



Tri State Transportation Consulting, Inc.

101 S. MAIN ST.
P.O. BOX 98
GROVER HILL, OH 45849
419-789-0292
FAX- 419-587-3122

17-780-TR-CVF

Request for Administrative Hearing

March 16, 2017

Case number: CR201609120408

DL Winter Livestock Express Inc.

6080 St route 705

New Westin, OH 45348

Dear Sir or Ma'am;

2017 MAR 16 AM 11:50

PUCO

We Are Requesting a Administrative Hearing on This Case CR20160912408. This was a compliance review that was done on September 12, 2016 and came up with violations that were not conclusive at the time.

FM CSA code 382.305 we can prove that we did conduct the annual random alcohol test at a rate applicable to the average number of driver positions.

FM CSA code 382.303 failure to conduct a postaccident test. It was impossible as the driver was incarcerated from the accident and to this date is still in jail. No way for us to conduct a postaccident drug or alcohol test on him.

FM CSA code 382.303 same as above.

FM CSA code 382.305 failure to conduct random controlled substance test at a annual rate applicable to the average number of driver positions. We have all the documentation to prove that we did that and met all the standards. At the time of the audit we tried to show them to the auditor but he had already decided to write that ticket.

I would respectfully ask that we take this to the next level and have a Administrative Hearing to disclose and discuss these forfeitures and to prove our case that I think these are unjustified charges and that in this case we should not own any of these fines.

Steve Plummer

Tri-State Transportation Consulting Inc.

419-789-0292 splummer@tstcinc.com

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 DMT Date Processed MAR 16 2017

**COMPLIANCE REVIEW
INSTRUCTION SHEET
NOTICE OF PRELIMINARY DETERMINATION**

Please read this instruction sheet care fully. It contains information about your rights and responsibilities in regard to this Notice of Preliminary Determination.

You have received a "Notice of Preliminary Determination" as described in Rule 4901:2-7-1.2, Ohio Administrative Code (O.A.C.). **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.** If you do not pay the forfeiture or file a request for an administrative hearing within 30 days of this notice, your case will be placed in our default process. Both procedures are described below.

1. How to Pay the Forfeiture

If you do not wish to further contest the violations described in this notice, you may make payment of the civil forfeiture indicated in this notice via one of the following methods:

Online at <https://omcis.puc.state.oh.us/home.aspx>. You will need your case number and PIN located on the enclosed voucher.

Mail: send a check or money order (no Canadian postal money orders) made payable to "Treasurer, State of Ohio." **In order to assure proper credit, you must write the case number on the face of the check or money order.** Please send payment to the following address:

Public Utilities Commission of Ohio
Attr: CF Processing
180 East Broad Street, 4th Floor
Columbus, OH 43215-3793

2. How to File a Request for an Administrative Hearing

If you wish to further contest the violations described in this notice, **you should file a "Request for an Administrative Hearing"** with the Commission's Docketing Division as described in Rule 4901:2-7-1.3, O.A.C. Your "Request for an Administrative Hearing" must be **in writing** and must contain the **case number** indicated on this notice. Also, please include the **contact name, address, and telephone number**, of the person to whom further communications regarding this matter should be directed. The request shall be signed by the respondent or its authorized representative. A copy of the "Notice of Preliminary Determination" must be attached to your request.

Your "Request for an Administrative Hearing" must be mailed or hand-delivered **within 30 days of this notice** to the following address:

Public Utilities Commission of Ohio
Attr: Docketing Division
180 East Broad Street
Columbus, OH 43215-3793

3. Failure to Submit a Request for an Administrative Hearing

If you do not serve a timely "Request for an Administrative Hearing" in the manner described above, you will forfeit your right to



further contest the violations described in this notice and the occurrence of the violations will be conclusively established. 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 this notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

4. Codes and Forfeiture Amounts

"Code" in this notice identifies the rule that was violated. Numbers in a 100 or 300 series refer to specific sections of the Hazardous Materials Regulations or the Federal Motor Carrier Safety Regulations located in Title 49 of the Code of Federal Regulations (C.F.R.). Some section numbers may have suffixes beyond those which appear in the C.F.R. These are used for internal data collection purposes. Codes in other formats refer to violations of Ohio's statutes or regulations.

Section 4923.99, Ohio Revised Code, authorizes the Public Utilities Commission of Ohio to assess a civil forfeiture of up to \$25,000 for each day of each violation. The amount of any forfeiture depends upon the nature, gravity, circumstances, and extent of the violation, the offender's degree of culpability for the violation, and the offender's history of violations. "Total Amount Due" is the total amount of the civil forfeiture assessed for all violations described in this notice.

For additional information regarding the civil forfeiture program, please contact the Compliance Division.





Public Utilities Commission

John R. Kasich, Governor
Asim Z. Haque, Chairman

Commissioners

Lynn Slaby
M. Beth Trombold
Thomas W. Johnson

02/12/2017

CR201 6091 20408
Mr Steve Plummer
101 S MAIN ST PO Box 98
GROVER HILL, OH 45849

RE: **NOTICE OF PRELIMINARY
DETERMINATION**
Case No. CR201 6091 20408

Dear Sir or Madam:

On 09/12/2016, a compliance review of your facility located at 6080 STATE ROUTE 705, NEW WESTON, OH, U.S.A., 45348 was conducted. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified D L WINNER LIVESTOCK EXPRESS INC (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:





The Public Utilities
Commission of Ohio
180 E. Broad St. - Fourth Floor
Columbus, OH 43215

OMCIS VOUCHER

Date: 2/12/2017
Legal Name: D L WINNER LIVESTOCK EXPRESS INC
Address: 6080 STATE ROUTE 705
City: NEW WESTON
State: OH
Zip: 45348
Case Number: CR201609120408
PIN: 55Z4

Item	DueDate	Amount
1	3/29/2017	\$2,000.00
Total		\$2,000.00

Pay online at <https://omcis.puc.state.oh.us/home.aspx> or enclose this voucher with your check or money order if paying by mail.



CR201609120408





Public Utilities Commission

John R. Kasich, Governor
Asim Z. Haque, Chairman

Commissioners

Lynn Slaby
M. Beth Trombold
Thomas W. Johnson

CODE	VIOLATION	FORFEITURE
395.8(f)	Failing to require driver to prepare record of duty status in form and manner prescribed. (State)	0.00
395.8(e)	False reports of records of duty status (inaccurate) (State)	0.00
395.8(f)	Failing to require driver to prepare record of duty status in form and manner prescribed. (Federal)	0.00
382.305(b)(1)	Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.	500.00
382.303(b)	Failing to conduct post accident testing on driver for controlled substances.	400.00
382.305(i)(2)	Failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made.	0.00
382.303(d)(2)	Failing to prepare and maintain on file a record stating the reasons the controlled substances post-accident test was not properly administered.	0.00
382.303(a)	Failing to conduct post accident alcohol testing on driver following a recordable crash.	400.00
382.303(d)(1)	Failing to prepare and maintain on file a record stating the reasons the alcohol post-accident test was not properly administered.	0.00
395.8(e)	False reports of records of duty status (inaccurate) (Federal)	0.00
382.305(b)(2)	Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.	700.00

TOTAL AMOUNT DUE: \$2,000.00

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 D L WINNER LIVESTOCK EXPRESS INC in the following amount:





Public Utilities Commission

John R. Kasich, Governor
Asim Z. Haque, Chairman

Commissioners

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382.305(b)(2)	Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.	700.00

TOTAL AMOUNT DUE: \$2,000.00

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.



Ohio

Public Utilities Commission

John R. Kasich, Governor
Asim Z. Haque, Chairman

Commissioners

Lynn Slaby
M. Beth Trombold
Thomas W. Johnson

Sincerely,



Milan Orbovich, Director
Transportation Department

Compliance Officer: Mark Banks

