

PUCO EXHIBIT FILING

FILE

Date of Hearing: 7/2/2014Case No. 14-0702-TR-CVFPUCO Case Caption: In the Matter of Western
Aires Construction LLC, Notice of
Apparent Violation and Intent to Assess
Forfeiture

List of exhibits being filed:

Staff 1-2Respondent 1-8

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Reporter's Signature: Karen Sue GibsonDate Submitted: 7-8-14

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of Western :
Aries Construction LLC, :
Notice of Apparent : Case No. 14-0702-TR-CVF
Violation and Intent to :
Assess Forfeiture. :

- - -

PROCEEDINGS

before Ms. Sarah Parrot, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-C, Columbus, Ohio, called at 1:30
p.m. on Wednesday, July 2, 2014.

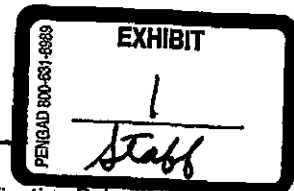
- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

- - -

DRIVER/VEHICLE EXAMINATION REPORT

Ohio



Report Number: OH3242009152
 Inspection Date: 12/29/2013 Certification Date: 01/21/2014
 Time Started: 14:37 Time Ended: 15:54
 Inspection Level: I - Full Inspection
 HM Inspection Type: No HM Inspection

WESTERN ARIES CONSTRUCTION LLC
 2919 BIRCH AVENUE
 NIAGARA FALLS, NY 14305
 USDOT #: 1063618 Phone #: (716)930-6994
 MC/MX #: 445953 Fax #:
 State #:

Driver: WALAWENDER, WIESLAW J
 License #: 877921574 State: NY
 Date of Birth: 03/23/1966

Location: ROADSIDE MilePost: 128
 Highway: IR71 Origin: ELBA, NY Bill of Lading: 33085
 County: DELAWARE Destination: AUSTIN, TX Cargo: FRESH PRODUCE
 Shipper: TORREY FARMS

VEHICLE IDENTIFICATION:

Unit	Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	CVSA #	CVSA Issued #	OOS Stkr.#
1	TT	FRHT	1996	NY	28916PC	70	1FUVDZYB4TP607816	52,000			
2	ST	UTIL	1993	ME	1883924		1UYVS2488PM071009	68,000			

BRAKE ADJUSTMENTS:

Axle #	1	2	3	4	5
Right	1 1/4	1 1/2	1 1/2	2 1/4	1 1/2
Left	1 1/4	1 1/2	1 1/2	1 1/2	1 1/2
Chamber	C-20	C-30	C-30	C-30	C-30

VIOLATIONS :

Vio Code	Section	Unit	OOS	Citation #	Verify*	Crash	Violation Description
393.9	393.9(a)	2	N		N	N	Inoperable Required Lamp - left, center ids 2 of 3
393.9	393.9(a)	1	N		N	N	Inoperable Required Lamp - right front turn signal
393.51	393.51	1	N		N	N	No or defective brake warning device - no audible
393.9	393.9(a)	2	Y		U	N	Inoperable Required Lamp - left rear turn signal
393.9	393.9(a)	2	N		N	N	Inoperable Required Lamp - right side center marker
396.3A1BOS	396.3(a)(1)	1	Y		U	N	BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination
393.48A	393.48(a)	1	Y		U	N	Inoperative/defective brakes - axle #1 right, contaminated with grease or oil
393.47E	393.47(e)	2	N		N	N	Clamp or Roto type brake out-of-adjustment - axle #4 right

* N - Non-OOS or Driver OOS Violation; U - Unknown

HazMat: No HM Transported. Placard: NA Cargo Tank:

Special Checks:

- | | | |
|---|--|--|
| <input type="checkbox"/> Alcohol/Controlled Substance Check | <input type="checkbox"/> Traffic Enforcement | <input type="checkbox"/> Post Crash Inspection |
| <input type="checkbox"/> Conducted by Local Jurisdiction | <input type="checkbox"/> PASA Conducted Inspection | <input type="checkbox"/> PBBT Inspection |
| <input type="checkbox"/> Size and Weight Enforcement | <input type="checkbox"/> Drug Interdiction Search | Arrests: |

Inspection Notes:

Special Study Fields:

Special Study1:	Special Study6:
Special Study2:	Special Study7:
Special Study3:	Special Study8:
Special Study4:	Special Study9:
Special Study5:	Special Study10:

Locally Defined Fields:

Report Prepared By:
 M Irmischer

Badge #:
 3242

Copy Received By: Page 1 of 2
 WALAWENDER, WIESLAW J

09152!Ä

OH3242009152

DRIVER/VEHICLE EXAMINATION REPORT



Report Number: OH3242009152
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WESTERN ARIES CONSTRUCTION LLC
 2919 BIRCH AVENUE
 NIAGARA FALLS, NY 14305
 USDOT #: 1063618 Phone #: (716)930-6994
 MC/MX #: 445953 Fax #:
 State #:

Driver: WALAWENDER, WIESLAW J
 License #: 877921574 State: NY
 Date of Birth: 03/23/1966

For-Hire Carrier: Y	Fatalities (Y/N): N
Driver Address: 2742 MAPLE AVE	Driver City: NEWFANE
Driver State: NY	Driver Zip: 14108
Photos Taken (Y/N): N	Supplemental Report #: N
Co-Investigator #: N	Reason Code: OBVI
Paper Report #: N	FMCSA Credentials Verified-Y/N: Y
CDL Verified (Y/N): Y	FMCSA OOS Order Issued(Y/N): N
Crash Report #: N	Orig Seal Placed by(C/D/S/U): N

* Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9, I hereby declare vehicles with defects followed by an "Y" in the "Out of Service" column in the violations discovered section of this report OUT OF SERVICE. No person shall remove the out of service stickers applied to these vehicles, or operate such vehicles until the out of service defects have been repaired and the vehicles have been restored to safe operating condition.

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 - 4th floor, 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. If you have any questions, please contact (614) 466-0429.

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: X Title: _____ Date: _____

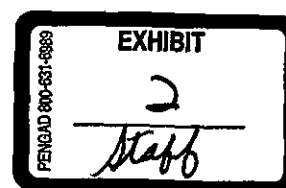
Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature of Repairer: X Facility: _____ Date: _____



Public Utilities Commission

John R. Kasich, Governor
Todd A. Snitchler, Chairman



Steven D. Lesser
Asim Z. Haque
Lynn Slaby
M. Beth Trombold

03/19/2014

OH3242009152C
WESLAW WALAWENDER
2919 BIRCH AVE
NIAGARA FALLS, NY 14305

RE: **NOTICE OF PRELIMINARY
DETERMINATION**
Case No. OH3242009152C

Dear Sir or Madam:

On 12/29/2013, a vehicle operated by WESTERN ARIES CONSTRUCTION LLC, and driven by WIESLAW J WALAWENDER, was inspected within the State of Ohio. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified WESTERN ARIES CONSTRUCTION LLC (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
393.47E	0	Clamp or Roto type brake out-of-adjustment - axle #4 right	
393.51	0	No or defective brake warning device - no audible	
393.9	0	Inoperable Required Lamp - left,center ids 2 of 3	
393.9	0	Inoperable Required Lamp - right front turn signal	
393.9	0	Inoperable Required Lamp - right side center marker	
393.48A	1	Inoperative/defective brakes - axle #1 right,contaminated with grease or oil	
396.3A1BOS	1	BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination	
393.9	2	Inoperable Required Lamp - left rear turn signal	
		Total of Group 0	0.00
		Total of Group 1	250.00
		Total of Group 2	50.00

TOTAL AMOUNT DUE: \$300.00

180 East Broad Street
Columbus, Ohio 43215-3793

(614) 466-3016
www.PUCO.ohio.gov

An equal opportunity employer and service provider



Public Utilities Commission

John R. Kasich, Governor
Todd A. Snitchler, Chairman

Commissioners

Steven D. Lesser
Asim Z. Haque
Lynn Slaby
M. Beth Trombold

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation 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.

As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against WESTERN ARIES CONSTRUCTION LLC in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
393.47E	0	Clamp or Roto type brake out-of-adjustment - axle #4 right	
393.51	0	No or defective brake warning device - no audible	
393.9	0	Inoperable Required Lamp - left,center ids 2 of 3	
393.9	0	Inoperable Required Lamp - right front turn signal	
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396.3A1BOS	1	BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination	
393.9	2	Inoperable Required Lamp - left rear turn signal	
Total of Group 0			
Total of Group 1			250.00
Total of Group 2			50.00

TOTAL AMOUNT DUE: \$300.00

Within 30 days of this notice, you must **either**: (1) pay the assessed civil forfeiture **or** (2) file a written request for an administrative hearing pursuant to rule 4901:2-7-13, O.A.C. Failure to file a written request for an administrative hearing within 30 days shall constitute a waiver of your right to further contest the violations and will conclusively establish the occurrence of the violations. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

Please consult the enclosed instruction sheet for additional information regarding this Notice of Preliminary Determination.



Public Utilities Commission

John R. Kasich, Governor
Todd A. Snitchler, Chairman

Commissioners

Steven D. Lesser
Asim Z. Haque
Lynn Slaby
M. Beth Trombold

Sincerely,

A handwritten signature in black ink that reads 'Milan Orbovich'.

Milan Orbovich, Director
Transportation Department

Compliance Officer: Wanda Williams

601010

PENGAD 800-631-6389

EXHIBIT
1
Respondent

ERNIE'S TRUCK & TIRE REPAIR

LONDON, OH

614-736-3037

866-603-8607

@ Left Abs

ERIN

HEAVY DUTY SERVICE

SUNBURY, OH

740-965-2424

888-965-2424

BCD

24000.00

266.00

45

310.00

INTERSTATE TRUCK &

TRAILER REPAIR

HUBER HEIGHTS, OH

937-754-0427

RUSTY'S TOWING SERVICE

COLUMBUS, OH

614-491-6288

614-497-9942

800-478-7897

does not work
Sunday or Red call

325.00

ALL STATE ROAD SERVICE

& TRUCK REPAIR

PROSPECT, OH

740-494-2791

C & A TRUCK & TRAILER REPAIR

LONDON, OH

614-949-7424

TA TRUCK STOP

LONDON, OH

740-852-3810

EITEL'S TOWING & REPAIR

ORIENT, OH

614-877-4139

800-432-6274

CENTRAL OHIO TIRE

DELAWARE, OH

740-369-0759

BARKER'S TOWING & RECOVERY

LONDON, OH

740-852-5069

740-426-8600

WORTHINGTON TOWING

COLUMBUS, OH

614-491-6288

MIKE'S TOWING & REPAIR

CHESTERVILLE, OH

740-694-5021

419-768-2527

W.D. TIRE SERVICE CENTER

COLUMBUS, OH

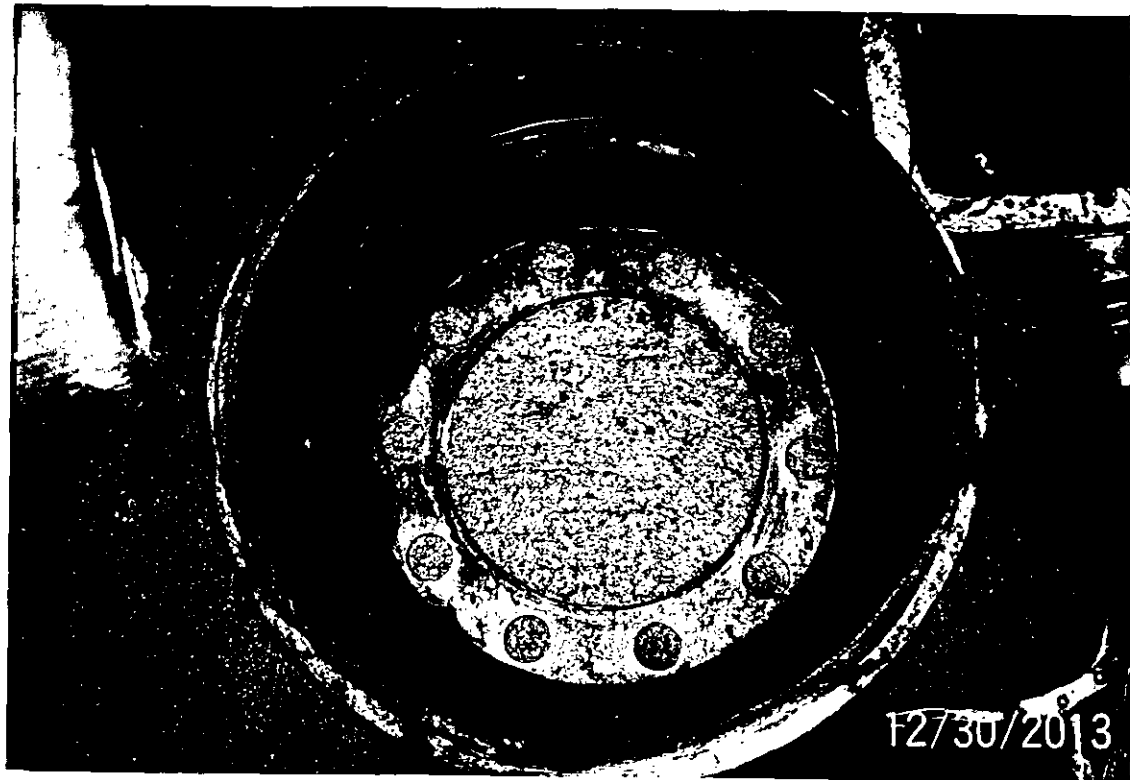
614-409-3228

MAINES TOWING & SERVICE

SPRINGFIELD, OH

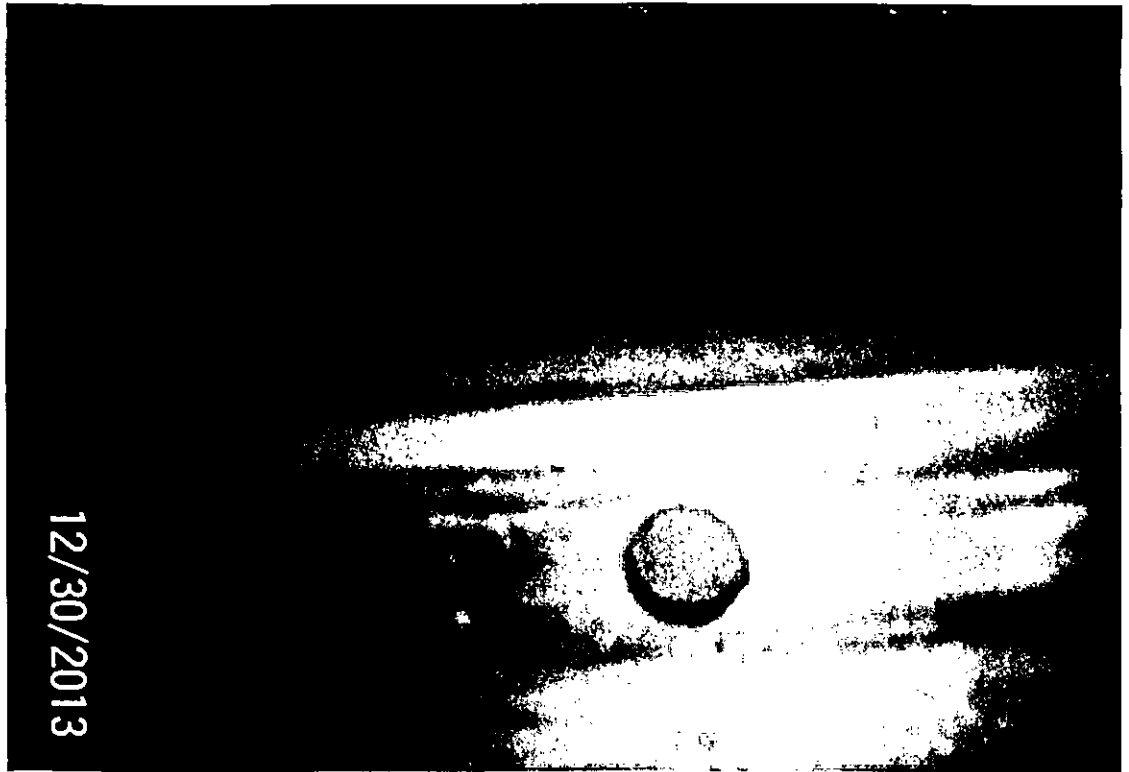
937-322-4618

800-322-4618



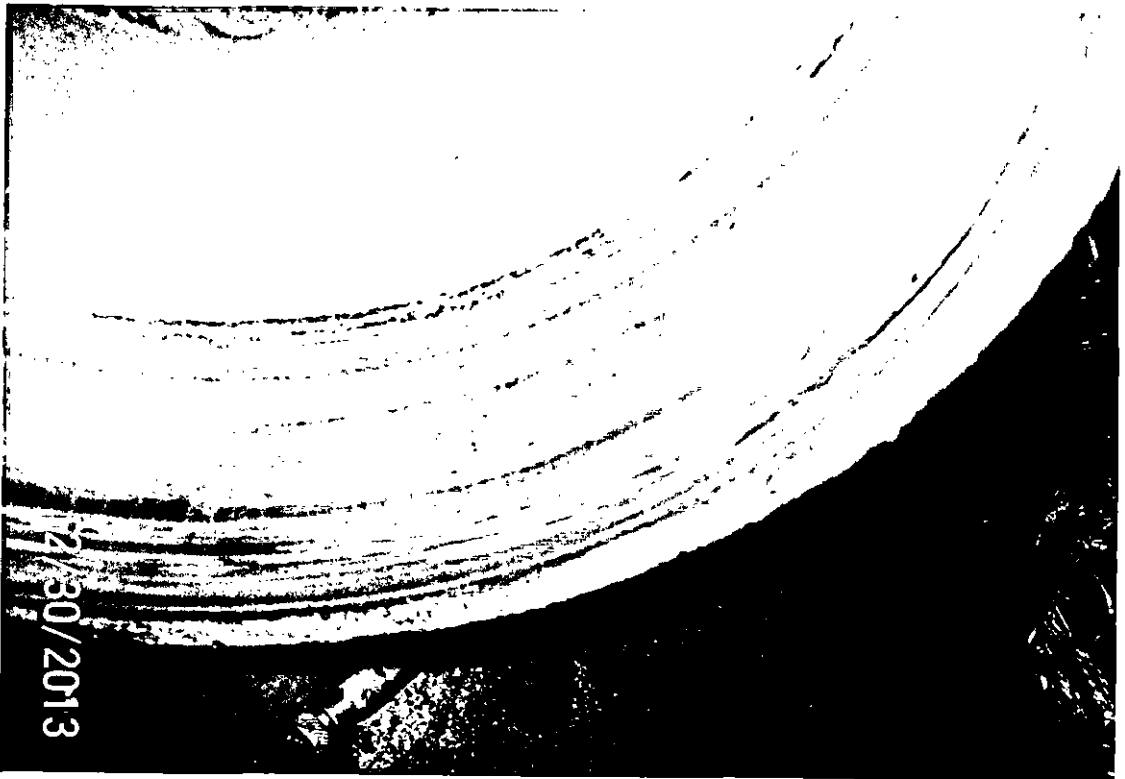


12/30/2013

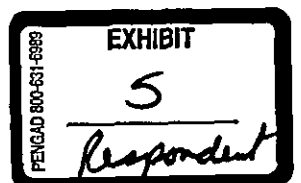
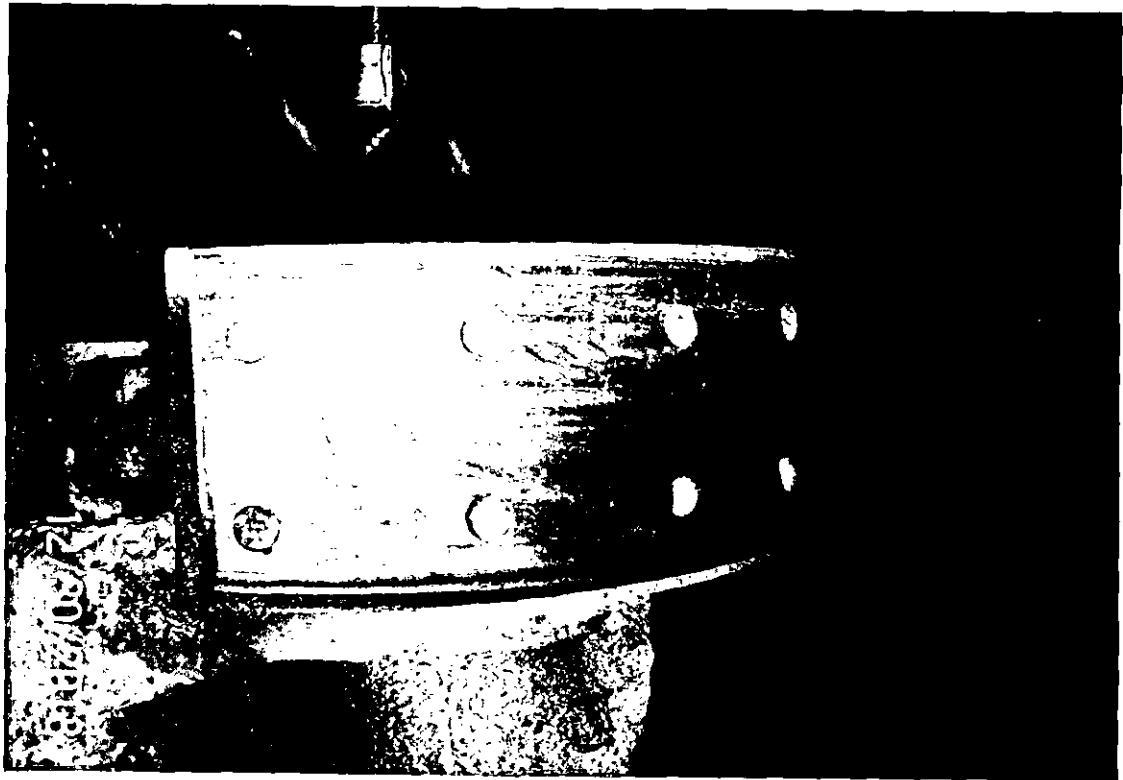


12/30/2013





12/30/2013





19519

Date: 1-22-13

Customer: Western Area Const

Street Address:

City/State/Zip: _____

Truck: 70 / Trailer

DESCRIPTION	AMOUNT
1- 847 wheel seal	28.46
1- 2121443 E. Shoes	64.05
1- 2121443 E shoes CGC	413.20
Service Call	75.00
Go To Dealer Pick up Part Go To Unit Remove & replace right front wheel seal	
Sub	270.00
PD CL	
SUB TOTAL	480.21
44866530445 TAX	
GRAND TOTAL	480.21

Thank You

[illegible]

EXHIBIT

4

Respondent

**FYDA FREIGHTLINER COLUMBUS, INC.**

1250 WALCUTT ROAD

COLUMBUS, OH 43228

Phone: (614) 851-0002 Fax: (614) 851-0011



Date

Pick Ticket

C001633451

Bill-To

65115

Ship-To

65115

FAF OWNER OPERATOR
TEMPLATEFAF OWNER OPERATOR
COLUMBUS, OH 43228

PO#	Ship Via	Date Shipped	F.O.B.	Writer	Waybill #	Terms
	P	12/29/2013		GEORGE		COD

Ship	B/O	Item	Description	Bin1	List	Unit Price	Extended
0	0	001F/ETN 847	oil seal	L16H	35.19	28.46	10.00
1	0	001F/TDA XK2121443E	RELINED BRAKE SHOES	102N05	137.28	64.05	64.05
1	0	001R/1443E-2-CORE	CORE: BRAKE SHOE	BSCORE	128.48	43.20	43.20

*Keep
Slips -
not needed*

PLEASE PAY FROM THIS INVOICE

Terms: NET 10. NO CASH DISCOUNT. The customer agrees to a service fee of 2% per month (24% per annum) to be added to all balances past due. **NO CREDIT ISSUED FOR RETURNED PARTS WITHOUT A COPY OF THIS INVOICE.**

All returns must be made subject to a 20% handling charge. No returns after 15 days. All cores must be returned within 30 days to receive full credit. **NO RETURNS ON ELECTRICAL PARTS, OPENED KITS, OR SPECIAL ORDERS.**

Any warranties on the products sold hereby are those made by the manufacturer. The seller, FYDA FREIGHTLINER COLUMBUS, INC. hereby expressly disclaims all warranties, either expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and FYDA FREIGHTLINER COLUMBUS, INC. neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products. **IF ATTORNEY SERVICES ARE USED TO EFFECT COLLECTION, I WILL PAY REASONABLE FEE.**

Customer Signature: _____

Printed Name: _____

Subtotal 107.25

Tax 7.51

Total: 114.76

Paid _____ Date _____

FYDA Freightliner, Inc.

Received By _____

Cash _____ Charge _____ Check# _____

Follow us on Facebook - www.facebook.com/fydafreightliner

UPON

Receivable

Invoice No.

Serial No.

Invoice

MM Ins.

Owner: MCCLAW

Phone: 877921

Address: 1000

City: 1000

State: 1000

Zip: 1000

Model:

Original: 1000

Destination: 1000

Owner: TOPRE

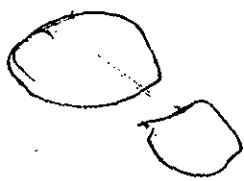
Bill of Lading

Cargo: 1000

X End of line

Rest any

X 12-28



Right Front Brakes shoes WAS dry (a drum too)
Wheel Seal Leaking ~~oil~~ sweat.
Axle 4 Right on Trailer measure 1 1/2 in

m. J. J. J.