.00 BANK CHARGES |
| Invoice | 03/25/2002 | 4453 | | 04/09/2002 | 60.00 BANK CHARGES |
| Invoice | 03/26/2002 | 4455 | | 04/10/2002 | 50.00 BANK CHARGES |
| Invoice | 04/09/2002 | 4474 | | 04/24/2002 | 217.00 BANK CHARGES |
| Invoice | 04/09/2002 | 4475 | | 04/24/2002 | 370.00 BANK CHARGES |
| Invoice | 04/11/2002 | 4482 | | 04/26/2002 | 425.00 BANK CHARGES |
| Invoice | 04/15/2002 | 4489 | | 04/30/2002 | 0.64 SHORT PAYMENT |
| Invoice | 04/16/2002 | 4490 | | 05/01/2002 | 635.60 |
| Invoice | 04/16/2002 | 4491 | | 05/01/2002 | 93.00 BANK CHARGES |
| Invoice | 04/16/2002 | 4493 | | 05/01/2002 | 31.00 BANK CHARGES |
| Invoice | 05/31/2002 | 4570 | | 06/15/2002 | 25.00 SHORT PAYMENT |
| Invoice | 05/31/2002 | 4571 | | 06/15/2002 | 14.24 SHORT PAYMENT |
| Invoice | 06/07/2002 | 4579 | | 06/22/2002 | 825.00 REPAIRS |
| Invoice | 06/24/2002 | 4618 | | 07/09/2002 | 16.64 SHORT PAYMENT |
| | | | | | 5,709.72 |
| | | | | | 5,709.72 |

**DFH ENVIRONMENTAL SERVICES, INC.**
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

Kephart Trucking, Inc.
Rt 322 West
Bigler, PA 16825

SECOND REQUEST

Attn: Tim Kephart

Re: Open DFH Invoices for Bank Charges

I faxed to you on July 23, 2002 report all open balances on the DFH Invoices for Bank Charges occurred by insufficient Kephart checks made as a payment to DFH and I do not received any response on this problem, please review this fax and send a check to:

DFH Environmental, Inc.
P.O. Box 985
Dover, NJ 07801

Sincerely,

Maria Pawlak
Accounts Receivable

Cc: David F. Hoffman, President DFH
Mark, Accountant for Kephart

EXHIBIT
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**DFH ENVIRONMENTAL SERVICES, INC.**
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

September 10, 2002

Kephart Trucking, Inc.
Rt 322 West
Bigler, PA 16825

THIRD REQUEST. PENDING FURTHER ACTION

Attn: Tim Kephart

Re: Open DFH Invoices for Bank Charges

I faxed to you on July 23, 2002 report on all open balances on the DFH Invoices for Bank Charges occurred by insufficient Kephart checks made as a payment to DFH and I do not received any response on this problem, please review this fax and send a check to:

DFH Environmental, Inc.
P.O. Box 985
Dover, NJ 07801

Sincerely,

Maria Pawlak
Accounts Receivable

Cc: David F. Hoffman, President DFH
Mark, Accountant for Kephart

EXHIBIT
7

DFH ENVIRONMENTAL SERVICES, INC.
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

September 16, 2002

Kephart Trucking, Co.
Rt 322 West
Bigler, Pa 16825

Re: Invoice # 4490

Dear Elizabeth:

Please review Invoice # 4490 and copies of load with manifest # 297223. DFH still have open balance for this Invoice, load is from 2001 but is not the reason that DFH will not get the pays. Please try sending the payment ASAP.

Sincerely,

Maria Pawlak
A/R

EXHIBIT
8

**KEPHART TRUCKING CO.**
P.O. Box 386
Bigler, PA 16825-0386

KEPHART

Phone: (814) 857-7704
Fax: (814) 857-7250

September 23, 2002

DFH Environmental Services, Inc.
P.O. Box 985
Dover, New Jersey 07801

Attn: Maria

Per your letter of September 16, 2002 concerning the invoice # 4490, as in the past, Maria, we did not get paid for this load, so therefore, we cannot pay you.

I ask Mr. Kephart concerning this invoice and he stated that we would not be paid for this load, so therefore, we would not be paying you because of the time difference. The tickets are dated for June 29, 2001. I received this invoice on April 17, 2002. Computer systems had changed by that time, pricing changed and we were not given a reason for why it was so late.

I am sorry for the inconvenience, Maria, but as stated on the telephone to you prior to today, we did not get paid, therefore, you will not get paid.

Any questions, please contact us.

Sincerely,

Elizabeth Bussard
Kephart Trucking Co.

EXHIBIT
9

DFH ENVIRONMENTAL SERVICES, INC.
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

November 1, 2002

Kephart Trucking Co.
Rt 322 West
Bigler, PA 16825

Re: Weekly charges for Trailer # 865 and Trailer # 861.

Dear Mr. David Kephart:

Second week DFH Environmental, Inc. received payment less $ 500.00 against weekly rental payments for two Trailers and this withholding is not correct. Lease agreement with President DFH Environmental, Inc was $224.32 for each Trailer not $ 250.00 as per charge. Please advise accounts payable of correct amounts and difference of $ 102.72 apply against next payment.

Sincerely,

Maria Pawlak
A/R

EXHIBIT
10

**DFH ENVIRONMENTAL SERVICES, INC.**
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

January 20, 2003

Mr. Tom Hampton
Kephart Trucking
PO Box 386
Bigler, PA 16825

Via: Fax and US Mail

Re: Telecon 1/20/2003

Dear Mr. Hampton

During our telephone call today you asked me what my intentions are with regard to trailers 861 and 865. It has been my intention since November of 2001 to haul three loads per day six days a week for your company from Paterson or other facilities in New Jersey to Kersey, PA. It has been my further intention to continue to do this for a period of three years from that date (until approximately November of 2004). I have based my intentions upon the agreements that I made with your company to take three of the fifty three foot trailers from your inventory, and the agreement that I made with your company as to the availability of work for this equipment, and the duration of the need for the equipment to be on this project or projects.

I understand that your company is slow now.

In the past when you have been busy I have been able to help your company with more equipment. Now when you are slow I will do what I can to help your company as well, and work together with you to handle this current situation. I believe that we have, and are willing and able to continue to keep our end of the bargain, so long as Kephart continues to maintain the agreement that Kephart made with DFH.

Very truly yours,

Copy

David Hoffman
President

EXHIBIT
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**DFH ENVIRONMENTAL SERVICES, INC.**
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

January 23, 2003

Messrs. David and Tim Kephart
Kephart Trucking
PO Box 386
Bigler, PA 16825

Via: Fax and US Mail

Re: Haulage

Dear Messrs.

On January 23, 2003 I spoke to Mr. Hampton of your staff. He told me that he would not be loading any of DFH's trucks in Paterson, now or in the future. He told me that his supervisors were aware of his action.

While I do not expect Mr. Hampton to contravene the orders of his supervisors, I believe I do expect for us to keep the agreements that we made with one and other. As you will recall I spoke with each of you individually long ago when DFH agreed to take three trailers from your inventory. I agreed with David to take the trailers, and agreed with Tim that you would have sufficient work in Paterson for three trucks and trailers for a period of three years (at the time of our discussions).

Relying to its detriment on the representations and agreements made, DFH made financing agreements, purchased equipment, and made staffing arrangements and commitments for this work. DFH received at your facility two of the three trailers promised. We equipped the trailers with excellent quality new tires. We have properly maintained the two trailers and kept our end of the bargain by utilizing these trailers and trucks for your company.

At this time DFH is suffering economic losses due to the lack of work for these two trucks and trailers. Please rectify this condition. If for some reason you feel you are unable to do so please contact me at your convenience to discuss, and I hope that together we can help each other.

Very truly yours,

Copy

David Hoffman
President

DFH ENVIRONMENTAL SERVICES, INC.
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

February 3, 2003

Messrs. David and Tim Kephart
Kephart Trucking
PO Box 386
Bigler, PA 16825

Via: Fax and US Mail

Re: Haulage

Dear Messrs.

On January 23, 2003 I spoke to Mr. Hampton of your staff. He told me that he would not be loading any of DFH's trucks in Paterson, now or in the future. He told me that his supervisors were aware of his actions.

While I do not expect Mr. Hampton to contravene the orders of his supervisors, I believe I do expect for us to keep the agreements that we made with one and other. As you will recall I spoke with each of you individually long ago when DFH agreed to take three trailers from your inventory. I agreed with David to take the trailers, and agreed with Tim that you would have sufficient work in Paterson for three trucks and trailers for a period of three years (at the time of our discussions).

Relying to its detriment on the representations and agreements made, DFH made financing agreements, purchased equipment, and made staffing arrangements and commitments for this work. DFH received at your facility two of the three trailers promised. We equipped the trailers with excellent quality new tires. We have properly maintained the two trailers and kept our end of the bargain by utilizing these trailers and trucks for your company.

At this time DFH is suffering economic losses due to the lack of work for these two trucks and trailers. Please rectify this condition in some manner. If for some reason you feel you are unable to do so please contact me at your convenience. I hope that we can work together to find a mutually beneficial solution to this current situation.

Very truly yours,

Copy

David Hoffman
President
DH:dh

05/06/04

# DFH ENVIRONMENTAL, INC.
## Customer Open Balance
### All Transactions

| Type | Date | Num | Memo | Due Date | Open Balance | Amount |
|---|---|---|---|---|---|---|
| **Kephart Trucking Co.** | | | | | | |
| Invoice | 3/5/2002 | 4410 | | 3/20/2002 | 447.40 | 4,309.00 |
| Invoice | 3/12/2002 | 4425 | | 3/27/2002 | 239.12 | 1,120.00 |
| Invoice | 3/15/2002 | 4431 | | 3/30/2002 | 434.00 | 434.00 |
| Invoice | 3/18/2002 | 4436 | | 4/2/2002 | 97.00 | 97.00 |
| Invoice | 3/18/2002 | 4438 | | 4/2/2002 | 190.00 | 190.00 |
| Invoice | 3/19/2002 | 4443 | | 4/3/2002 | 14.57 | 3,917.00 |
| Invoice | 3/20/2002 | 4444 | | 4/4/2002 | 434.00 | 434.00 |
| Invoice | 3/20/2002 | 4445 | | 4/4/2002 | 50.00 | 50.00 |
| Invoice | 3/25/2002 | 4453 | | 4/9/2002 | 60.00 | 60.00 |
| Invoice | 3/26/2002 | 4455 | | 4/10/2002 | 50.00 | 50.00 |
| Invoice | 4/9/2002 | 4474 | | 4/24/2002 | 217.00 | 217.00 |
| Invoice | 4/9/2002 | 4475 | | 4/24/2002 | 370.00 | 370.00 |
| Invoice | 4/11/2002 | 4482 | | 4/26/2002 | 425.00 | 425.00 |
| Invoice | 4/16/2002 | 4490 | | 5/1/2002 | 635.60 | 635.60 |
| Invoice | 4/16/2002 | 4491 | | 5/1/2002 | 93.00 | 93.00 |
| Invoice | 4/16/2002 | 4493 | | 5/1/2002 | 31.00 | 31.00 |
| Invoice | 5/31/2002 | 4570 | | 6/15/2002 | 25.00 | 605.64 |
| Invoice | 5/31/2002 | 4571 | | 6/15/2002 | 14.24 | 3,324.32 |
| Invoice | 6/24/2002 | 4618 | | 7/9/2002 | 16.64 | 704.16 |
| Invoice | 10/7/2002 | 4774 | | 10/22/2002 | 500.00 | 4,197.92 |
| Invoice | 10/14/2002 | 4783 | | 10/29/2002 | 532.50 | 6,629.44 |
| Invoice | 10/23/2002 | 4791 | | 11/7/2002 | 500.00 | 1,013.28 |
| Invoice | 10/28/2002 | 4802 | | 11/12/2002 | 500.00 | 1,571.04 |
| Invoice | 11/4/2002 | 4814 | | 11/19/2002 | 500.00 | 5,925.44 |
| Invoice | 11/14/2002 | 4828 | | 11/29/2002 | 500.00 | 1,958.32 |
| Invoice | 11/15/2002 | 4834 | | 11/30/2002 | 500.00 | 2,383.52 |
| Invoice | 11/27/2002 | 4847 | | 12/12/2002 | 517.23 | 2,462.32 |
| Invoice | 12/4/2002 | 4856 | | 12/19/2002 | 500.00 | 2,233.28 |
| Invoice | 12/9/2002 | 4860 | | 12/24/2002 | 500.00 | 2,274.40 |
| Invoice | 12/18/2002 | 4869 | | 1/2/2003 | 500.00 | 1,384.64 |
| Invoice | 12/23/2002 | 4875 | | 1/7/2003 | 500.00 | 676.64 |
| Invoice | 12/27/2002 | 4880 | | 1/11/2003 | 500.00 | 631.96 |
| Invoice | 1/3/2003 | 4887 | | 1/18/2003 | 500.00 | 646.24 |
| Invoice | 1/14/2003 | 4892 | | 1/29/2003 | 450.00 | 1,043.36 |
| Invoice | 1/17/2003 | 4893 | | 2/1/2003 | 50.00 | 661.08 |
| Invoice | 5/5/2004 | 5179 | | 5/20/2004 | 1,831.00 | 1,831.00 |
| Invoice | 5/5/2004 | FC 279 | Finance Charge | 5/5/2004 | 3,888.56 | 3,888.56 |
| Invoice | 5/5/2004 | 5181 | | 5/20/2004 | 1,816.00 | 1,816.00 |
| Total Kephart Trucking Co. | | | | | 18,928.86 | 60,295.16 |
| **TOTAL** | | | | | **18,928.86** | **60,295.16** |

EXHIBIT
12

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

| | | |
|---|---|---|
| DFH ENVIRONMENTAL SERVICES, INC.<br>Plaintiff | ) | |
| | ) | No. 05-541-CD |
| vs. | ) | |
| KEPHART TRUCKING COMPANY,<br>Defendant | ) | |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Pre-Trial Memorandum was deposited in the United States mail, postage prepaid, in Bellefonte, Pennsylvania, on the 26th day of February, 2009, addressed to the following:

Dwight Koerber, Esquire
110 N. Second Street
P.O. Box 1320
Clearfield, PA 16830

Office of Court Administrator
Clearfield County Courthouse
230 E. Market St., Suite 228
Clearfield, PA 16830

Paula Cherry, Esquire
One N. Franklin Street
P.O. Box 505
Dubois, PA 15801

LeaAnn Heltzel, Esquire
100 Meadows Lane
Suite 5
Dubois, PA 15801

Theron Noble, Esquire
301 E. Pine Street
Clearfield, PA 16830

LEE, GREEN & REITER, INC.:

By: Robert A. Mix
Robert A. Mix, Esquire

Arb 3/5


*LAW OFFICES*
*OF*
*DWIGHT L. KOERBER, JR.*
*Attorney at Law*
*110 North Second Street*
*P. O. Box 1320*
*Clearfield, PA 16830*

*Dwight L. Koerber, Jr., Esquire*
*Email: dkoerber@atlanticbb.net*
*Telephone (814) 765-9611*

*Eric E. Cummings, Esquire*
*Email: eecummings@atlanticbb.net*
*Facsimile (814) 765-9503*


February 26, 2009

Ronda J. Wisor, Deputy Court Administrator
COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CLEARFIELD COUNTY COURTHOUSE
230 East Market Street
Clearfield, PA 16830

**Re: DFH Environmental Services, Inc. v. Kephart Trucking Company Docket No. 05-541-CD**

Dear Ms. Wisor:

Enclosed herewith is the Pre-Trial Memorandum (Arbitration) which I am presenting on behalf of Kephart Trucking Co. in the above-referenced case. As shown by the Certificate of Service appended to the Pre-Trial Memorandum, a copy is being served contemporaneously herewith upon opposing counsel and the following three arbitrators:

Paula M. Cherry, Esquire
Theron G. Noble, Esquire
Lea Ann Heltzel, Esquire

Very truly yours,

Dwight L. Koerber, Jr.

DLK/sah
Enclosure: Pre-Trial Memorandum
cc: Mr. Robert A. Mix, Esquire
Kephart Trucking Co.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

Type of Pleading:
Pre-Trial Memorandum

Filed on Behalf of:
Defendant:
Kephart Trucking Co.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
Pa. I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

RECEIVED
FEB 26 2009

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

| | | |
|---|---|---|
| | * | |
| DFH ENFIRONMENTAL SERVICES, INC., Plaintiff | * | |
| -vs- | * | Docket No. 05-541-CD |
| KEPHART TRUCKING COMPANY, Defendant | * | |
| | * | |

PRETRIAL (ARBITRATION) MEMORANDUM OF LAW
FILED ON BEHALF OF DEFENDANT, KEPHART TRUCKING CO.

Defendant Kephart Trucking Co., by and through its counsel, presents the within Pretrial Memorandum pursuant to the Notice issued December 31, 2008, assigning this case to an arbitration hearing on March 5, 2009, at 1:00 P.M.

## I.
## STATEMENT OF THE CASE FOR DEFENDANT

Through the Amended Complaint, Plaintiff DFH Environmental Services, Inc. ("DFH") is seeking to recover for alleged underpayments – "shortages" – which it claims that Defendant Kephart Trucking Co. ("KTC") owes it for services that DFH provided on the transportation of waste moving, primarily, from Patterson, New Jersey to Kersey, Pennsylvania. DFH claims that the underpayments amounted to $10,733.30, for which

it allegedly is owed interest. In addition, DFH is seeking to recover $3,647.00 which it claims represents repairs that it made to trailers owned by KTC that DFH was using.[1] These claims are embodied in plaintiff's complaint at Counts I and III. As for Counts II and IV, they are moot, as payment has been made. See Exhibit A, attached hereto, which contains a copy of the check in the amount of $2,451.00.

This case involves a sizeable amount of background information concerning the nature of operations in the trucking industry. Accordingly, we will set forth herein a summary of the background factual setting for this case, with most of these background facts being substantially uncontroverted, as recorded through depositions that have occurred.

KTC, with its headquarters in Bigler, Pennsylvania, specializes in the transportation of municipal waste, hauling the waste in tractor trailer loads from a transfer station, and delivering the waste at a landfill.[2] Indeed, KTC is recognized as the nation's largest waste hauler in the Northeastern part of the United States. The circumstances we are dealing with in the case at land relate to a time period from 2001-2003. During that time period, KTC had a long-term contract with a company

---

[1] Before the Board of Arbitrators are only Count I, involving a breach of contract claim for the alleged "shortages", and Count IV, quantum meruit, involving a claim for unjust enrichment, involving the equipment repairs done to the two trailers in question.

[2] This operation is entirely separate and distinct from transportation services provided by a sanitation waste company which picks up waste at the curb of a homeowner or a business or an institutional concern, as "garbage trucks" are used for that operation. The KTC operation involves tractor trailer combinations, generally using specialized trailers (tipper trailers) involving over-the-road operations which, in this case, involve large volumes of waste from Patterson, New Jersey to Kersey, Pennsylvania.

named Onyx Waste (now Violia), involving a municipal waste transfer station in Patterson, New Jersey. A large volume of tractor trailer shipments were transported from that facility each day, ranging generally in the range of 50-75 loads per day. In order to provide the transportation services, KTC relied upon the following three sources of equipment:

> (a) Its own tractor trailer combinations with company employees and company-owned equipment (this was the primary source of equipment);
>
> (b) Owner operators leased to KTC, where the owner operators would provide the power unit (truck tractor) and pull trailers owned by KTC. There was a regular ongoing relationship with these owner operators, and they were directly overseen for safety purposes just like the FMCSA regulates employee drivers; and
>
> (c) Outside carriers or agents. This is an outside trucking company that is used on a supplemental basis to provide service to meet the ebb and flow of large volume demands. KTC refers to them as "agents" or "carriers". DFH fits into this category. An outside carrier at times would use KTC trailers, but if so, the standard arrangement called for a lease involving a weekly payment charge assessed to the carrier.

Beginning in approximately February of 2001, DFH contacted KTC to see if KTC could utilize its services in order to transport some of the waste shipments that KTC had a long-term contract to handle out of Patterson, New Jersey. DFH is located in Dover, New Jersey, very close to Patterson, New Jersey, thereby making it attractive to it to haul loads through a subcontracting arrangement with KTC. DFH at all times operated as a separate carrier, with its own dispatch, own safety records, own insurance, and

overall regulatory responsibility for the services provided.

KTC has a longtime history of transporting waste and providing service under large volume contracts with waste collection companies, such as Onyx, Violia, Waste Management, Superior Waste, BFI, etc., and simply agreed to utilize DFH as a carrier in conjunction with other carriers that would supplement its service arrangements.

Against this backdrop, a complicating set of facts developed because KTC had 53 foot waste trailers that it was interested in selling, under a lease/purchase arrangement, and DFH expressed an interest in purchasing that equipment. Two trailers were made available to DFH, Trailer Nos. 861 and 865, and DFH began using them exclusively in its hauling arrangement, where it transported waste on a subcontract basis for KTC. Various rates were quoted and disclosed to DFH, and the payment arrangement was the "standard" payment arrangement on a per ton basis from the facilities for which KTC had long-term contracts, to different landfills that were taking that waste. The payment arrangement was that DFH would transport the waste loads that were tendered to it through a dispatch arrangement, involving the KTC dispatcher, and upon proof of proper delivery and tonnage, it would present an invoice to KTC and KTC would make payment. In all cases, the payment arrangement was on a tonnage basis at the designated rate for the specific transportation service rendered. KTC paid the same rate to all carriers that it used to supplement services.

When Trailers 861 and 865 were made available to DFH, it was like they were presented as "temporary" trailers, with the understanding that DFH would be purchasing them under a lease/purchase arrangement. The parties, however, were unable to work out the specific terms of a lease/purchase arrangement, as KTC wanted payment of $336.48 per week for 24 months, and DFH did not find that acceptable. After operating for over a year and a half, DFH made a counter-offer of $224.32 per week for 36 months. The KTC offer was made on November 23, 2001, and the DFH counter-offer was made on December 18, 2002.

Thus, we see that for a lengthy period of time, DFH was using Trailers 861 and 865 without making any payments for the usage of them. KTC has a standard rental rate of charging outside carriers that utilize its trailers of $250.00 per week, but in the flurry of activity that was involved in the KTC daily operations, it does not appear that the requirement to make this weekly charge was specifically communicated to DFH, although there was no reason to believe it was "free" The trailers that DFH was using were larger (53 feet rather than 48 feet) than the typical trailers that other carriers would lease on a weekly basis, and as a result, no clear communication was exchanged between the parties. Notwithstanding that fact, it is undeniable and demonstratively clear that DFH gained a very substantial benefit by using the KTC trailers and making no rental payment.

The standard practice that KTC has for a rental arrangement when another carrier uses drivers is that they are responsible for any and all repairs that occur to the trailers when in usage. This standard practice coincides with the standard charge of $250.00 per week.

In short, we have a situation where the parties were negotiating about a lease/purchase arrangement, with no meeting of the minds occurring, while DFH was using the trailers owned by KTC, and the terms of that weekly rental payment arrangement were not articulated. Eventually, Dave Kephart, the Vice President of KTC, directed KTC's accounts payable department to inform DFH that effective October 22, 2002, a formal charge of $250.00 per week was being assessed for each of the two trailers. Hence, from that date forward, out of the payment statements that were given to DFH by KTC, when KTC made payment for the transportation services that were rendered, there was a deduction of $500.00 per week.

The litigation now before this Board of Arbitrators all revolves around the assessment of a $250.00 charge per trailer per week, and the responsibility for making repairs for the two trailers while they were in the possession of and being used by DFH. KTC has billed DFH exactly as it has any other carrier that it would deal with. In contrast, DFH claims that it was being shorted when its statements were charged with a $500.00 per week assessment due to the rental charge for Trailers 861 and 865, and

DFH claims that it made repairs on the trailers that "unjustly enriched" KTC, notwithstanding the fact that repairs and/or furnishing of new tires was all done as a result of DFH's use of the trailers.

To assist the Board of Arbitrators in understanding the sequence of events that have been outlined herein, we are attaching hereto the following documents:

(a) Exhibit B – Transmittal and attached lease/purchase agreement furnished by KTC to DFH on November 13, 2001.

(b) Exhibit C – Transmittal letter with fax date showing December 18, 2002, from DFH to KTC, presenting DFH's counter-offer.

(c) Exhibit D – Memo statement and initial notice sent in October, 2002 by DFH to KTC.

(d) Exhibit E – Letters concerning shipment that was billed 8 months after delivery.

In addition to the complicated factual background involving the terms of an equipment lease charge and an equipment lease/purchase charge, an additional issue that arises in this case is the effort by DFH to assess minimum charges for the transportation services that it rendered. KTC is paid on an actual tonnage basis, and compensates carriers hauling through it only on an actual tonnage basis. In certain of the alleged "shortages", DFH has attempted to assess a minimum charge which KTC was not able to charge the customer for, with such minimum charge never being agreed upon by the parties.

Finally, there was one load for which DFH delayed by eight months in making a request for payment, with this alleged "shortage" not being paid by KTC because it was not collectable against its customer, because of the delay in presentation.

Overall, a review of each of the alleged shortages that DFH has presented will show that they are totally lacking in merit, as either representing a $500.00 per week deduction for the trailer rental, as involving improper assessment of minimum rate charges, and an effort to collect for a delayed billing. Thus, there is absolutely no payment of any amount due and owing.

In support of KTC's position, we will address the theory of recovery based upon unjust enrichment and the equipment repairs. We would submit that for this neither of the terms "unjust" nor "enrichment" fit. Quite clearly, there was nothing unjust about having DFH pay for repairs to equipment that it was using, as for over a year and a half's period of time, it used the equipment without paying a penny. Secondly, the duty to make repairs is part of the standard weekly rate, as well as the lease/purchase agreement that KTC uses, and DFH certainly has no standing to assert that it is entitled to a separate "non-standard" arrangement of its own, when it never contracted for such an arrangement. Indeed, weekly statements that were presented to it showed that DFH was never allowed any deduction for repairs on rental equipment that it was using, and the statements show that it was assessed a $500.00 per week charge ($250.00 per

trailer), beginning October 22, 2002.

All of these facts boil down to the inescapable conclusion that DFH was paid exactly what it should have been paid.

## II.
## CITATION TO APPLICABLE CASES OR STATUTES

As noted from the foregoing summary, this is a fact-intensive case. There is no special case or statute applicable.

## III.
## LIST OF WITNESSES

KTC lists the following witnesses:

(a) David J. Kephart, Vice President of KTC; and
(b) Susan Conaway, Non-employee payments for KTC.

## IV.
## STATEMENT OF DAMAGES AND COPIES OF BILLS

Not applicable.

Respectfully submitted,

By: _____
Dwight L. Koerber, Jr., Esquire
Attorney for Defendant,
KEPHART TRUCKING CO.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**
**CIVIL DIVISION**

| | | |
|---|---|---|
| DFH Environmental Services, Inc.<br>Plaintiff | * | |
| | * | |
| Vs. | | Docket Number: 05-541-CD |
| | * | |
| Kephart Trucking Company<br>Defendant | * | |

**CERTIFICATE OF SERVICE**

This is to certify that on the 26th day of February 2009, the undersigned served a true and correct copy of the foregoing Pre-Trial Memorandum in the above-captioned matter upon counsel for Plaintiff and upon the Arbitrators for this case. Such document was served via United States First Class Mail upon the following:

Robert A. Mix, Esquire
LEE, GREEN & REITER, INC.
115 East High Street
P.O. Box 179
Bellefonte, PA 16823-0179

Paula M. Cherry , Esquire
GLEASON, CHERRY AND CHERRY, L.L.P.
P. O. Box 505
DuBois, PA 15801

Theron G. Noble, Esquire
FERRARACCIO & NOBLE, P.C.
301 East Pine Street
Clearfield, PA 16830

Lea Ann Heltzel, Esquire
HOPKINS HELTZEL LLP
100 Meadow Lane, Suite 5
DuBois, PA 15801

Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Kephart Trucking Co.

## EXHIBIT A

Attached hereto as Exhibit A is a copy of the check dated September 9, 2006.

KEPHART TRUCKING CO.

P.O. Box 388, Bigler, PA 16825
814-765-0208

NORTHWEST SAVINGS BANK
CLEARFIELD, PA 16830

1807

DATE 09/08/06

CHECK NUMBER

CHECK AMOUNT

PAY Two Thousand Four Hundred Fifty One and No/100 dollars **$2,451.00**

TO THE ORDER OF

DFH ENVIRONMENTAL SERVICE
P.O. BOX 885
DOVER, NJ 07801

ACCOUNTS PAYABLE

AUTHORIZED SIGNATURE

⑈001807⑈ ⑆243374284⑆ 155601790⑈ ⑈0000245100⑈

09/11/061000917670 1807 2,451.00

## EXHIBIT B

Attached hereto as Exhibit B is a copy of a letter of transmittal and attached lease/purchase agreement furnished by KTC to DFH on November 13, 2001.

Kephart Trucking Co.
P.O. Box 386
Bigler, PA 16825

Phone: (814) 857-7704
Fax: (814) 857-7250

FACSIMILE TRANSMISSION COVER PAGE

DATE SENT: 11/12 TIME SENT: 5:40 PM

TO: DFH

Attn: DAVE HOFFMAN

FAX NUMBER: 973-925-2900

FROM: DAVE KEPHART

FAX NUMBER: (814) 857-7250

DESCRIPTION OF DOCUMENTS: LEASE

NUMBER OF PAGES TRANSMITTED AFTER COVER PAGE: 8

CONTACT SENDER AT THE PHONE NUMBER LISTED ABOVE FOR ANY QUESTIONS REGARDING THIS TRANSMISSION.

EXHIBIT #2
Hoffman
1-7-06 CB

# EQUIPMENT LEASE AGREEMENT

THIS EQUIPMENT LEASE AGREEMENT ("Agreement" and/or "Lease") is by and between KEPHART TRUCKING CO., a Pennsylvania Corporation, having its principal place of business at P. O. Box 386, Bigler, Pennsylvania, 16825, referred to hereinafter as "LESSOR",

AND

DFH Environmental
P.O. Box 985
Dover, NJ 07801

referred to hereinafter as "LESSEE".

WITNESSETH:

1. Trailer Lease and Rental - LESSOR hereby agrees to Lease to LESSEE, and LESSEE hereby agrees to Lease from LESSOR. the trailers specified in Schedule A, attached hereto, at the rental charge per trailer, as set forth in said Schedule A. When used in this Agreement, the term "trailer" shall mean a trailer Leased hereunder with all equipment included on the trailer on the time of the signing of this Agreement.

2. Condition of Trailers - LESSEE hereby warrants that he has carefully inspected the trailers that are the subject of this Lease and has noted any defects or flaws in the condition of the said trailers, as shown by Schedule B(s), attached hereto. The parties agree that the trailers are leased strictly on an "AS IS WHERE IS" basis, whereby LESSEE is bearing the risk and responsibility for repairs, including major repairs or an accident, that is required on the said trailers from the date of the signing of this Agreement until the trailers are returned or the Lease is otherwise lawfully terminated. Lessee acknowledges that the rental charge and the residual value for the trailers at the end of the rental term are set at a price that is based upon the "as is where is" condition of the trailers and Lessee has the entire responsibility for repairs of the trailers without there being any warranties from Lessor.

3. Ownership of Trailers - This Agreement is an agreement of lease only and may not be construed as a contract for the sale of the said trailers. LESSEE acknowledges that LESSOR is the owner of the trailers hereunder, and that the trailers are subject to encumbrances and/or liens on the title of the trailers. LESSEE further agrees that he does not acquire any legal entitlement or equity in the leased trailers but shall merely have the possessory right to use and operate the trailers, with the possessory right being forfeited upon the default, termination or expiration of this Lease as provided under the terms and conditions of this Agreement.

4. Prohibition Against Leasing or Subleasing - Without the written consent of LESSOR, LESSEE may not lease or sublease the trailers covered by this Agreement.

5. Payment of Rent - LESSEE shall make payment of rent at the rate specified in Schedule A. In order to facilitate payment, LESSEE agrees to sign Schedule C, which directs the automatic payment to LESSOR. LESSOR shall keep an orderly account of the monies received from such payments, and will properly credit LESSEE's account when payment is made. In the event that LESSEE fails to make his payments at the time specified in Schedule A, a late charge shall be assessed, in addition to the rent, in the amount of one and one-half (1 1/2%) percent per month on all arrears that are owed. This late charge shall be in addition to all rights and remedies that LESSOR has if LESSEE is in default of his obligations under this Agreement.

6. Registration Insurance and Licensing - LESSEE shall be responsible for paying the cost of collision and comprehensive insurance, covering fire and theft, for the trailers covered by this Lease. As an administrative convenience, if the LESSEE desires, LESSOR will arrange for such insurance coverage and invoice LESSEE for this expense. LESSOR shall furnish periodic updates of what the cost of insurance is, with such insurance to have a $1,000.00 deductible. LESSEE shall be responsible for payment of such deductible when due. The loss beneficiary for such insurance policy shall be designated as LESSOR. The cost of the insurance, if paid for by LESSOR, shall be directly assessed to LESSEE and included in the payments owed to LESSOR. Any time there is an expenditure or change in rating for the insurance, pertaining to the said trailers, LESSOR shall promptly notify LESSEE of the charges. LESSEE warrants that he will take all steps necessary to properly process any and all claims for insurance covering the said trailers.

7. Taxes - LESSEE shall pay and bear all federal, state and local taxes including sales, use, personal or property tax covering the said trailers.

8. Repairs and Maintenance - It shall be the responsibility of LESSEE to keep and maintain the said leased trailers in good operating condition, including major repairs and damage caused by an accident. LESSEE shall make all necessary repairs and replacements to the said trailers to the extent that they are needed. Repairs shall include tires, lubricants, and any and all replacement parts necessary to enable the trailers to properly operate. Failure to provide maintenance as provided herein shall be considered a default under this lease. LESSOR shall have the right to inspect the said trailers to determine whether LESSEE has satisfied his duty to maintain and repair the trailers, and may enter onto the property of LESSEE in order to perform such an inspection.

9. Return of Leased Trailers - Upon the expiration or termination of this Lease for any cause, said trailers shall be returned forthwith and without delay to LESSOR's principal place of business in Bigler, Pennsylvania. Except for ordinary wear and tear, the trailers shall be returned in the same condition as when this Lease was initially undertaken. LESSEE shall be responsible for providing for the transportation for the return of the trailers, as well as any and all costs associated with the trailers if LESSEE does not return the trailers himself. LESSOR reserves the right to charge LESSEE for the cost of transporting, cleaning, repairing or reconditioning the said unit after it is returned, if LESSEE has failed to properly maintain and repair it.

10. Indemnification - LESSEE shall defend, indemnify and hold LESSOR harmless, including its officers, directors, employees and representatives, from and against any and all damages, loss, theft or destruction to the said trailers, and against all losses, liabilities, damages, injuries and claims of any nature, including legal fees and costs, arising out of the operation of the said trailers under this Lease. LESSEE agrees to pay the cost of attorneys' fees that LESSOR occurs as a result of LESSEE's failure to comply with any term or condition of this Agreement.

11. Default by LESSEE - If LESSEE fails to pay in full on the due date any payment due hereunder, or if in the event of bankruptcy or insolvency by LESSEE, or the failure of LESSEE to comply with any term or condition of this Agreement, the LESSOR shall have the right to take immediate possession of the trailers wherever found, with or without process of law, and to terminate the Lease with respect to said trailers, and the LESSEE expressly authorizes LESSOR and its agents to enter on any premises where the trailers may be located for the purpose of repossessing the said trailers. In the event there is a default or termination of this Lease, LESSEE expressly waives any further interest in the trailers and any right of action arising out of the entry and repossession of the said trailers by LESSOR. If LESSOR is in default of any term or condition of this Agreement, or if LESSOR fails to comply with all lawful terms and conditions imposed upon him under the terms of this Agreement, the full term of this Lease shall be immediately due and payable. This remedy shall be in addition to the right of repossession as provided herein. In the event there is a default, LESSOR shall be entitled to retain all monies held in an escrow account, as a set off against payments that are due to LESSOR, provided that if escrow funds are used in this way, full and complete accounting shall be made to LESSEE.

12. Obligations of LESSEE Under This Agreement - During the duration of this Agreement, in addition to the terms and conditions set forth in this Agreement, LESSEE shall at all times comply with the following requirements:

a. Use the said trailers in a common carrier operation so as to make it eligible for a sales tax exemption under Pennsylvania law.

b. Permit the trailers to be operated only by a properly licensed driver in full compliance with all pertinent DOT safety regulations.

c. Perform all repairs needed to insure that the said trailers is always in a road worthy condition.

d. Comply with all pertinent federal, state, and local laws.

e. Make all payments in accordance with the various Schedules attached to this Agreement and in accordance with invoices sent to it by LESSOR covering charges that are assessable under the terms of this Agreement.

13. Option of LESSEE - Upon the termination of this Agreement, LESSEE shall have the right to purchase the said unit by paying the residual value specified in Schedule D. The right to purchase the said trailers by obtaining the residual value shall exist only if LESSEE has complied with all terms and conditions of this Agreement and has paid the full payment throughout the entire term of this Lease. LESSEE shall be responsible for all expenses associated with exercising his option to purchase the trailers by paying the sum of money specified in Schedule D, attached hereto.

14. Pennsylvania Law to Apply - In the event that questions should arise concerning the application or meaning of any term or provision of this Agreement, the laws of the Commonwealth of Pennsylvania shall apply.

IN WITNESS WHEREOF, the parties hereunto have signed this Agreement on the date specified below, doing so with the intention of being legally bound.

| LESSOR: | LESSEE: |
|---|---|
| KEPHART TRUCKING CO. | DFH Environmental |
| By: _____ | By: _____ |
| Date: _____ | Date: _____ |

SCHEDULE A

Specifications for Trailers and Summary of Rental Terms

A. SUMMARY OF TERMS

1. Year of Make: 2000
2. Name of Manufacturer: East
3. Model Number: Tipper
4. VIN Number: _____
5. Additional Equipment: _____
6. Rental Charge: $336.48/week
7. Date for Payment: _____
8. Term of Agreement (Number of Months): 24 months

B. TOTAL MONTHLY PAYMENT

1. Rental: $336.48
2. Insurance: _____
3. Miscellaneous _____

TOTAL: _____

LESSOR:

KEPHART TRUCKING CO.

By: _____

Date: _____

LESSEE:

DFH Environmental

By: _____

Date: _____

SCHEDULE B

Initial Inspection of Trailer

Attached hereto is the initial inspection of the trailer leased under this Agreement. It is recognized that the trailer is leased on an "as is where is" basis.

LESSOR:

KEPHART TRUCKING CO.

By: _____

Date: _____

LESSEE:

DFH Environmental

By: _____

Date: _____

## SCHEDULE C
Assignment of Payment

I, the undersigned individual, hereby direct that monthly payments in the amount specified below be automatically withheld from any settlement/payment due to me and paid directly to Kephart Trucking Co.

Name and address of trucking company to whom payment is directed:

Kephart Trucking Co.

PO BOX 386

Bigler Pa 16825

Amount of Monthly Payment: $_____

_____
(Printed Name)

_____
(Signature)

Date: _____

SCHEDULED
Residual Value

The residual value for the trailers identified in Schedule A is: $ $1.00

## EXHIBIT C

Attached hereto as Exhibit C is a copy of the transmittal letter with fax date showing December 18, 2002, from DFH to KTC, presenting DFH counter-offer.

**DFH ENVIRONMENTAL SERVICES, INC.**
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

# FAX TRANSMITTAL SHEET.

TO: Mr. David Kuhart

COMPANY Kuhart Trucking

FAX #: 814-857-7250

FROM: Mr. David Hoffman

DATE: 12/17/2002

TIME:

FAX # 973-925-2100

# OF PAGES TO FOLLOW (INCLUDING COVER SHEET): 2

IF THERE ARE ANY PROBLEMS WITH THIS TRANSMITTAL,
PLEASE CALL 973-925-2100

EXHIBIT #1 Hoffman 2 pages

David,
Attached please find the lease purchase agreement with changes from the original. Scenario "A" has my offer price of $224 for 96 months which we can of course discuss. I'll call you tomorrow. Please look into the old accounting matters for me.

Thanks
David

# EQUIPMENT LEASE PURCHASE AGREEMENT

THIS EQUIPMENT LEASE AGREEMENT ("Agreement" and/or "Lease") is by and between KEPHART TRUCKING CO., a Pennsylvania Corporation, having its principal place of business at P.O.Box 386, Bigler, Pennsylvania, 16825, referred to hereinafter as "LESSOR",

AND

DFH Environmental, Inc.
P.O. Box 985
Dover, NJ 07801

referred to hereinafter as "LESSEE".

WITNESSETH:

1. Trailer Lease – LESSOR hereby agrees to Lease to LESSEE, and LESSEE hereby agrees to Lease from LESSOR, the trailers specified in Schedule A, attached hereto, at the rental charge per trailer, as set forth in said Schedule A. When used in this Agreement the term "trailer" shall mean a trailer Leased hereunder with all equipment included on the trailer on the time of the signing of this Agreement.

2. Condition of Trailers – LESSEE hereby warrants that he has carefully inspected the trailers that are the subject of this Lease and has noted any defects or flaws in the condition of the said trailers, as shown by Schedule B(s), attached hereto. The parties agree that the trailers are leased strictly on an "AS IS WHERE IS" basis, whereby LESSEE is bearing the risk and responsibility for repairs, including major repairs or an accident, that is required on the said trailers from the date of the signing of this Agreement until the trailers are returned or the Lease is otherwise lawfully terminated. LESSEE acknowledges that the lease charge and the residual value for the trailers at the end of the rental term are set at a price that is based upon the "as is where is" condition of the trailers and LESSEE has the entire responsibility for repairs of the trailers without there being any warranties from LESSOR.

3. Ownership of Trailers – This Agreement is an agreement of lease and sale of the said trailers at the end of the lease term for $1.00 each as per the document Schedule "D" attached. LESSEE acknowledges that LESSOR is the owner of the trailers hereunder, and that the trailers are subject to encumbrances and/or liens on the title of the trailers. Lessor will comply with any and all conditions regarding any agreement that it has with any entity(ies) that hold such liens and/or encumbrances so that there is no default by lessor during the term of this agreement. Lessor represents that it is able to "carve out" from encumbrance the specific trailers that are subject to this lease, and obtain clear title(s) for the trailers contemplated under this lease. Lessor further represents that it will do so upon lessee's written notification of exercise of the purchase option. LESSEE further agrees that he does not acquire any legal entitlement or equity in the leased trailers but shall merely have the possessory right to use and operate the trailers, with the possessory right being forfeited upon the default or completion of this Lease so long as the purchase option is not excersised. In the event of lessee's faithful performance under this agreement then lessee is able to exercise the purchase option at the end of the lease term.

4. Prohibition Against Leasing or Subleasing -- Without the written consent of LESSOR, LESSEE may not lease or sublease the trailers covered by this Agreement.

5. Payment of Lease– LESSEE shall make the lease payment at the rate specified in Schedule A. In order to facilitate payment, LESSEE agrees to sign Schedule C, which directs the automatic payment to LESSOR. LESSOR shall keep an orderly account of the monies received from such payments, and will properly credit LESSEE's account when payment is made. In the event that LESSEE fails to make his payments at the time specified in Schedule A, a late charge shall be assessed, in addition to the lease payment, in the amount of one and one-half (1 ½%) percent per month on all arrears that are owed. This late charge shall be in addition to all rights and remedies that LESSOR has if LESSEE is default of his obligations under this Agreement. Lessor warrants that it will make all payments necessary to its creditor(s) so as to assure lessee's possession of the equipment during the lease term. If any creditor of lessor attempts to obtain payment and/or possession of the equipment, or notifies the lessee of a default by lessor, then lessee has the right to make payment directly to the creditor and charge back same to the lessor.

6. Registration Insurance and Licensing – LESSEE shall be responsible for paying the cost of collision and comprehensive insurance, covering fire and theft, for the trailers covered by this Lease. As an administrative convenience, if the LESSEE desires, LESSOR will arrange for such insurance coverage and invoice LESSEE for this expense. LESSOR shall furnish periodic updates of what the cost of insurance is, with such insurance to have a $ 2,500.00 deductible. LESSEE shall be responsible for payment of such deductible when due. The loss co-beneficiary for such insurance policy shall be designated as LESSOR. The cost of the insurance, if paid for by LESSOR, shall be directly assessed to LESSEE and included in the payments owed to LESSOR. Any time there is an expenditure or change in rating for the insurance, pertaining to the said trailers, LESSOR shall promptly notify LESSEE of the reason for the change and the charges. LESSEE warrants that he will take all steps necessary to properly process any and all claims for insurance covering the said trailers.

7. Taxes – LESSEE shall pay and bear all federal, state and local taxes including sales, use, personal or property tax covering the said trailers.

8. Repairs and Maintenance – It shall be the responsibility of LESSEE to keep and maintain the said leased trailers in good operating condition, including major repairs and damage caused by an accident. LESSEE shall make all necessary repairs and replacements to the said trailers to the extent that they are needed. Repairs shall include tires, lubricants, and any and all replacement parts necessary to enable the trailers to properly operate. Failure to provide maintenance as provided herein shall be considered a default under this lease providing that the lessor notify the lessee in writing with specificity as to the nature of the maintenance default via certified mail and providing that the lessee has a period of 7 days to cure the alleged default. LESSOR shall have the right to inspect the said trailers to determine whether LESSEE has satisfied his duty to maintain and repair the trailers, and may enter onto the property of LESSEE upon 24 hours written notice in order to perform such an inspection.

9. Return of Leased Trailers – Upon the default of this Lease, said trailers shall be returned forthwith and without delay to LESSOR's principal place of business in Bigler, Pennsylvania. Except for ordinary wear and tear, the trailers shall be returned in the same condition as when this Lease was initially undertaken. LESSEE shall be responsible for providing for the

transportation for the return of the trailers, as well as any and all costs associated with the trailers if LESSEE does not return the trailers himself. LESSOR reserves the right to charge LESSEE for the cost of transporting, cleaning, repairing or reconditioning the said unit after it is returned, if LESSEE has failed to properly maintain and repair said trailer.

10. Indemnification – LESSEE shall defend, indemnify and hold LESSOR harmless, including its officers, directors, employees and representatives, from and against any and all damages, loss, theft or destruction to the said trailers, and against all losses, liabilities, damages, injuries and claims of any nature, including legal fees and costs, arising out of the operation of the said trailers under this Lease. LESSEE agrees to pay the cost of attorneys' fee that LESSOR occurs as a result of LESSEE's failure to comply with any term or condition of this Agreement. Lessor shall defend lessee against any and all damages arising out of the purchase and/or financing with third parties by the lessor. The lessor agrees to pay the cost of attorneys' fees that lessee incurs as a result of lessors failure to comply with any term or condition of this agreement.

11. Default by LESSEE – If LESSEE fails to pay in full on the due date any payment due hereunder, or if in the event of bankruptcy or insolvency by LESSEE, or the failure of LESSEE to comply with any term or condition of this Agreement, the LESSOR shall have the right to demand a cure of any default, giving the lessee 7 days to cure thereafter. If LESSOR is in default of any term or condition of this Agreement, or if LESSOR fails to comply with all lawful terms and conditions imposed upon him under the terms of this Agreement, then the lessee may, at its option cure the lessors default and charge back monies used to cure lessors default. This remedy shall be in addition to the right of repossession as provided herein.

12. Obligations of LESSEE Under This Agreement – During the duration of this Agreement, in addition to the terms and conditions set forth in this Agreement, LESSEE shall at all times comply with the following requirements:

a. Use the said trailers in a common carrier operation so as to make it eligible for a sales tax exemption under Pennsylvania law.

b. Permit the trailers to be operated only by a property licensed driver in full compliance with all pertinent DOT safety regulations.

c. Perform all repairs needed to insure that the said trailers is always in a road worthy condition.

d. Comply with all pertinent federal, state, and local laws.

e. Make all payments in accordance with the various Schedules attached to this Agreement and in accordance with invoices sent to it by LESSOR covering charges that are assessable under the terms of this Agreement.

13. Option of LESSEE – Upon the completion of the lease term, LESSEE shall have the right to purchase the said unit by paying the residual value specified in Schedule D. The right to purchase the said trailers by paying the residual value so long as LESSEE has complied with payment of this Agreement and has paid the full amount of the lease payments, via offset, or payment throughout the entire term of this Lease. LESSEE shall be responsible for all expenses associated with paying the sum of money specified in Schedule D, attached hereto. Lessor shall be responsible for all expenses associated with obtaining and transferring clear title to the lessee upon lessee's payment of money specified in schedule D.

IN WITNESS WHEREOF, the parties hereunto have signed this Agreement on the date specified below, doing so with the intention of being legally bound.

LESSOR:
KEPHART TRUCKING CO.

By :_____

Date :_____

LESSEE:
DFH Environmental, Inc.

By :_____

Date:_____

# SCHEDULE A
## Specifications for Trailers and Summary of Rental Terms

A. SUMMARY OF TERMS

1. Year of Make: 2000
2. Name of Manufacturer: East
3. Model Number: Tipper
4. Vin Number.....
5. Additional Equipment:.....
6. Rental Charge: 224.32/week
7. Date for Payment:.....
8. Term of Agreement:
   ( Number of Months) 36 months

B. TOTAL MONTHLY PAYMENT

1. Rental: 224.32/ week
2. Insurance:.....
3. Miscellaneous:.....

TOTAL:.....

LESSOR:

KEPHART TRUCKING CO.

By :.....

Date :.....

LESSEE:

DFH ENVIRONMENTAL, INC.

By :.....

Date :.....

## EXHIBIT D

Attached hereto as Exhibit D is a copy of the memo statement and initial notice sent in October, 2002 by DFH to KTC and letter acknowledging same.

| INVOICE # | | AMOUNT |
|---|---|---|
| | | |
| 4765 | | $1,325.20 |
| 4766 | | $632.52 |
| 4767 | | $4,505.76 |
| 4771 | | $2,669.52 |
| 4772 | | $1,252.44 |
| 4773 | | $2,097.76 |
| 4774 | | $4,197.92 |
| 4775 | | $443.60 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | $17,124.72 |

Dave Kephart instructed me to begin deducting $500/week for trailer rental. Any questions regarding trailer rent should be directed to him.

DFH ENVIRONMENTAL SERVICES, INC.
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

November 22, 2002

Kephart Trucking, Co.
Rt 322 West
Bigler, PA 16825

Re: Weekly rental charges for trailer # 861 and 865.

Dear Elizabeth:

Please be advised that trailer # 861 was picking up by Kephart Trucking, Co. during the week November 04, 2002 thru November 8, 2002 and 2 pipes holdings the Tarp were broken. Replace the pipes and reinstall the tarp cost DFH Environmental, Inc. of $ 255.00. Please apply credit to DFH Environmental, Inc. of $ 505.00 against rental charges, ( $250 for of rental charge and $ 255.00 for repairs).

Sincerely,

Maria Pawlak
Accounts Receivable

EXHIBIT
#4
Hoffman
9-7-06 cts

## EXHIBIT E

Attached hereto as Exhibit E are copies of the letters concerning the shipment that was billed 8 months after delivery.

**KEPHART TRUCKING CO.**
P.O. Box 386
Bigler, PA 16825-0386

KEPHART

Phone: (814) 857-7704
Fax: (814) 857-7250

September 23, 2002

DFH Environmental Services, Inc.
P.O. Box 985
Dover, New Jersey 07801

Attn: Maria

Per your letter of September 16, 2002 concerning the invoice # 4490, as in the past, Maria, we did not get paid for this load, so therefore, we cannot pay you.

I ask Mr. Kephart concerning this invoice and he stated that we would not be paid for this load, so therefore, we would not be paying you because of the time difference. The tickets are dated for June 29, 2001. I received this invoice on April 17, 2002. Computer systems had changed by that time, pricing changed and we were not given a reason for why it was so late.

I am sorry for the inconvenience, Maria, but as stated on the telephone to you prior to today, we did not get paid, therefore, you will not get paid.

Any questions, please contact us.

Sincerely,

Elizabeth Bussard
Kephart Trucking Co.



Sep.23. 2002 10:35AM KEPHART TRUCKING No.7033 P. 2

**DFH ENVIRONMENTAL SERVICES, INC.**
PO BOX 985
DOVER, NEW JERSEY 07801
(973) 925-2100 • Fax (973) 925-2900

September 16, 2002

Kephart Trucking, Co.
Rt 322 West
Bigler, Pa 16825

Re: Invoice # 4490

Dear Elizabeth:

Please review Invoice # 4490 and copies of load with manifest # 297223. DFH still have open balance for this Invoice, load is from 2001 but is not the reason that DFH will not get the pays. Please try sending the payment ASAP.

Sincerely,

Maria Pawlak
A/R