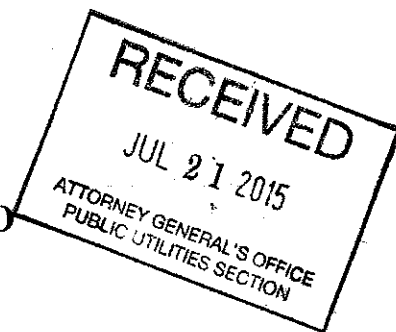


**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**



In the Matter of Wallseye Concrete, : Case No. 15-885-TR-CVF
Notice of Apparent Violation and Intent : (CR201501150137)
to Assess Forfeiture. :

SETTLEMENT AGREEMENT

- 1) Pursuant to Rule 4901:2-7-11 of the Ohio Adm. Code, Wallseye Concrete (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this settlement agreement to resolve all issues in the above captioned case.
- 2) On January 15, 2015, a Compliance Review was conducted by Staff at the Respondent's facility located at 400 Lowell Street, Elyria, Ohio. As the result of discovery of the following violations of the Commission's rules, Staff timely notified Respondent pursuant to Rules 4901:2-7-07 and 4901:2-7-12, Ohio Adm. Code, that it intended to make a civil monetary assessment against Respondent and served a notice of preliminary determination in the following amounts:

49 C.F.R.	Violation	Forfeiture
391.23 (a)	Failing to investigate driver's background	\$ 900.00
391.25 (a)	Failing to make inquiry into driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months	0.00
391.11 (a)	Using a driver not medically examined and certified during the preceding 24 months	500.00
396.11 (a)	Failing to require driver to prepare driver vehicle inspection report	475.00
382.301 (a)	Using a driver before the motor carrier has received a negative pre-employment controlled substance test result	400.00
396.17 (a)	Using a commercial motor vehicle not periodically inspected	475.00
396.3 (a)	Failing to systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles and intermodal equipment subject to your control	0.00
396.3 (b)	Failing to keep minimum records of inspection and vehicle maintenance	425.00
391.11 (b)(6)	Failing to require driver to furnish list of motor vehicle traffic violations each 12 months	0.00
390.15 (b)	Failing to maintain, for a period of three years after an accident occurs, an accident register	0.00
391.51 (B)(7)	Failing to maintain medical examiner's certificate in driver's qualification file	400.00
382.603	Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances	0.00
391.51 (b)(2)	Failing to maintain inquiries into driver's driving record in driver's qualification file	700.00
391.25 (b)	Failing to review the driving record of each driver to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive	0.00
Total:		\$ 4,275.00 ¹

¹ The Notice of Preliminary Determination included a violation of 49 C.F.R. 391.45 (b)(1) and forfeiture assessment of \$400 by mistake. This violation and assessment were not included in this list and calculation. The Staff disclosed this error to the Respondent at the prehearing conference.

- 3) A prehearing conference was conducted on June 18, 2015, at which the Respondent had a full opportunity to present mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff. Respondent has implemented extensive corrective measures that address each of the listed violations following Staff's compliance review of Respondent's business. In addition, Respondent has a new full-time compliance officer to assure these problems and issues will not be repeated in the future.
- 4) For purposes of settlement, and not as an admission or evidence that the violations occurred, Respondent agrees that the violations listed in Staff's notice of preliminary determination and provided in Paragraph Two of this Settlement Agreement, as corrected, may be included in the Respondent's Safety-Net record, and in Respondent's history of violations insofar as they may be relevant for purposes of determining future penalty actions.
- 5) The parties have negotiated this Settlement Agreement which the parties believe resolves all of the issues raised in this case. Taking into consideration Respondent's corrective measures, the parties agree to a 30% reduction of the total forfeiture amount in paragraph two of this Settlement Agreement. Accordingly, the parties agree that Respondent is to make payment of a civil forfeiture of \$2,992.50, in 11 monthly installment payments of \$249.38 and 1 monthly installment payment of \$249.32. The first installment payment is due no later than 30 days after the effective date of this Settlement Agreement. Respondent shall submit payment by

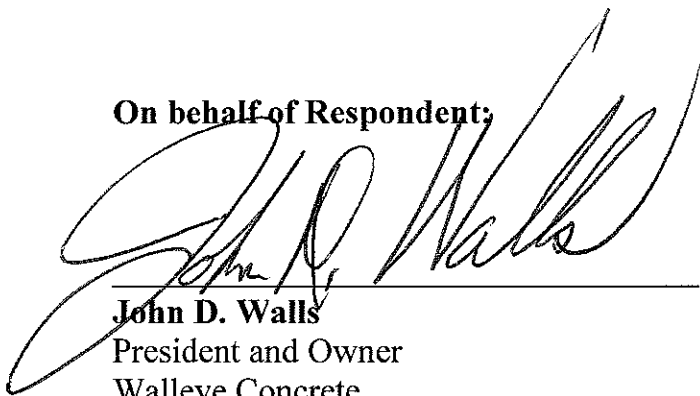
check or money order, payable to "Treasurer State of Ohio," and mail to: PUCO, Attn: CF Processing, 180 E. Broad St., 4th Floor, Columbus, OH 43215-3793.

The case number 15-885-TR-CVF (CR201501150137) must appear on the face of each check.

- 6) It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (Commission). This agreement, however, is based on the Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts and circumstances. Accordingly, the Respondent and the Staff recommend that the Commission adopt this Settlement Agreement.
- 7) This settlement agreement is submitted on the condition that the Commission adopts the agreed upon terms. In the event the Commission rejects any part of the settlement agreement, or adds to, or otherwise materially modifies its terms, each party shall have the right, within thirty days of the Commission's order, to either file an application for rehearing or terminate and withdraw the Settlement Agreement by filing notice with the Commission. Upon rehearing, any party shall have the right within fifteen days of the commission's order on rehearing to file a notice of termination or withdrawal of the Settlement Agreement. Upon notice of termination or withdrawal by either party, pursuant to the above provisions, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

8. This settlement agreement shall not become effective until adopted by the Commission. The date of the entry of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.
- 9) This settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any affect whatsoever in any other case or proceeding.
- 10) In the event Respondent defaults in its obligations under this agreement, the Commission may set this agreement aside and order the Respondent to pay the full amount indicated in paragraph two of this agreement and as indicated in the Notice of Intention to Assess Forfeiture served in this case, pursuant to Rule 4901:2-7-11 (E), Ohio Adm. Code.
- 11) This agreement, which is subject to the Rules of the Commission, constitutes the entire agreement of the parties. The signatory parties agree that this Settlement Agreement is in the best interest of all the parties, and recommend the Commission to adopt same. The undersigned respectfully request that the Commission issue an entry in accordance with the terms set forth in this Settlement Agreement.
- 12) The parties have manifested their consent to the Settlement Agreement by affixing their signatures below this 21st day of July, 2015.

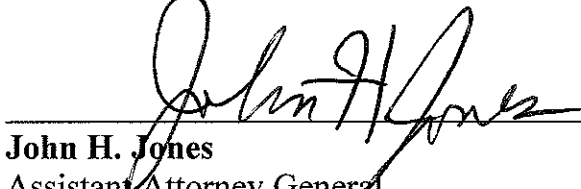
On behalf of Respondent:



John D. Walls

President and Owner
Walleye Concrete
226 Commerce East
Lagrange, Ohio 44050
440.355.5825 (telephone)
440.355.5826 (fax)

**On behalf of the Staff of the Public
Utilities Commission of Ohio:**



John H. Jones

Assistant Attorney General
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, OH 43215-3793
614.466.4397 (telephone)
614.644.8764 (fax)

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/21/2015 11:37:58 AM

in

Case No(s). 15-0885-TR-CVF

Summary: Agreement Settlement Agreement submitted by Assistant Attorney General John Jones on behalf of the Staff of the Public Utilities Commission of Ohio. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio