In Re: Proceedings

26

1	BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO
2	
3	In the matter of : the Request for :
4	Administrative : Case No. 09-607-TR-CVF Hearing by Sweeney :
5	Services, Inc. :
6	
7	
8	PROCEEDINGS
9	Before Gregory Price, Hearing Examiner, at the
10	Public Utilities Commission of Ohio, 180 East
11	Broad Street, Columbus, Ohio, Hearing Room 11C,
12	on Tuesday, December 1, 2009, at 10:00 a.m.
13	
14	
15	2009 DEC 15 PH 2: 45 PUCO
16	
17	
18	PH 2:
19	45
20	
21	ARMSTRONG & OKEY, INC. 222 East Town Street, 2nd Floor
22	Columbus, Ohio 43215-5201
23	(614) 224-9481/(800) 223-9481 Fax (614) 224-5724
24	This is to destribut the integer appearing are an accurate to the term of the Free control of a case file
2 <u>5</u>	document Action of the second of business. Technician product include 12/15/09

FILE

Armstrong & Okey, Inc. Columbus, Ohio 614-224-9481

PUCO EXHIBIT FILING

Date of Hearing: 12-01-09 Case No. _ 09 - 607 - TR - CVF PUCO Case Caption: Anthe Matter of Neguest for administrative hearing by Sween Services, Inc. List of exhibits being filed: tall exhibits: 1- Driver/Vehicle Examination Report 2A:2.0. Photographs 3. Forfeiture assessment 4 - Notice of apparent Violation and intent_ to assess Forfeiture 5 - Notice of Preliminary Actermination 6- Quily 20, 2009 letter from David A. Ferris to Docketing with attacked notice of Preliminary Determination Reporter's Signature: _____ Date Submitted:

Staff Ex. 1

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15 50	Public Ut	ilities Commission o	of Ohio	•		OH9436300270		
(AND)	180 East	Broad Street	1	Inspect	tion Date:	5/20/2009 Ce	ertification Date: 05/22/200	9
	Columbu	tation Department s, OH 43215-3793		Time S			me Ended: 12:39	
EL Č	Phone#:	(614) 466-0429	Fax#: (614) 752-92	Inspect	ion Level:	I - Full Inspectio	n	
and the second s	A REAL PROPERTY AND A REAL	100 0 120	1 4741 (014) 1 62-62	HM Ins	pection Ty	pe: Bulk Inspect	ion	
*SWEENEN	Y SERVICES IN	IC		Driver:		LEMON, ADAM	I M	
PO BOX 4	14			License	#:	RW534397	State: OH	
NEW CON	ICORD, OH 437	762		Date of	Birth:	07/02/1982		
Phone #:		Fax #:						
USDOT #:		MC/MX	#:					
State #:								
Location:	ROADSIDE	·	MilePost:	10				
Highway:	SR 664 SB		Origin:	NEW CONCORD, OH	1	Bill of Lading:	204-08	
County:	HOCKING		Destination:	SOUTH BLOOMINGVILLI	e, dhi (Cargo: HAZ M	IAT (ALL)	
Shipper:	CARRIER						,	
VEHICLE	E IDENTIFICA	TION:						
	Make Year Sta	•	Company #	Unit VIN	GVWR	issued Decal#	Existing Decal# OOS S	itk r.#
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DDAKE /	ADJUSTMEN							
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Right -		/A						
Left	N/A N/							
Chamber	HYDR HY							
VIOLATI	ONS :							
Section Co	ode Si	t Unit OOS Lvl	6 Citation #	Verify" Crash Violatic	n Descripti	on	,	
383.93(b)(CDL - Driver only has Haz	
			• .		ement.		•	
* N - Non-	OOS or Driver (DOS Violation						
HazMat:	3 Flammab	le,				Placard: Yes	Cargo Tank: 406	
HazMat: Special C			led Substance Chec	k Traffic Enforce				
		Alcohoi/Contro	led Substance Chec		ment	Po Po	st Crash Inspection	
		Alcohol/Control	Local Jurisdiction	PASA Conduc	ment ted Inspect	tion Pa	st Crash Inspection BT Inspection	
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Page 1 of 2

ОН9436300270

DRIVER/VEHICLE EXAMINATION REPORT

Public Utilities Commission of Ohio 180 East Broad Street Transportation Department Columbus, OH 43215-3793 Phone#: (614) 466-0429 Fax#: (614) 752-9274	Inspection Date Time Started: Inspection Leve		ertification Date: 05/22/2009 ime Ended: 12:39 in
SWEENEY SERVICES INC	Driver:	LEMON, ADAN	1 M
PO BOX 414	License #:	RW534397	State: OH
NEW CONCORD, OH 43762	Date of Birth:	07/02/1982	
Phone #: Fax #;			
USDOT #: MC/MX #:			

State #:

All violations of the FHMR and FMCSR or Title 49 of the Ohio Revised Code will be reviewed by the PUCO's Transportation Department to determine whether civil forfeitures should be assessed against any responsible parties in accordance with the penalty provisions of Title 49 of the Ohio Revised Code. If civil forfeitures are assessed, you will receive a separate notice by mail. These penalties may be assessed to motor carriers, shippers, and/or drivers.

ATTENTION DRIVER: This report must be sent to the motor carrier whose name appears at the top of this inspection report within 24 hours. If the inspection report cannot be delivered within 24 hours the driver must mail or fax the inspection report to the motor carrier.

ATTENTION MOTOR CARRIER: The motor carrier must examine this report and repair all the vehicle defects/violations noted above -AND- The motor carrier must sign the Certification of Repairs below and return the signed form to: Public Utilities Commission of Ohio-TASD; 180 E. Broad St.; Columbus, Oh; 43215-3793 -OR- Fax (614) 752-9274 within 15 days of the inspection. If "No Violations Were Discovered" then you do not need to return this report. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

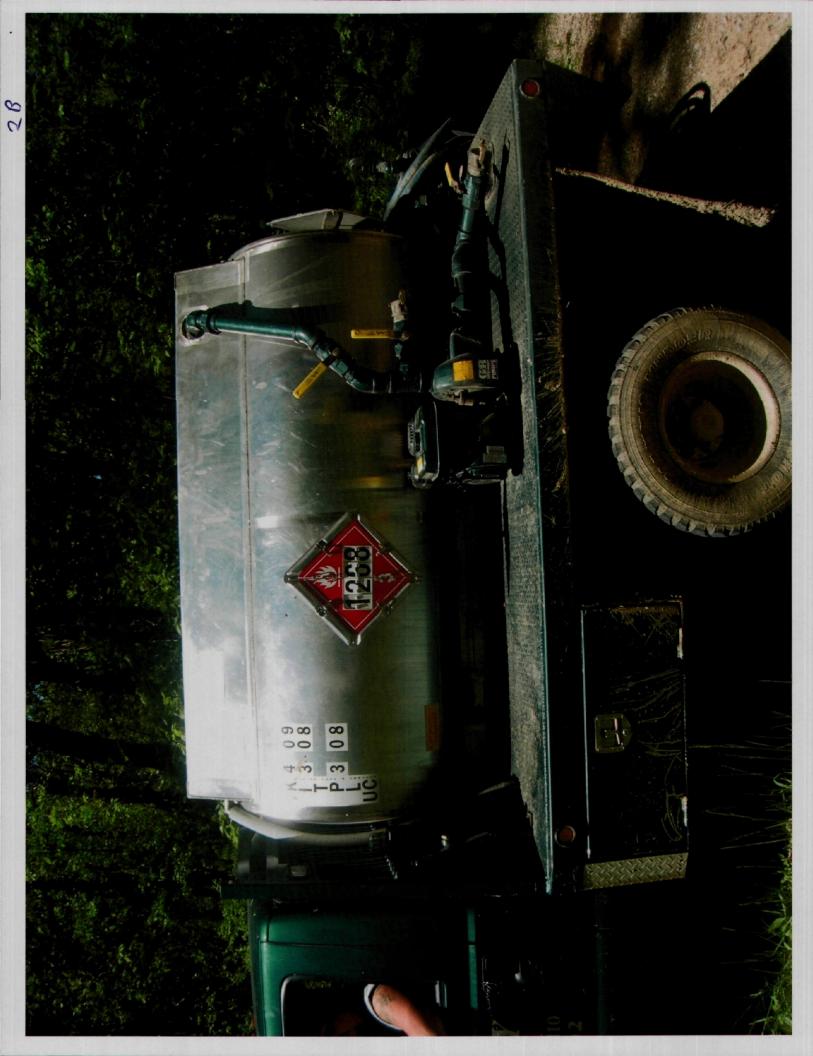
MOTOR CARRIER CERTIFICATION OF COMPLETED REPAIRS: The undersigned certifies that all violations noted on this report have been corrected and action taken to assure compliance with the Federal Motor Carrier Safety & Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. A false certification of repairs is required to be prosecuted with penalties up to \$10,000.

Signature of Carrier Official:	х	Title:	Da	ate:

Copy Received By: LEMON, ADAM M

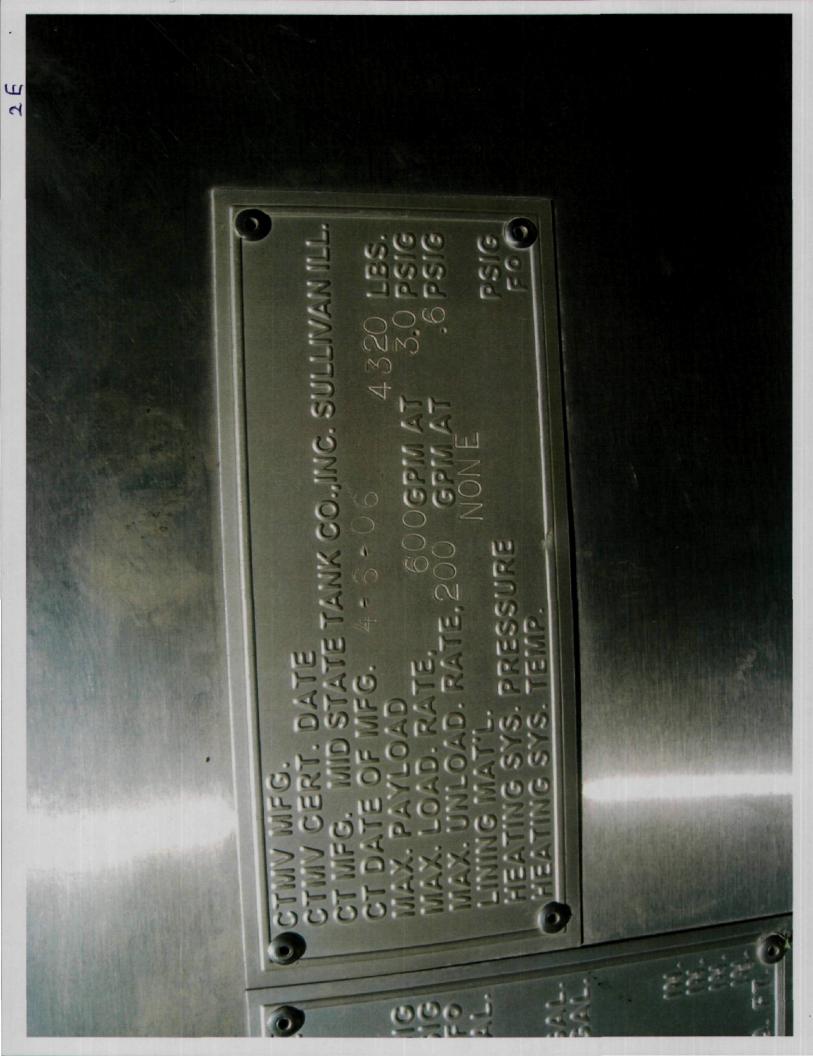




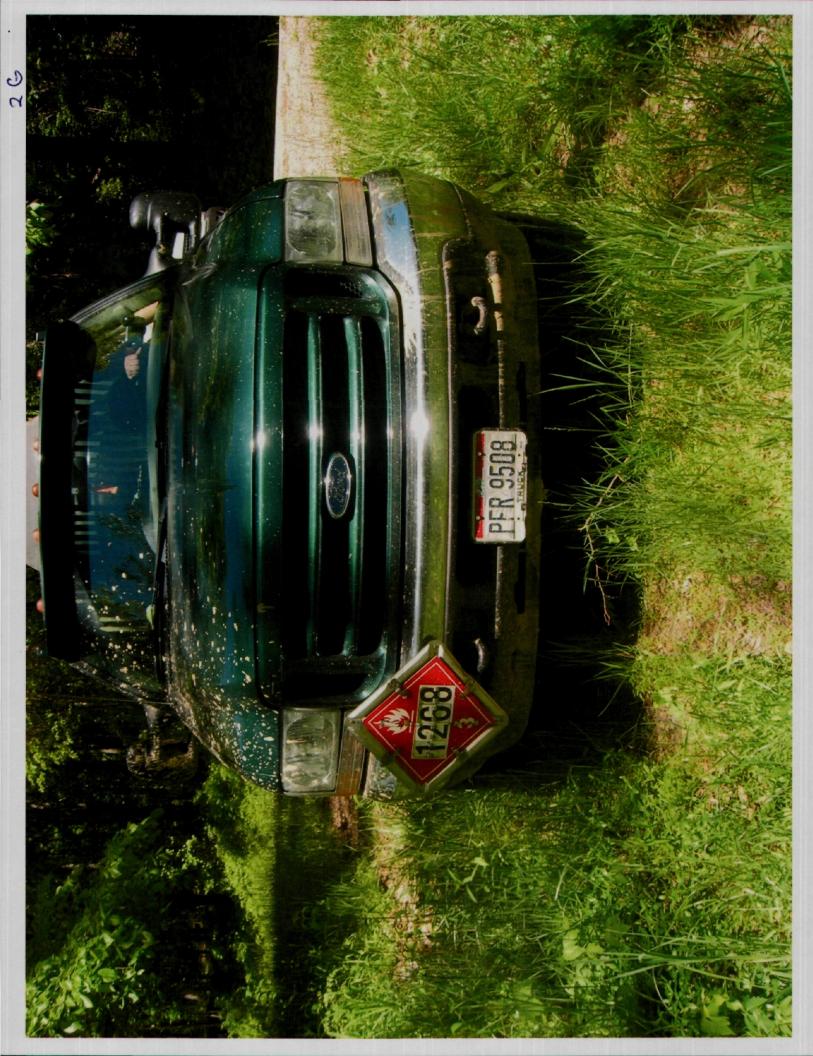




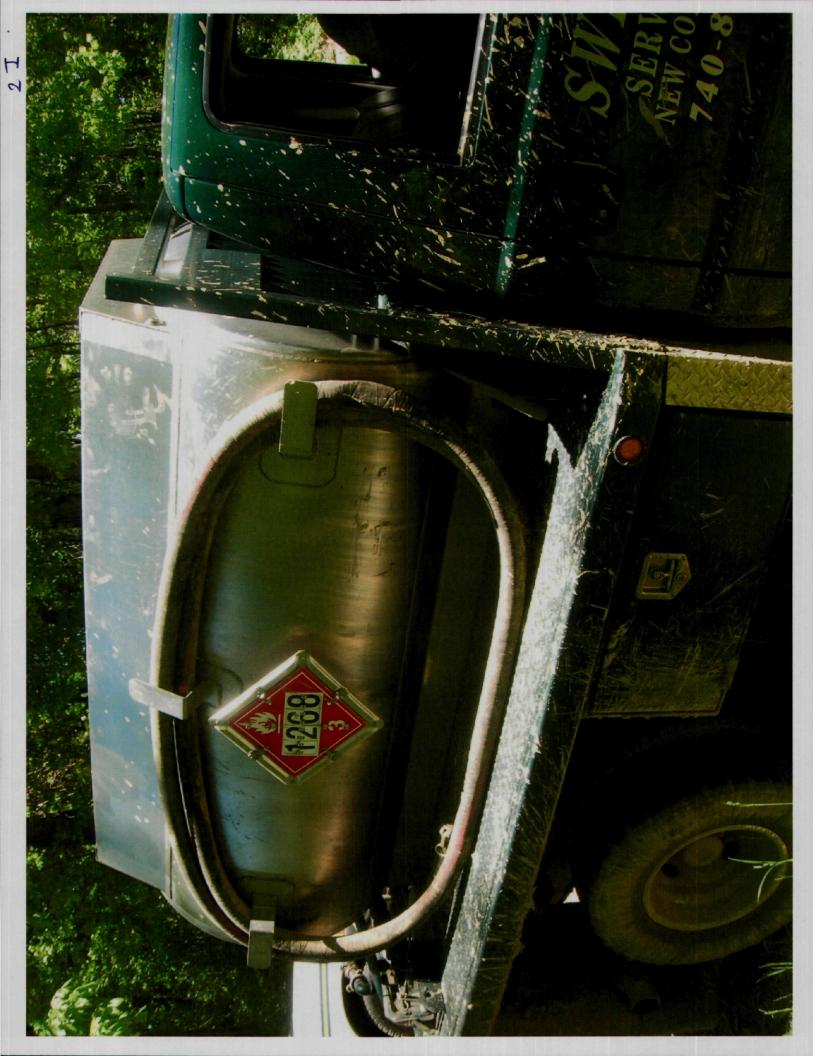
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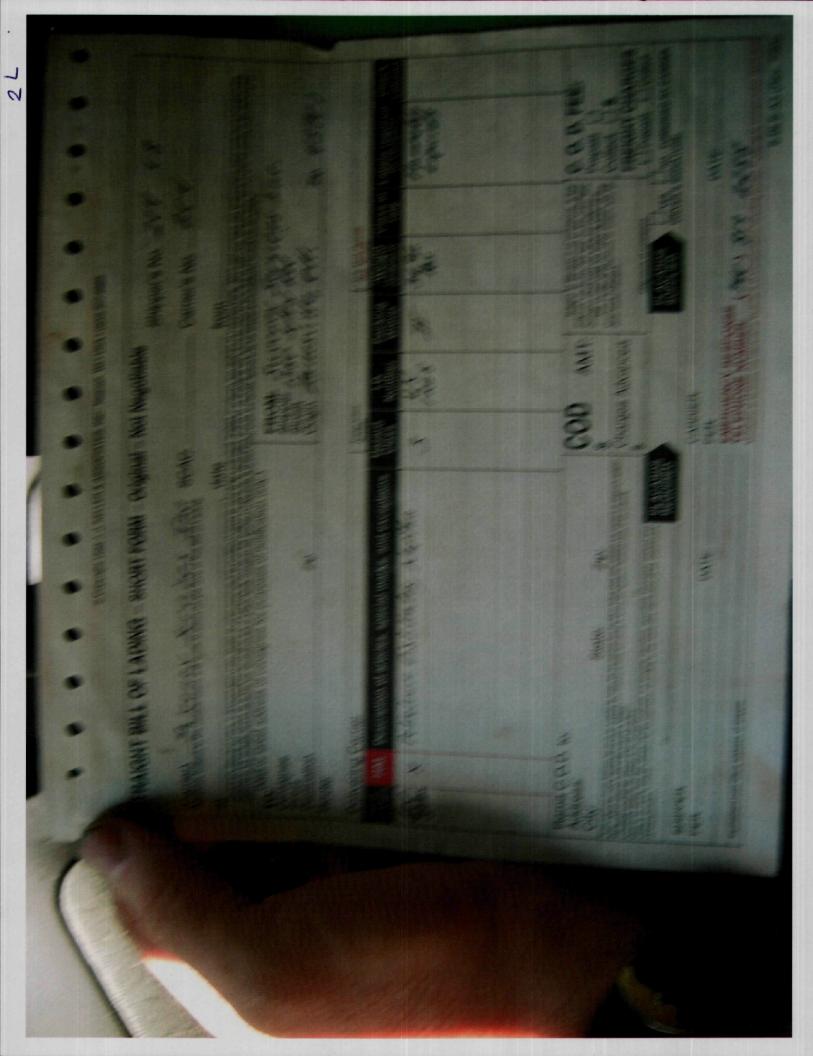




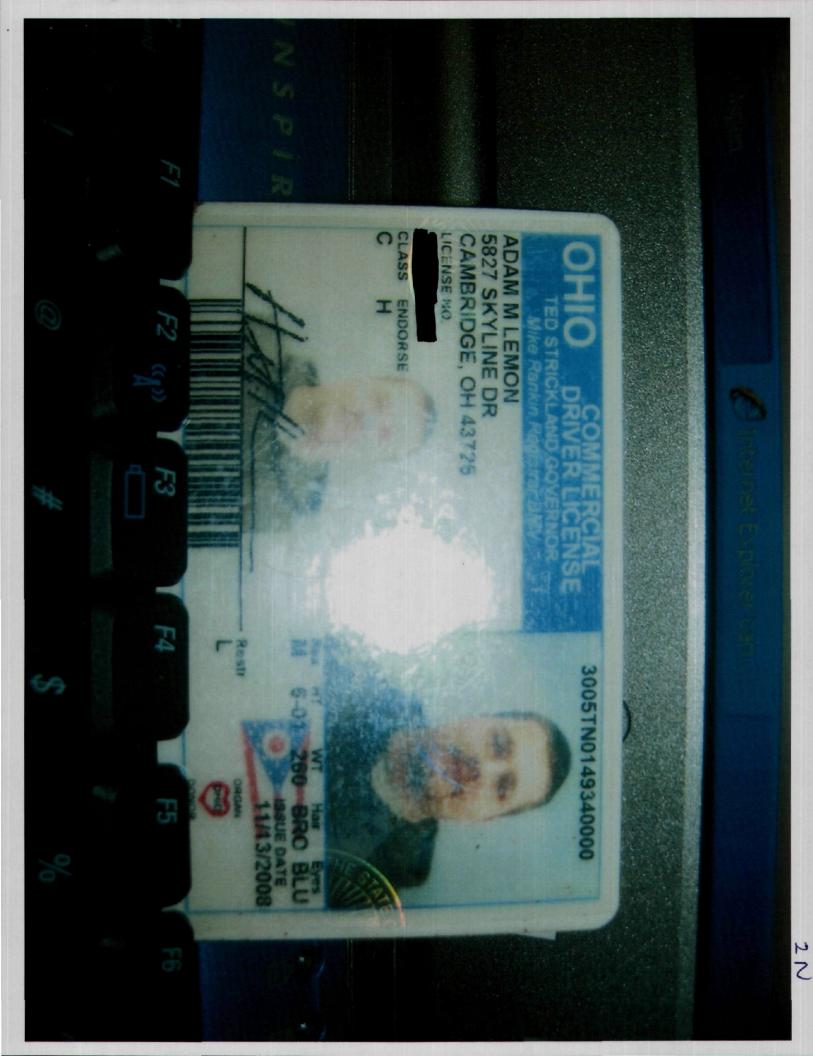




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SHIPPER:	CARRIER:				
PER	EMERGE	PER: EMERGENCY RESPONSE TELEPHONE NUMBER:		(740) 819-2288	DATE:





roreit		9436300270 COMPLETED BY	MT HINES
REPORT DATE :	MAY-20-2009	DATE ASSESSED	JUNE-3-2009
RESPONDENT	SWEENY SERVIC	CES INC	

				CARRIER CITED	
	VIOLATION CODE/ DESCRIPTION	383.9383 NO TANK ENDOR			
	NATURE GRAVITY 0 -10 PTS.	3			0
	EXTENT OF VIOL. '-10 TO +10 PTS.'	0	0	0	0
	ACTUAL HARM 0 - 20 PTS.	0	0	0	0
	OTHER CIRCUMST. '-10 TO +10 PTS.	0	0	o	0
(A)	SUBTOTAL POINTS 0-50 PTS	3			0
<u>(B)</u>	MATERIAL HAZARD	1.1			0
(C)	AMOUNT OF MATERIAL	0.4			0
(D)	SUBTOTAL POINTS = A*(B+C)	4.50			0.00
(E)	RESPONDENT CULPABILITY	1		1	1
(F)	RESPONDENT HISTORY 1,2,0R 4	1	1	1	
(G)	TOTAL POINTS = D*E*F	4.50			1
	FORFEITURE ASSESSED AMOUNT = G * \$100.00	\$450.00			

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Monitoring marketplaces and enforcing rules to assure safe, ..., adequate and reliable utility services.

Ted Strickland, Governor Man R. Schriber, Chairman

Commissioners.

Ronda Hariman Fergus Valerie A. Lemmie Paul A. Centolella Cheryf Roberto

Stall Ex4

June 12, 2009

9436300270C SWEENEY SERVICES INC PO BOX 414 NEW CONCORD, OH 43762

RE: NOTICE OF APPARENT VIOLATION AND INTENT TO ASSESS FORFEITURE Case No. 9436300270C

Dear Sir or Madame:

On May 20, 2009, vehicle numbers 204 (UNIT #1), operated by SWEENEY SERVICES INC, and driven by ADAM M LEMON was inspected within the State of Ohio by staff of the Transportation Department of the Public Utilities Commission of Ohio. As the result of discovery of the following apparent violations, of rule 4901:2-5-02,0.A.C., the Commission intends to make a civil monetary assessment against SWEENEY SERVICES INC in the following amounts:

CODEUNITVIOLATIONFORFEITURE383.93B3DNo tank vehicle endorsement on CDL - Driver\$ 450.00

Within 30 days, you must pay the forfeiture or send a written request for conference. Failure to pay the forfeiture or send a written request for a conference within 30 days will result in this forfeiture amount being referred to the Attorney General's office for collection, and may adversely affect your authority with the Public Utilities Commission of Ohio.

Please review the enclosed information concering this notice.

Sincerely, Jonathan Frye, Chief Compliance Division Public Utilities Commission of Ohio 614-466-0351

MH

180 East Broad Street ♦ Columbus, OH 43215-3793 ♦ (614) 466-3016 ♦ www.PUCO.ohio.gov The Public Utilities Commission of Ohio is an Equal Opportunity Employer and Service Provider

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Monitoring marketplaces and enjoyeing rules to assure saje, adequate and reliable utility services. Ted Strickland, Governor Alan R. Schriber, Chairman

Commissioners

Ronda Hartman Fergus Valerie A. Lemmie Paul A. Centolella Chervi Roberto

July 6, 2009

MR DAVID FERRIS ATTOURNEY SWEENEY SERVICES INC P O BOX 1237 WORTHINGTON, OH 43085

> RE: <u>NOTICE OF PRELIMINARY DETERMINATION</u> Case No. 9436300270C Officer:

Dear MR FERRIS:

On May 20, 2009, a vehicle operated by SWEENEY SERVICES INC, and driven by ADAM M LEMON, was inspected within the State of Ohio. As the result of discovery of the following apparent violations the Staff timely notified Respondent pursuant to Rule 4901:2-7-07, O.A.C., that it intended to make a civil monetary assessment against Respondent in the following amounts:

Code	Violation	
383.93B3	No tank vehicle endorsement on CDL - Driver o \$ 4	450.00
4901:2-6-14[A]	FAILURE TO FILE UNIFORM HAZMAT APPLICATION \$	0.00

Total Forfeiture Assessed :

A conference was conducted pursuant to Rule 4901:2-7-10(B), O.A.C., at which the Respondent had a full opportunity to present any reasons why the violations did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

(continued)

Staff Ex 5

STRES COMMENSATION OF THE STREES COMMENSATION OF THE STREES COMMENSATION OF THE STREEM S

Ted Strickland, Governor Alan R. Schriber, Chairman

Commissioners

Monitoring marketplaces and enforcing rules to assure safe, adequate and reliable utility services.

Ronda Hartman Fergus Valerie A. Lemmie Paul A. Centolella Cheryl Roberto

July 6, 2009 MR DAVID FERRIS ATTOURNEY SWEENEY SERVICES INC 9436300270C

PAGE -2

As a result of the conference, Staff has made a Preliminary Determination that the Commission should make a civil monetary assessment against SWEENEY SERVICES INC in the following forfeiture:

CodeViolation383.93B3No tank vehicle endorsement on CDL - Driver o \$ 450.00

Total Forfeiture Agreed :

Staff has made the preliminary determination that the following violation(s) will be deleted from all Safety-Net and Compliance Unit records and will not be included in Respondent's history of violations:

Code Violation 4901:2-6-14[A] FAILURE TO FILE UNIFORM HAZMAT APPLICATION

Please include a certified check or money order for the N.P.D. forfeiture total, made payable to "Treasurer State of Ohio," and mail to: PUCO FISCAL, 180 E. Broad St, 10th floor, Cols. OH 43215-3793. FOR PROPER CREDIT, BE SURE TO PUT THE CASE NUMBER ON THE FACE OF THE CHECK.

Please consult the enclosed additional information concerning this Notice of Preliminary Determination.

Robert E. Marvin, Director Transportation Department Public Utilities Commission of Ohio

79-607-TR-CVF

FERRIS & FERRIS LLP P.O. Box 1237 Worthington, Ohio 43085

> Telephone: (614) 844-4777 Facsimile: (614) 844-4778

David A. Ferris Boyd B. Ferris



Writer's E-Mail: dferris@carrierlaw.com

July 20, 2009

Docketing Division Public Utilities Commission of Ohio 180 East Broad Street, 13th Floor Columbus, OH 43215-3793

> Rc: Notice of Preliminary Determination and Intent to Assess Forfeiture Sweency Services, Inc. -- Case No. 9436300270C Request for Administrative Hearing

Dear Sir or Madam:

Attached hereto, in accordance with the requirements of Section 4901:2-7-13, O.A.C., is a Notice of Preliminary Determination and Intent to Assess Forfeiture involving Sweeney Services, Inc.

Respondent, Sweeney Services, Inc., respectfully requests an Administrative Hearing in the above-captioned matter. In accordance with Commission rules, the following information is provided:

Authorized Representative:

David A. Ferris FERRIS & FERRIS LLP P.O. Box 1237 Worthington, OH 43085-1237 Tel: (614) 844-4777 Fax: (614) 844-4778

Please advise if any additional information is required.

Very truly yours. David A/Ferris

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DAF/baf Enclosure

This is to certify that the images appearing are an accurate and complete reproduction of a cade file document delivered in the regular course of business And Date Processed 7/2/104 rechnician.

STATES COMPANY OF THE STATE OF

Monitoring nurketplaces and enforcing rules to assure safe, adequate and reliable utility services. Ted Strickland, Governor Alan R. Schriber, Chairman

Commissioners

Ronda Hartman Fergus Valerie A. Lemmie Paul A. Centolella Cheryl Roberto

July 6, 2009

MR DAVID FERRIS ATTOURNEY SWEENEY SERVICES INC P O BOX 1237 WORTHINGTON, OH 43085

> RE: <u>NOTICE OF PRELIMINARY DETERMINATION</u> Case No. 9436300270C Officer:

Dear MR FERRIS:

On May 20, 2009, a vehicle operated by SWEENEY SERVICES INC, and driven by ADAM M LEMON, was inspected within the State of Ohio. As the result of discovery of the following apparent violations the Staff timely notified Respondent pursuant to Rule 4901:2-7-07, 0.A.C., that it intended to make a civil monetary assessment against Respondent in the following amounts:

Code	Violation	
383.93B3	No tank vehicle endorsement on CDL - Driver o \$ 450.00	
4901:2-6-14[A]	FAILURE TO FILE UNIFORM HAZMAT APPLICATION \$ 0.00	

Total Forfeiture Assessed :

A conference was conducted pursuant to Rule 4901:2-7-10(B), O.A.C., at which the Respondent had a full opportunity to present any reasons why the violations did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

(continued)

JUL 1 3 2009

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July 6, 2009 MR DAVID FERRIS ATTOURNEY SWEENEY SERVICES INC 9436300270C

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As a result of the conference, Staff has made a Preliminary Determination that the Commission should make a civil monetary assessment against SWEENEY SERVICES INC in the following forfeiture:

CodeViolation383.93B3No tank vehicle endorsement on CDL - Driver o \$ 450.00

Total Forfeiture Agreed :

Staff has made the preliminary determination that the following violation(s) will be deleted from all Safety-Net and Compliance Unit records and will not be included in Respondent's history of violations:

Code Violation 4901:2-5-14[A] FAILURE TO FILE UNIFORM HAZMAT APPLICATION

Please include a certified check or money order for the N.P.D. forfeiture total, made payable to "Treasurer State of Ohio," and mail to: PUCO FISCAL, 180 E. Broad St, 10th floor, Cols. OH 43215-3793. FOR PROPER CREDIT, BE SURE TO PUT THE CASE NUMBER ON THE FACE OF THE CHECK.

Please consult the enclosed additional information concerning this Notice of Preliminary Determination.

Robert E. Marvin, Director Transportation Department Public Utilities Commission of Chio

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