

NC
FILE

10-149-TR-CVF
19
Feb. 1st, 2010

Dear Mr. Marvin,

I am requesting an administrative hearing.

I am enclosing a copy of the notice of preliminary determination, a copy of an email with my attorney, a copy of the inspection report, (the plate numbers on the inspection report are wrong), a copy of the registration of the vehicle that I was driving, copies of the court case in Xenia, OH, where the charge was reduced, and a copy of the video log that shows that the patrol cam was not erased after thirty days as I was told by the supervisor.

My case number is OH1276002768D

Peter S Becknall
114 2nd Ave. NE
Elgin, ND 58533-7014

Phone #702-806-7287

E-mail is petebecknall@yahoo.com

Thank you,
Peter S. Becknall

Peter S. Becknall

RECEIVED-DOCKETING DIV
2010 FEB-8 PM 3:58
PUCO

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician Sm Date Processed FEB 08 2010



**Public Utilities
Commission**

Ted Strickland, Governor
Alan R. Schriber, Chairman

Commissioners

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

January 4, 2010
MR. PETER BECKNALL

OH1276002768D

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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 PETER S BECKNALL in the following forfeiture:

Code	Violation
392.3	Operating a CMV while ill or fatigued - DRIVER ADM

Total Forfeiture Agreed : \$.00

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

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





Public Utilities Commission

Ted Strickland, Governor
Alan R. Schriber, Chairman

Commissioners

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

January 4, 2010

MR. PETER BECKNALL

114 2ND AVE NE
ELGIN, ND 58533-7014

RE: **NOTICE OF PRELIMINARY DETERMINATION**

Case No. OH1276002768D

Officer: CS

Dear MR. BECKNALL:

On June 5, 2009, a vehicle operated by J-MAR ENTERPRISES INC, and driven by PETER S BECKNALL, was inspected within the State of Ohio. As the result of discovery of the following apparent violation 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 amount:

Code	Violation
392.3	Operating a CMV while ill or fatigued - DRIVER ADM

Total Forfeiture Assessed : \$.00

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 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.

(continued)

PETE BECKNALL

From: Brian Lusardi [blusardi@woh.rr.com]
Sent: Tuesday, October 27, 2009 7:01 PM
To: PETE BECKNALL
Subject: Re: Hello

Thanks for the information.

The prosecutor said to me that since you challenged the officer via the commission review process, he was not willing to consider amending the violation to a no point violation. He was being a ~~ass~~ that day.

I will relay the message and maybe now I can better persuade him to make it an "unsafe vehicle" violation and just get you a fine and costs and be done with the case (as it should have been in the beginning).

I will keep you posted, and keep me posted as well.

Brian E. Lusardi, Esq.

— Original Message —

From: PETE BECKNALL
To: 'Brian Lusardi'
Sent: Tuesday, October 27, 2009 8:52 AM
Subject: Hello

Hello,

I had the conference call with one person at the Ohio Commission. All this was to tell me that it was basically my word against the Officer's. I told her the way he put me out of service as far as him telling me to get a cup of coffee before I finish my driving. She said I had some valid points. Now I will get another letter to schedule a hearing in their court (subpoena the Officer). I told her about my court date and that the prosecuting attorney would not work with me because I had scheduled the conference. She said that she never heard of that before. I also asked to get the hearing the same time as my court date.

I will send you the information that you requested in your last letter to me. I was hoping I that I would be able to avoid all this with the conference call.

I tried to get the patrol cam of my stop but was told it was erased after a month. The erase log shows that it was erased one day before I requested it. My citation was on June 5th and it was erased July 12th. I requested some video stops of the Officers other stops with out of service citations or other tickets. I got four video stops. There are some interesting comments on them and the kind of attitude he has.

The biggest thing is when he escorted me five miles to a Kmart parking lot that says no truck parking, he told me to get a cup of coffee before I finish driving. Sleep is the only thing that cures fatigue. His action contradicts the citation for fatigue and being put out of service.

FMCSA defines fatigue to being out of hours to drive. The CVSA establishes the out of service criteria. The state has to adopt these as laws to enforce them. I have sent several emails trying to get the guidelines for officers to put truck drivers out of service for fatigue. I did not get a clear response.

I can send you a blow by blow if that is what you want.

Here are some web sites with information concerning my stop.

http://law.justia.com/ohio/codes/orc/id_451179-ec13.html

<http://codes.ohio.gov/orc/4511.79>

<http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?>

2/2/2010

key=0901633480023971

[http://csa2010/articles/CSA_2010_Unsafe_Driving_Violation_Severity_Chart.htm](#)

[http://vsa.org/out/index.aspx](#)

[http://gov/rules-regulations/administration/fmcsr/fmcsruletext.aspx?chunkkey=0901633480023975](#)

Thank you
Peter S. Blackwell
702-808-1297

ND DOT

North Dakota
Department of Transportation

Motor Vehicle Division
606 E. Boulevard Avenue
Bismarck, ND 58505-0760
Phone: (701)328-2725
Fax: (701)328-3500

J-MAR INC
PO BOX 4143
BISMARCK ND 58502-4143

NORTH DAKOTA IRP GAB CARD

USDOT 291072		TITLE NO 4287121		APPORTIONED PLATE NO 48466	
ACCOUNT NO 778		FLEET NO 1		SUPP NO 000	
VEHICLE IDENTIFICATION NO 1FUJA6CK54LM82317		YEAR 2004	MAKE FRHT	TYPE TT	FUEL D
POWER UNIT NO AXLES 3		SEATS/BUS			
COMB GROSS WEIGHT 80000	UNLADEN WEIGHT 18000	ISSUE 02/17/2009	EFFECTIVE 10/01/2008	EXPIRES 09/30/2009	ENFORCEMENT 10/01/2009
OWNER (LESSOR) TRANS LEASE INC LSR					

The vehicle described has been proportionally registered in North Dakota and the jurisdiction(s) shown below.
Canadian province weights are in kilograms, US jurisdictions are shown in pounds.

ND 80000	AL 80000	AR 80000	AZ 80000	CA 80000	CO 80000
CT 80000	DE 80000	FL 80000	GA 80000	IA 80000	ID 80000
IL 80000	IN 80000	KS 80000	KY 80000	LA 80000	MA 80000
MD 80000	ME 80000	MI 80000	MN 80000	MO 80000	MS 80000
MT 80000	NC 80000	NE 80000	NH 80000	NJ 80000	NM 80000
NV 80000	NY 80000	OH 80000	OK 80000	OR 80000	PA 80000
RI 80000	SC 80000	SD 80000	TN 80000	TX 80000	UT 80000
VA 80000	VT 80000	WA 80000	WI 80000	WV 80000	WY 80000

Copies are not valid. Owner or lessee certifies this vehicle is insured as required by law, (NDCC 39-08-20).

John Inc by [Signature]
Signature of Registered Owner

Linda Butts
Deputy Director
Office of Driver and Vehicle Services

DRIVER/VEHICLE EXAMINATION REPORT

**OHIO STATE HIGHWAY PATROL
MOTOR CARRIER ENFORCEMENT
WILMINGTON DISTRICT EIGHT
887-655-9189**

RETURN CERTIFICATION TO THE AGENCY LISTED BELOW

**Report Number: OH1276002768
Inspection Date: 06/05/2009
Start Time: 06:35 AM End Time: 07:33 AM
Inspection Level: III - Driver Only
HM Inspection Type: None**

**J-MAR ENTERPRISES INC
PO BOX 545
WEST FARGO, ND 58078
USDOT#: 00291072
MC/MX#: 184368
State#:**

**Phone#: (701)277-0039
Fax#:**

**Location: ROADSIDE
Highway: US35 W
County: GREENE, OH**

**MilePost: 52
Origin: BATTLEBORO, NC
Destination: LAKEVILLE, MN**

**Driver: BECKNALL, PETER S
License#: BEC636166 State: ND
Date of Birth: 12/12/1963
CoDriver:
License#:
Date of Birth:
Shipper: BERRY PLASTICS CORP.
Bill of Lading: 1637324
Cargo: GENERAL FREIGHT - PLASTIC**

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Company #	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	TT	FRHT	2004	ND	46466	4008	1FUJA6CK54LM82317	80,000			
2	ST	FRUE	1994	ND	22565	111	1H2V05327RE008104				

BRAKE ADJUSTMENTS: No Brake Measurements Required For Level 3

VIOLATIONS

Section	Code	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
395.8(f)(1)	F	D	N			N	N	Drivers record of duty status not current - LAST ENTRY IS ON 060409 AT 1900 HOURS CENTRAL TIME IN DRIVING STATUS
392.2C	F	D	N		WARNING	N	N	Failure to obey traffic control device - DRIVER DROVE OVER WHITE FOG LINE ON 3 OCCASIONS WHILE I WAS PACING HIM AND EVEN HIT THE RUMBLE STRIPS.
392.2S	F	D	N		WARNING	N	N	Speeding - DRIVER WAS CHECKED AT 69-68-66-69 IN A 55 MPH ZONE. I PACED FOR 2 MILES AT 69-70 MPH WITH LIGHTS AND SIREN ON.
392.3	F	D	Y		Y641135	N	N	Operating a CMV while ill or fatigued - DRIVER ADMITTED HE IS AT THE END OF HIS RUN AND HAS NOT BEEN DRINKING AND IS SLEEPY. CITATION ISSUED BY U1276.

HazMat: No HM Transported.

Placard: No Cargo Tank:

Special Checks: Traffic Enforcement

State Information:

FMCSA Credentials Verified(Y/N): Y; CDL Verified (Y/N): Y; FMCSA OOS Order Issued(Y/N): N; For-Hire Carrier: Y; Reason Code: TRAF; Fatalities (Y/N): N; Driver Address: 114 2ND AVE NE; Driver City: ELGIN; Driver State: ND; Driver Zip: 58533; Photos Taken (Y/N): N;

I hereby declare PETER BECKNALL "Out of Service". This driver MAY NOT DRIVE any commercial motor vehicle nor may any carrier permit or require this driver to drive any commercial motor vehicle until NO LONGER FATIGUED

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 at Ohio T&E, 100 E. Broad St., Columbus, OH 43260-3755. OR Fax (614) 752-0974 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 of up to \$500.

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 Motor Carrier: _____ Title: _____ Date: _____

**Report Prepared By:
TPR W.D. JILSON**

**Badge #:
1276**

**Copy Received By:
PETER BECKNALL**

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OH1276002768

General Inquiry



New Search...

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TRAFFIC - Summary

09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Ticket Number Y641135

Jurisdiction

STATE PATROL

Defendant

Case Information

Full Name BECKNALL, PETER SHANE

Offense Date 06/05/2009

D.O.B. 12/12/1963

Haz. Mat. Unk.

Address

Points 2

114 2ND AVENUE NE

Prior Convictions

City/State/Zip ELGIN ND 58533

Vehicle Year 2004

State Code NORTH DAKOTA

License Code

License No. BEC636166

Gender M Race WHITE

Vehicle Code TRUCK (COMMERCIAL)

Height 5'9" Weight 170

Plate Number 46466

Hair BROWN Eyes BROWN

Primary Str. US 35 WB

Employer

Secondary Str.

Officer Code WILSON, W D

Attorney(s)

License

LUSARDI, BRIAN E

Taken

☐ Accident☐ Insured☒

Speed

Speed

Limit

Case Comments

Case Attributes

1ST MOVING. MUST APPEAR.

Number 09 TR D 04096

Status OPEN

Filed 06/16/2009

Incomplete

☐

Charge(s)

Charge	Action Code	Indict Charge	Amd Charge	Disposition Code	Counts
1	DRIVING WHILE FATIGUED				

get

General Inquiry[New Search...](#)[Summary](#)[Parties](#)[Events](#)[Dockets](#)[Disposition](#)[Costs](#)**Case Parties**

09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Name	Type	Disposition	Special
<u>BECKNALL, PETER SHANE</u>	DEFENDANT		
<u>LEWIS, RONALD C</u>	PROSECUTING ATTORNEY		
<u>WILSON, W D</u>	OFFICER		

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Event Search

09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Search Criteria

Event Code

ALL

Begin Date

End Date

Search Results 2 Event(s) found for case.

Event	Date	Start	End	Judge	Result
ARRAIGNMENT	06/19/2009	08:00	11:35	ARRAIGNMENT JUDGE	PLEAD NOT GUILTY
COURT ROOM					
TRIAL (CR/TR)	11/23/2009	13:00	13:30	MURRY, MICHAEL K	CASE SETTLED
COURT ROOM					

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Docket Search

09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Search Criteria

Docket Desc. ALL

Begin Date

Sort

End Date

☐ Ascending☒ Descending

Search

Search Results 19 Docket(s) found matching search criteria.

Docket Date	Docket Text	Amount	Amount Due	Images
11/23/2009	DEFENDANT FOUND GUILTY OF A REDUCED CHARGE. Case disposed with disposition of REDUCED CHARGE on 11/23/2009.	0.00	0.00	
11/23/2009	SENTENCING INFO: Sentence: Fine: 35.00, Susp: Costs: 105.00, Susp: , Incl: N Jail Start: , days: , Jail End: susp days: , susp time: Points: 0, Lic susp: , Dr Ed: N Susp start: , days: , Susp end: Clearance Date: Mod: , narr: , Lic flag: Dr sch: N, DUI sch: N, Rest: MKM Prob type: , start: , days: , End: Charge #1: UNSAFE VEHICLE	0.00	0.00	
11/23/2009	FINE Charge #1: DRIVING WHILE FATIGUED Receipt: 206414 Date: 11/23/2009	35.00	0.00	
11/23/2009	STATE COSTS HOUSE BILL 562 Receipt: 206414 Date: 11/23/2009	10.00	0.00	
11/23/2009	COURT COSTS Receipt: 206414 Date: 11/23/2009	61.00	0.00	
11/23/2009	STATE COSTS Receipt: 206414 Date: 11/23/2009	29.00	0.00	

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09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Search Criteria

Docket Desc. ALL

Begin Date

Sort

End Date

☐ Ascending☒ Descending**Search**

Search Results 19 Docket(s) found matching search criteria.

Docket Date	Docket Text	Amount	Amount Due	Images
11/23/2009	DEFENDANT FOUND GUILTY OF A REDUCED CHARGE. Case disposed with disposition of REDUCED CHARGE on 11/23/2009.	0.00	0.00	
11/23/2009	SENTENCING INFO: Sentence: Fine: 35.00, Susp: Costs: 105.00, Susp: , Incl: N Jail Start: , days: , Jail End: susp days: , susp time: Points: 0, Lic susp: , Dr Ed: N Susp start: , days: , Susp end: Clearance Date: Mod: , narr: , Lic flag: Dr sch: N, DUI sch: N, Rest: MKM Prob type: , start: , days: , End: Charge #1: UNSAFE VEHICLE	0.00	0.00	
11/23/2009	FINE Charge #1: DRIVING WHILE FATIGUED Receipt: 206414 Date: 11/23/2009	35.00	0.00	
11/23/2009	STATE COSTS HOUSE BILL 562 Receipt: 206414 Date: 11/23/2009	10.00	0.00	
11/23/2009	COURT COSTS Receipt: 206414 Date: 11/23/2009	61.00	0.00	
11/23/2009	STATE COSTS Receipt: 206414 Date: 11/23/2009	29.00	0.00	

11/16/2009 DEF CALLED IN TO VERIFY AMT. ADVISED \$140 PYMT BY M.O., CASH CK, OR CERT CK.	0.00	0.00
11/16/2009 SPOKE WITH ATTY. LUSARDI. HE WILL CONTACT DEFENDANT TODAY TO ADVISE OF COSTS DUE.	0.00	0.00
11/16/2009 DEFENDANT MAY PAY THROUGH V.B. AT \$35.00 FINE PLUS COURT COSTS.	0.00	0.00
11/12/2009 PRETRIAL REPORT FILED. PROSECUTOR OFFERS DEFENDANT TO PAY THROUGH V.B. FILE TO JUDGE.	0.00	0.00
08/25/2009 HEARING SCHEDULED Event: TRIAL (CR/TR) Date: 11/23/2009 Time: 1:00 pm Judge: MURRY, MICHAEL K Location: COURT ROOM Result: CASE SETTLED	0.00	0.00
08/25/2009 COURT NOTICE Court Notice (CR/TR) Sent on: 08/25/2009 08:11:46 Receipt: 206414 Date: 11/23/2009	5.00	0.00
06/25/2009 PLEAD NOT GUILTY The following event: ARRAIGNMENT scheduled for 06/19/2009 at 8:00 am has been resulted as follows: Result: PLEAD NOT GUILTY Judge: ARRAIGNMENT JUDGE Location: COURT ROOM	0.00	0.00
06/25/2009 PLEAD NOT GUILTY	0.00	0.00
06/25/2009 NOTICE OF APPEARANCE FILED,NOT GUILTY PLEA TIME WAIVER REQUEST FOR PRE-TRIAL CONFERENCE MOTION FOR DISCOVERY FILED BY ATTORNEY LUSARDI	0.00	0.00
06/25/2009 VIOLATOR COMPACT FEE	25.00	0.00
06/16/2009 X3 Traffic/Criminal Docket Entry Traffic/Criminal Docket Entry (Charges 1- 12) Sent on: 06/16/2009 08:38:48	0.00	0.00
06/16/2009 TRAFFIC CASE FILED	0.00	0.00
06/16/2009 HEARING SCHEDULED Event: ARRAIGNMENT Date: 06/19/2009 Time: 8:00 am Judge: ARRAIGNMENT JUDGE Location: COURT ROOM Result: PLEAD NOT GUILTY	0.00	0.00

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Case Disposition Listing

09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Disposition(s):

Status	Status Date	Disposition Code	Disposition Date
<u>CLOSED</u>	06/16/2009	NOT GUILTY AJ REPORT	06/25/2009
<u>CLOSED</u>	06/25/2009	REDUCED CHARGE	11/23/2009

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09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Status	CLOSED	Disposition	NOT GUILTY AJ REPORT
Status Date	06/16/2009	Disposition Date	06/25/2009
Judge	MURRY, MICHAEL K	Judge Report	Administrative
Magistrate		Termination	07 TRANSFER (NOT GUILTY PLEA)

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09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Status	CLOSED	Disposition	REDUCED CHARGE
Status Date	06/25/2009	Disposition Date	11/23/2009
Judge	MURRY, MICHAEL K	Judge Report	Individual
Magistrate		Termination	09 GUILTY OR NO CONTEST PLEA TO REDUCED CHARGE

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Case Financial Summary

09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP


Docket Application	Owed	Paid	Adjusted	Due
COST	130.00	105.00	25.00	0.00
FINE	35.00	35.00	0.00	0.00
Total Fees:	165.00	140.00	25.00	0.00

Money on Deposit With Court Balance

Money Distributed by Court Amount

Total: 0.00**Total:** 0.00

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09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Number	Cash Book	Received From	Status	Date	Total Amount
206414	CRIMINAL/TRAFFIC CASH BOOK	BECKNALL, PETER SHANE	FINAL	11/23/2009	140.00

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Financial Dockets Summary

09 TR D 04096 STATE OF OHIO vs. BECKNALL, PETER SHANE SP

Date	Docket Description	Owed	Adjusted	Paid	Due	Due Date
11/23/2009	FINE	35.00	0.00	35.00	0.00	
11/23/2009	STATE COSTS HOUSE BILL 562	10.00	0.00	10.00	0.00	
11/23/2009	COURT COSTS	61.00	0.00	61.00	0.00	
11/23/2009	STATE COSTS	29.00	0.00	29.00	0.00	
08/25/2009	COURT NOTICE	5.00	0.00	5.00	0.00	
06/25/2009	VIOLATOR COMPACT FEE	25.00	<u>25.00</u>	0.00	0.00	

WILMINGTON MOBILE VIDEO LOG**NAME Bill Wilson UNIT # 1276 D8 LCS**

TAPE #	FIRST USED		LAST USED		SIGNIFICANT EVENTS				ERASED		ENTERED ADM-3504	
	DATE	TIME	DATE	TIME	DEFENDANT/CASE, CRASH NUMBER, ETC.	REPORT DATE / TIME	COURT CODE	COMPLETE DATE	DATE	UNIT	DATE	UNIT
1	031809	N/A	032709	N/A				051009	051009	442	051009	442
2	032709	N/A	041609	N/A				052509	032509	442	052509	442
3	041609	N/A	051009	N/A				070609	06-2009	442	06-2009	442
4	051009	N/A	051709	N/A	REVIEWED			070609	07-06-2009	442	07-06-2009	442
5	051709	N/A	052309	N/A				071209	071209	442	071209	442
6	052309	N/A	052409	N/A				071209	071209	442	071209	442
7	052409	N/A	060809	N/A				071209	071209	442	071209	442
8	060809	N/A	061409	N/A								
9	061409	N/A	061809	N/A								