

ESTTA Tracking number: **ESTTA1176520**

Filing date: **12/04/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                        |   |
|------------------------|---|
| Proceeding             | 92078302  |
| Party                  | Defendant<br>Gemsa Enterprises, LLC dba Gemsa Oils  |
| Correspondence Address | GEMSA ENTERPRISES, LLC<br>14370 GANNET STREET<br>LA MIRANDA, CA 90638<br>UNITED STATES<br>No email provided.<br>No phone number provided. |
| Submission             | Answer  |
| Filer's Name           | MATTHEW A BECKER  |
| Filer's email          | matt@beckerlawfirm.com  |
| Signature              | /Matthew Becker/  |
| Date                   | 12/04/2021  |
| Attachments            | Answer to Petition for Cancellation.pdf(84304 bytes )   |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IN THE MATTER OF REGISTRATION:

Reg. No.: 5719357

For the Mark: FARM TO MARKET & Design

Registrant: Gamsa Enterprises, LLC

Date of Reg.: April 9, 2019

Atty. Docket No. ITA221.01

SENECA FOODS CORPORATION.,

Cancellation No.: 92078302

Petitioner,

vs.

GEMSA ENTERPRISES, LLC,  
DBA GEMSA OILS

Registrant.

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**REGISTRANT'S ANSWER AND AFFIRMATIVE DEFENSES  
TO PETITION FOR PARIAL CANCELLATION  
UNDER TRADEMARK ACT SEC 18**

Registrant, GEMSA ENTERPRISES, LLC, DBA GEMSA OILS, (“Registrant”), by its undersigned counsel, hereby files its Answer and Affirmative Defenses to the Petition for Partial Cancellation (“PETITION”) of SENECA FOODS CORPORATION., (“Petitioner”) as follows:

**ANSWER**

Registrant is without information sufficient to form a belief as to the truth of the allegations contained in the unnumbered opening Paragraph of the PETITION, and, therefore, all such allegations are denied.

1. Registrant admits the allegations contained in Paragraph 1 of the PETITION.

2. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the PETITION, and, therefore, all such allegations are denied.

3. Registrant admits the allegations set forth in Paragraph 3 of the PETITION.

4. Registrant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the PETITION, and, therefore, all such allegations are denied.

5. Registrant admits the allegations set forth in Paragraph 5 of the PETITION.

6. Registrant denies the allegations set forth in Paragraph 6 of the PETITION.

7. Registrant denies the allegations set forth in Paragraph 7 of the PETITION.

8. Registrant denies the allegations set forth in Paragraph 8 of the PETITION.

9. Registrant denies the allegations set forth in Paragraph 9 of the PETITION.

10. Registrant denies the allegations set forth in Paragraph 10 of the PETITION.

11. Registrant denies the allegations set forth in Paragraph 11 of the PETITION.

12. Registrant denies that Petitioner is entitled to the relief sought in the unnumbered closing paragraph of the PETITION.

### **AFFIRMATIVE DEFENSES**

1. The PETITION should be dismissed for failure to state a claim upon which relief can be granted.

2. Registrant has priority of use of its mark and, therefore, Petitioner's PETITION should be dismissed.

3. Petitioner's claims should be barred as the relief sought would not cure the likelihood of confusion that would exist in the event of registration of Petitioner's application.

4. Petitioner's Cancellation is barred by principles of equity and fairness, including estoppel and/or laches.

WHEREFORE, the PETITION in this matter and remedies requested should be denied and Registrant's registration should continue without modification or limitation.

Dated: December 4, 2021

Respectfully submitted,

/s/ Matthew A. Becker\_\_\_\_\_

MATTHEW A. BECKER  
Attorney for Registrant  
California State Bar No. 190,748  
The Law Office of Matthew A. Becker  
A Professional Law Corporation  
PO BOX 180135  
Coronado, CA 92178  
Telephone: 619-522-6760  
Facsimile: 619-522-6763  
Email: [matt@beckerlawfirm.com](mailto:matt@beckerlawfirm.com)

**PROOF OF SERVICE VIA EMAIL**

I hereby declare:

I am over the age of 18 years and am not a party to this action. On the date first written below, I served a true and correct copy of the attached document entitled:

**REGISTRANT'S ANSWER AND AFFIRMATIVE DEFENSES**  
**TO PETITION FOR PARIAL CANCELLATION**  
**UNDER TRADEMARK ACT SEC 18**

via electronic transmission (email) and addressed to the following:

Sheryl De Luca  
Attorney for Petitioner  
NIXON & VANDERHYE P.C.  
901 North Glebe Road, 11th Floor  
Arlington, Virginia 22203  
(703) 816-4063  
[sld@nixonvan.com](mailto:sld@nixonvan.com)

Dated: December 4, 2021

/s/ Matthew A. Becker

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Matthew A. Becker