reds is to certify that the images appearing are an accurate and complete reproduction of a cise file locument delivered in the regular course of business rechnician Date Processed UEC 2 1

PUCO EXHIBIT FILING

te of Hearing: December 13, 201	(4		
se No. 17-1540-TR-CVF & 17	1-1541-TR	<u>2-C</u> VF	••
CO Case Caption:			
In the matter of E	conomy	Drain	,
Service / Mark H. S.	mith, A	10tice	·)
of apparent Viola	tion ar	<u> </u>	
Intent to Assess Forf		••	201
J.Mari 10 1-00-00 101+			330
ist of exhibits being filed:			DEC 21 PM 1:5
		<u> </u>	
· · · ·			
Staff Exhibit	Identified	d Admitt	e vo
Staff Exhibit 1 Driver/Vehicle Examination Report	Identified	d Admitt	
1 Driver/Vehicle Examination			
<pre>Driver/Vehicle Examination Report Notice of Preliminary</pre>	6	8	
<pre>Driver/Vehicle Examination Report Notice of Preliminary Determination Notice of Preliminary</pre>	6	8	Sa
<pre>Driver/Vehicle Examination Report Notice of Preliminary Determination Notice of Preliminary Determination</pre>	6 6	8 8 8	9.00
<pre>Driver/Vehicle Examination Report Notice of Preliminary Determination Notice of Preliminary Determination 4A-S Photographs</pre>	6 7 8	8 8 8	9.00
<pre>Driver/Vehicle Examination Report Notice of Preliminary Determination Notice of Preliminary Determination 4A-S Photographs Respondent Exhibit</pre>	6 6 7 8 Identified	8 8 8 d Admitt	9.00
<pre>1 Driver/Vehicle Examination Report 2 Notice of Preliminary Determination 3 Notice of Preliminary Determination 4A-S Photographs Respondent Exhibit 1 Photographs</pre>	6 6 7 8 Identified	8 8 8 8 d Admitt 20	9.00

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Economy :

Drain Service/Mark H. : Case No. 17-1540-TR-CVF Smith, Notice of Apparent : 17-1541-TR-CVF

Violation and Intent to :
Assess Forfeiture.

PROCEEDINGS

before Mr. Kerry K. Sheets, Attorney Examiner, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-C, Columbus, Ohio, called at 10:20 a.m. on Wednesday, December 13, 2017.

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

DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission of Ohio

180 East Broad Street Transportation Department Columbus, OH 43215

Phone #: (614)466-0429

Fax #: (614)752-9274

Report Number: OH3225009419

Certification Date: Inspection Date: 4/17/2017

07:53 Time Started:

Time Ended: 08:31

Inspection Level: II - Walk-Around HM Inspection Type: No HM Inspection

ECONOMY DRAIN	SERVICE LL	C	Dri

2139 WILSON AVE NE

SMITH, MARK H

License #: Date of Birth: RM960996 3/28/1961

State: OH

USDOT#:

Phone #: (330)372-1304

MC/MX#:

Fax #:

State #:

Location: ROAD SIDE

Highway: SR 82

WARREN, OH 44483

MilePost: Origin:

WARREN, OH

10

Bill of Lading: NONE

wan	ngimay. Or or			₩.iA	OHIGHE ANALYCIA OLI				Out Of Lauring. 110112					
Coun	-	-	WBULL			Dest	ination:	NEWTON	FALLS	, OH		Cargo: MA	CHINERY, LARGE (DBJECT
Shipp	er:	CAR	RIER							····				
VEH	ICLE	IDEN	ITIFICATION	l;										
Unit '	Type	Make	Year State	License#		Equip	ment ID		Unit V	IN	GVWR	CVSA#	CVSA Issued #	OOS Stkr.
1			2007 OH	PHW1305			1	1FDAF	56PX7	EB31706	19,000			
2	FT	TRLR	2012 OH	TPY7479			2	4MJUE	14280	E058845	12,000			
BRA	KE A	DJUS	STMENTS:	No brake	meas	uremei	nts recorde	d.						
VIOL	ATIC	ONS :												
							State Citati				.			
Vio C			Section			oos	Number			Violation				
383.9	1A		383.91(a)		D	Y		N	N	Operation A cdi lice		with improp	er CDL group: Rreq	ulred a class
391.4	1A-F		391.41(a)		D	N		N	N	Operating	g a proper	rty-carrying v .: No medical	ehicle without posses card.	ssing a valid
390.2	18		390.21(b)		1	N		N	N				umber not displayed a left or right side vehic	
393.4	3D		393.43(d)		2	Y		Α	N			utomatic tra	iler brake: Brake aw nicle.	ray cable not
392.9	A1		392.9(a)(1)	2	Y		A	N	through securem	393,142: ent on be	Refer to sec obcat 435. O	ecified in 49 CFR 39 tion 393.130c1. No perating weight is 1 1 chain on bucket.	4 point
393.9)		393.9(a)		2	N		N	N				ht front side marker.	
393.9	•		393.9(a)		2	N		N	N	Inoperabl	le Require	ed Lamp: Lef	t front side marker.	
* N - I	Non-C	OOS or	Driver OOS	/iolation; A -	Repa	ired at S	Scene						<u>-</u>	
Hazi	lat:		ł	lo HM Trans	sporte	ed.					1	Placard: N	A Cargo Tank:	
)pec	ial C	hecks		Alcohol/Cont Conducted b Size and We Escreening	y Loca	ıl Jurisc	liction		PASA	Enforcen Conducte nterdiction	d Inspect	اسبيب	Post Crash Inspection PBBT Inspection ests:	on

Inspection Notes: brake away cable from trir to truck was tucked into neck of trir not connected to truck.

no company markings

going from warren ohio to newton falls ohio to replace drain lines.

spec sheet of bob cat 435 saved to file, operating weight 10,555 lbs 1 chain over front blade, 1 chain over rear bucket, no 4 point securement as required.

Special Study Fields:

Special Study1: Special Study2:

Special Study5:

Special Study6:

Special Study7:

Special Study3:

Special Study8:

Special Study4: Special Study9:

Special Study10:

Report Prepared By:

Badge #:

Copy Received By:

Page 1 of 2

John Brayer

3225

SMITH, MARK H



OH3225009419

DRIVER/VEHICLE EXAMINATION REPORT

Public Utilities Commission of Ohio

180 East Broad Street Transportation Department Columbus, OH 43215

Phone #: (614)466-0429

Fax #: (614)752-9274

Report Number: OH3225009419

Certification Date: Inspection Date: 4/17/2017

07:53 Time Started:

Time Ended: 08:31

Inspection Level: II - Walk-Around HM Inspection Type: No HM Inspection

Driver:

SMITH, MARK H

License #:

RM960996

State: OH

Date of Birth:

3/28/1961

USDOT#:

Phone #: (330)372-1304

MC/MX #:

Fax #:

State #:

Locally Defined Fields:

ECONOMY DRAIN SERVICE LLC

2139 WILSON AVE NE

WARREN, OH 44483

For-Hire Carrier: N; Fatalities (Y/N): N; Driver Address: 2139 WILSON; Driver City: WARREN; Driver State: OH; Driver Zip: 44483; Photos Taken (Y/N): Y;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

hereby declare MARK H. SMITH "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: Driver obtains a class A cdl.

* 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		Date:
Failure to return this report wit \$10,000.	th the required certification can result in penalti	s up to \$1,000 per day for each day the viol	lation continues, up to a total of
Signature of Repairer:	X	Facility:	Date:

Report Prepared By: John Brayer

Badge #: 3225

Copy Received By: SMITH, MARK H

Page 2 of 2



OH3225009419



M. Beth Trombold Thomas W. Johnson Lawrence K. Friedeman Daniel R. Conway

06/14/2017

OH3225009419D Mr Mark Smith 2139 WILSON WARREN, OH 44483

RE: NOTICE OF PRELIMINARY

DETERMINATION

Case No. OH3225009419D

Dear Sir or Madam:

On 04/17/2017, a vehicle operated by ECONOMY DRAIN SERVICE, and driven by MARK H SMITH, 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 MARK H SMITH (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
383.91A	4	Operating a cmv with improper CDL group	250,00
391.41A-F	4	Operating a property-carrying vehicle without possessing a valid medical certificate.	100.00
÷		Total of Group 4	350.00

TOTAL AMOUNT DUE: \$350.00

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 MARK H SMITH in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
383.91A	4	Operating a cmv with improper CDL group	250.00
391.41A - F	4	Operating a property-carrying vehicle without possessing a valid medical certificate.	100.00
180 East Broad Columbus, Ohio			(614) 466-3016 www.PUCO.ohio.gov



M. Beth Trombold Thomas W. Johnson Lawrence K. Friedeman Daniel R. Conway

Total of Group 4

350.00

TOTAL AMOUNT DUE: \$350.00

Within 30 days of this notice, you must <u>either</u>: (1) pay the assessed civil forfeiture <u>or</u> (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.

Sincerely,

Milan Orbovich, Director Transportation Department

Julan debooich

Compliance Officer: Mark Banks

180 East Broad Street Columbus, Ohio 43215-3793 (614) 468-3016 www.PUCO.ohio.gov



ROADSIDE INSPECTION INSTRUCTION SHEET NOTICE OF PRELIMINARY DETERMINATION

Please read this instruction sheet <u>carefully</u>. 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 4901:2-7-12, 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

Ĺ

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 voucher.

enclosed

<u>Mail</u>: 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 Attn: 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;2-7-13, 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 this "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 Atm: 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, Violation Groups, 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.

"Violation Group" identifies the numerical group (1-4) of the violation for purposes of calculating the civil forfeiture. 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.

5. Violations of 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), and rule 4901:2-5-07(D) of the Ohio Administrative Code

If you are "convicted" of violating any of the following: 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), or rule 4901:2-5-07(D) of the Ohio Administrative Code, you may be disqualified from operating a commercial motor vehicle for a minimum of 60 days. The federal regulations defines conviction as, "An unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contenders accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

6. Copies of Inspection Reports

A copy of the inspection report for the violations described in this notice was given to the driver at the time of inspection. You may request additional copies of inspection reports.

Obtain copies at this web site:

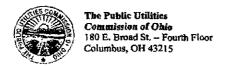
https://www.puc.state.oh.us/secure/OMCIS/public/searchcarrierreports.aspx

Or you may email your request to:

cmvreports@puc.state.oh.us. Please provide the inspection number and inspection date in your request.



OMCIS VOUCHER



Date:

6/14/2017

Legal Name:

MARK H SMITH

Address:

2139 WILSON

City:

WARREN

State:

OH

Zip:

44483

Case Number: OH3225009419D

PIN:

VX3U

ltem	DucDate	Amount
1	7/29/2017	\$350.00
	Total	\$350.00

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.



OH3225009419D





M. Beth Trombold Thomas W. Johnson Lawrence K. Friedeman Daniel R. Conway

06/14/2017

OH3225009419C Mr Mark Smith 2139 WILSON AVE NE WARREN, OH 44483

RE:

NOTICE OF PRELIMINARY

DETERMINATION

Case No. OH3225009419C

Dear Sir or Madam:

On 04/17/2017, a vehicle operated by ECONOMY DRAIN SERVICE, and driven by MARK H SMITH, 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 ECONOMY DRAIN SERVICE (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 393.9	GROUP 0	VIOLATION Inoperable Required Lamp	FORFEITURE
393.9	0	Inoperable Required Lamp	
392.9A1	1	Failing to secure cargo as specified in 49 CFR 393.100 through 393.142	
393.43D	2	No or defective automatic trailer brake	
390.21B	4	Carrier name and/or USDOT Number not displayed as required	100.00
		Total of Group 0	0.00
		Total of Group 1	100.00
		Total of Group 2	50.00
		Total of Group 4	100.00

TOTAL AMOUNT DUE: \$250.00

180 East Broad Street Columbus, Ohio 43215-3793 (614) 466-3016 www.PUCO.ohio.gov





M. Beth Trombold Thomas W. Johnson Lewrence K. Friedeman Daniel R. Conway

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 ECONOMY DRAIN SERVICE in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
393.9	0	Inoperable Required Lamp	
393.9	0	Inoperable Required Lamp	
392.9A1	1	Failing to secure cargo as specified in 49 CFR 393.100 through 393.142	
393.43D	2	No or defective automatic trailer brake	
390.21B	4	Carrier name and/or USDOT Number not displayed as required	100.00
		Total of Group 0	
		Total of Group 1	100.00
		Total of Group 2	50.00
		Total of Group 4	100.00

TOTAL AMOUNT DUE: \$250.00

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.

180 East Broad Street Columbus, Ohio 43215-3793 (614) 468-3016 www.PUCO.ohio.gov





Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold Thomas W. Johnson Lawrence K. Friedeman Daniel R. Corway

Sincerely,

Milan Orbovich, Director Transportation Department

Julan delovich

The second of th

Compliance Officer: Mark Banks

180 East Broad Street Columbus, Ohio 43215-3793 (614) 466-3016 www.PUCO.ohio.gov



ROADSIDE INSPECTION INSTRUCTION SHEET NOTICE OF PRELIMINARY DETERMINATION

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1. How to Pay the Forfeiture

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<u>Online</u> 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 Attn: CF Processing 180 East Broad Street, 4th Floor Columbus, OH 43215-3793

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Obtain copies at this web site:

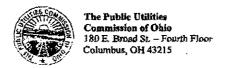
https://www.puc.state.oh.us/secure/OMCIS/public/searchcarrierreports.aspx

Or you may email your request to:

cmvreports@puc.state.oh.us. Please provide the inspection number and inspection date in your request.



OMCIS VOUCHER



Date:

6/14/2017

Legal Name:

ECONOMY DRAIN SERVICE

Address:

2139 WILSON AVE NE

City:

WARREN

State:

OH

Zip:

44483

Case Number: OH3225009419C

PIN:

23M3

Item	DueDate	Amount
1	7/29/2017	\$250.00
	Total	\$250.00

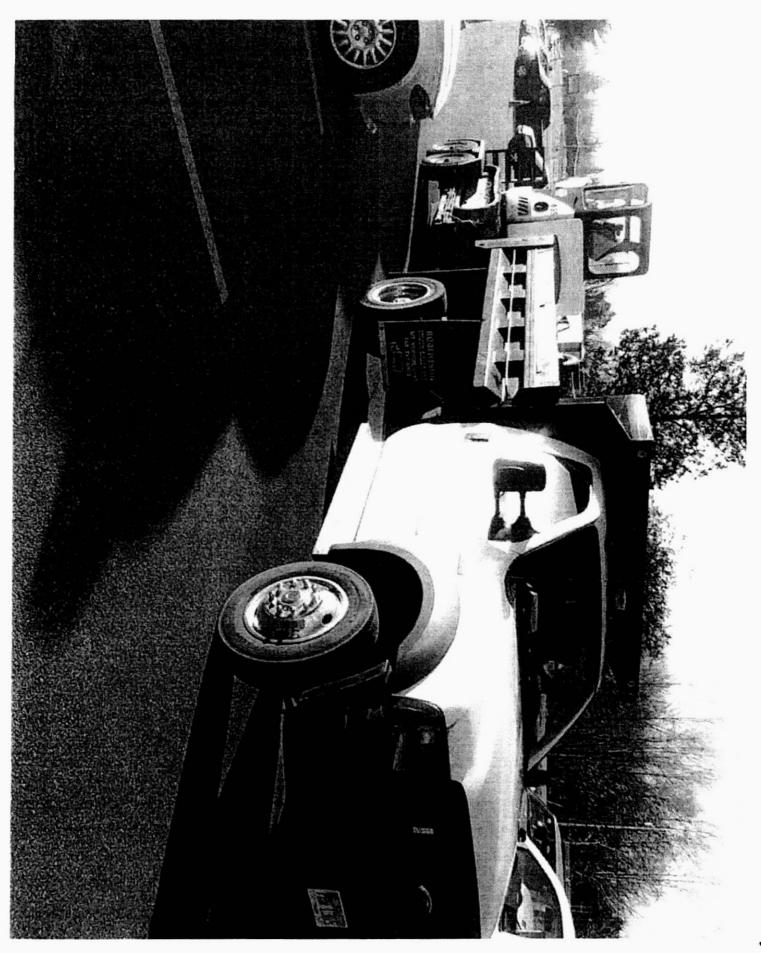
Pay online at https://omcis.puc.state.oh.us/home.aspx or enclose this voucher with your check or money order if paying by mail.

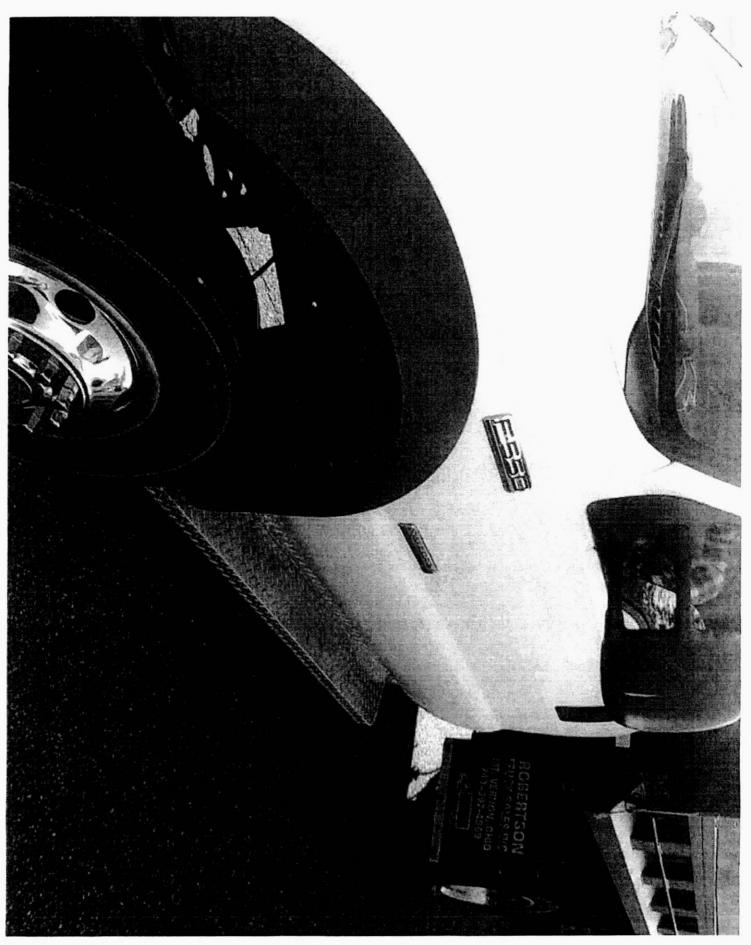


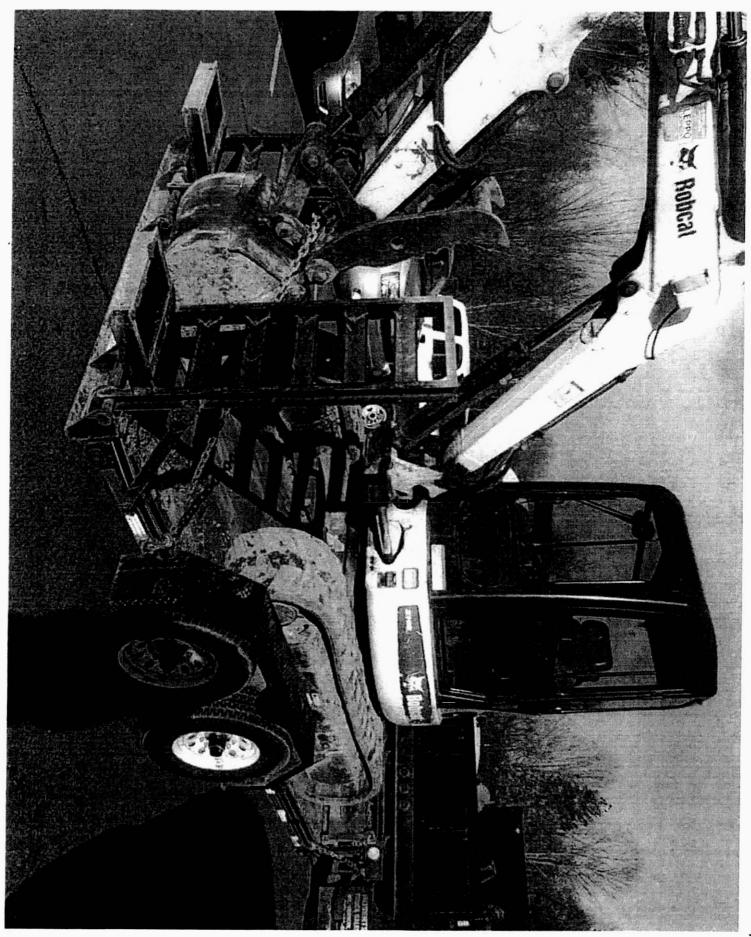
OH3225009419C

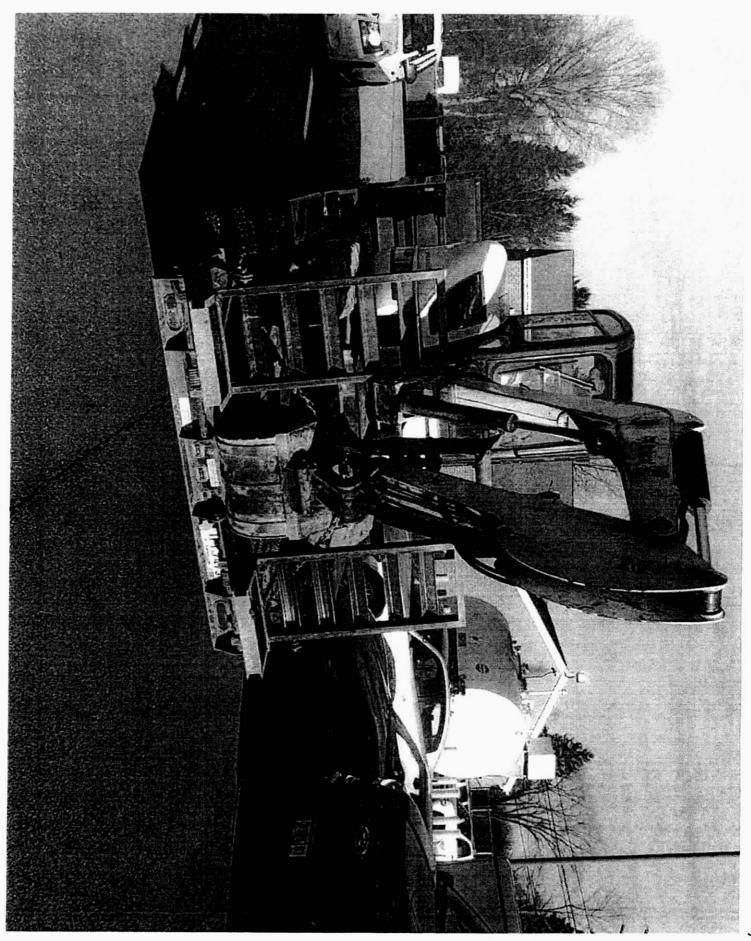


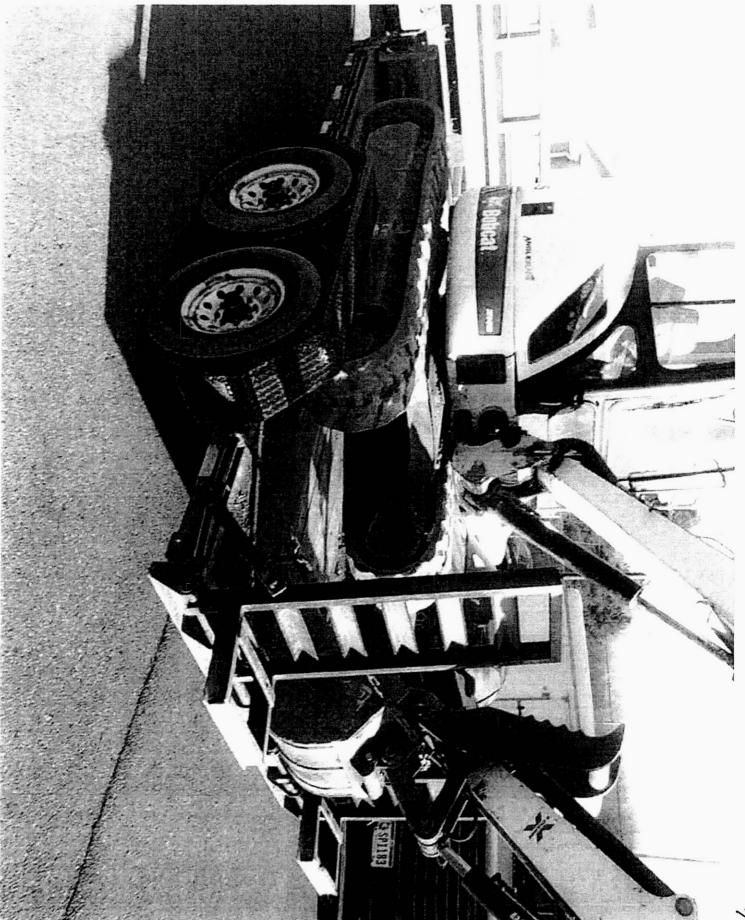




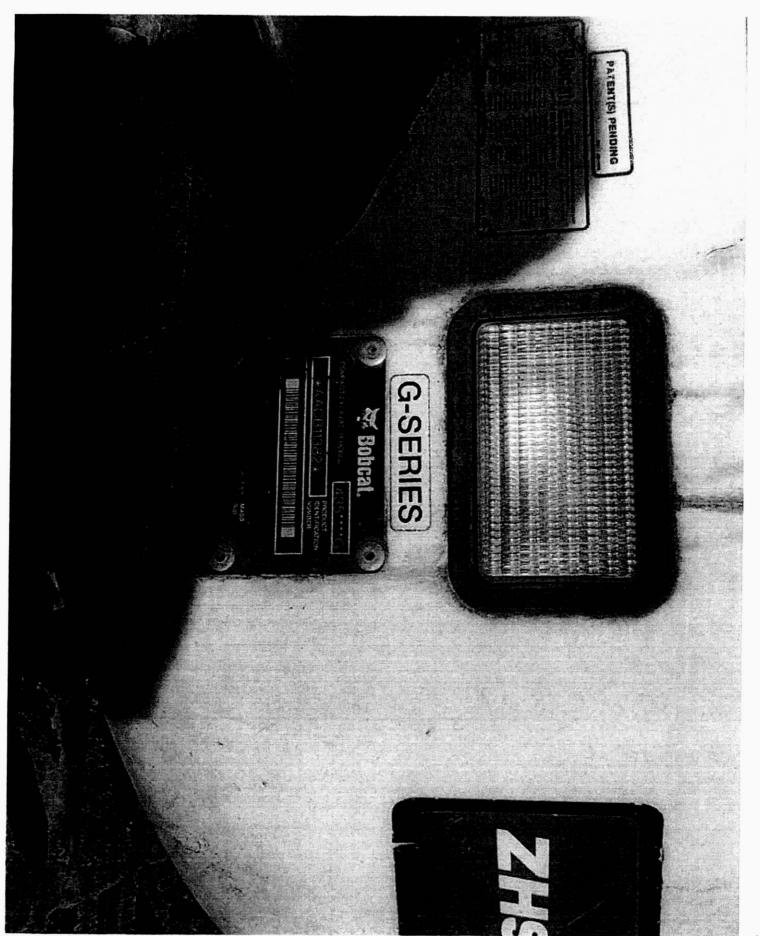




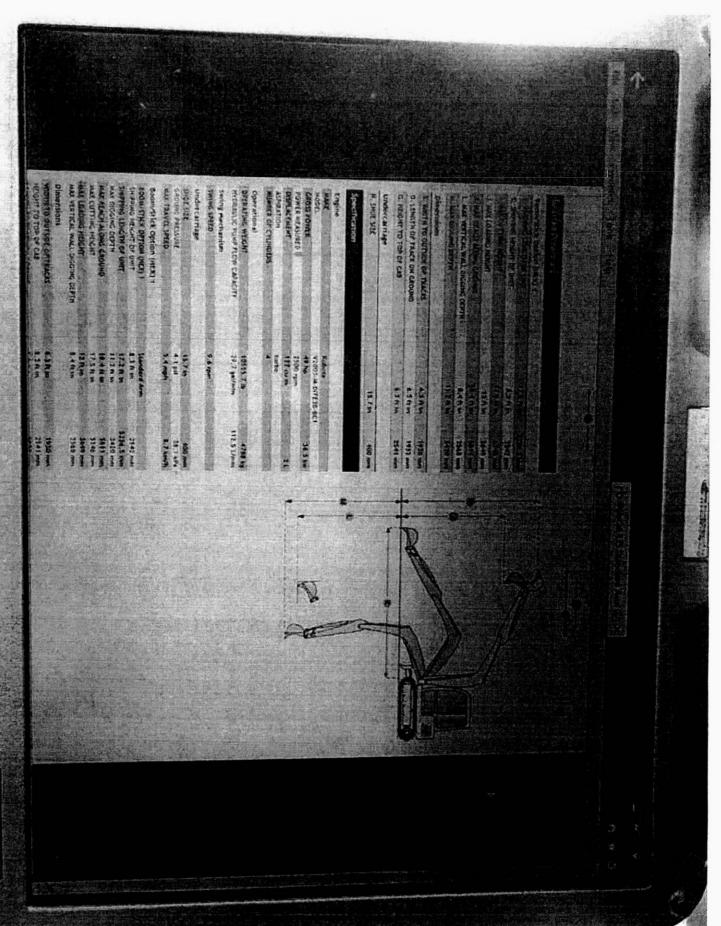


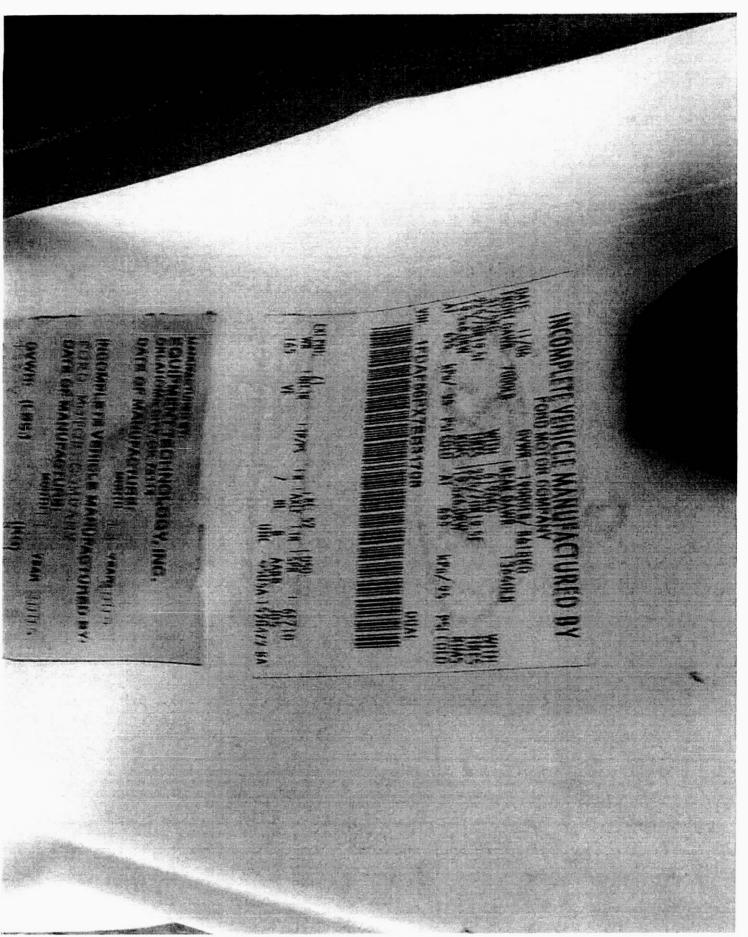


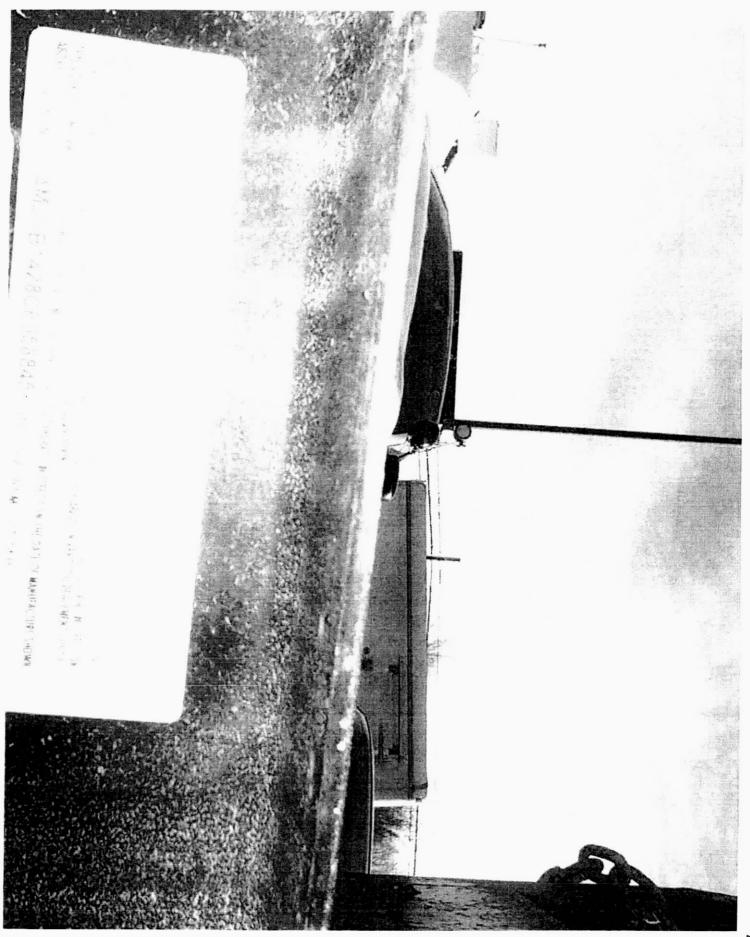


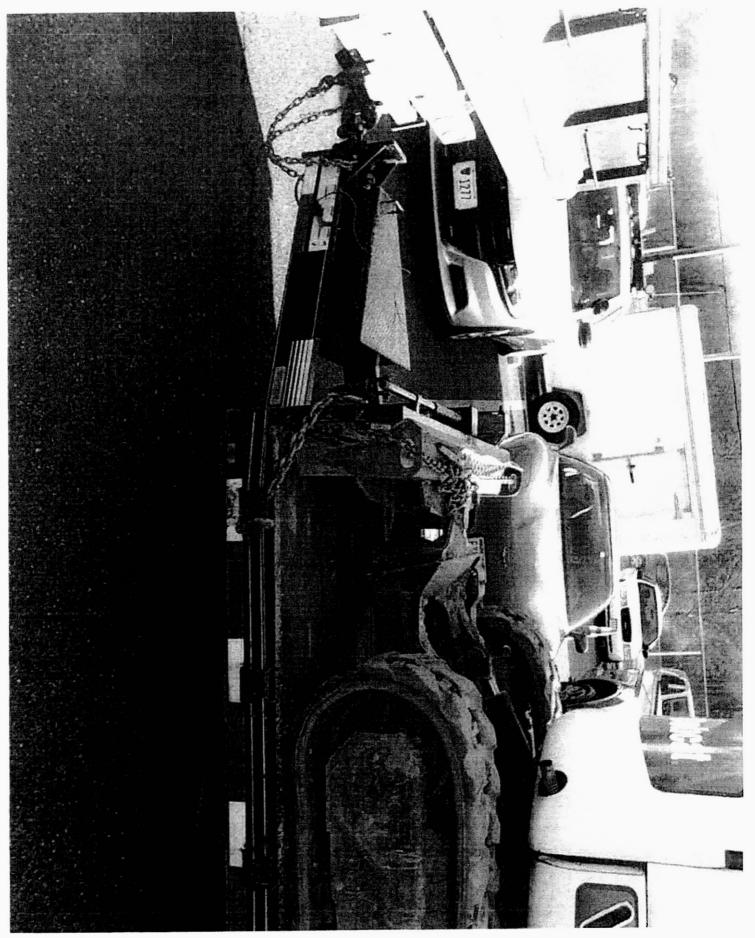




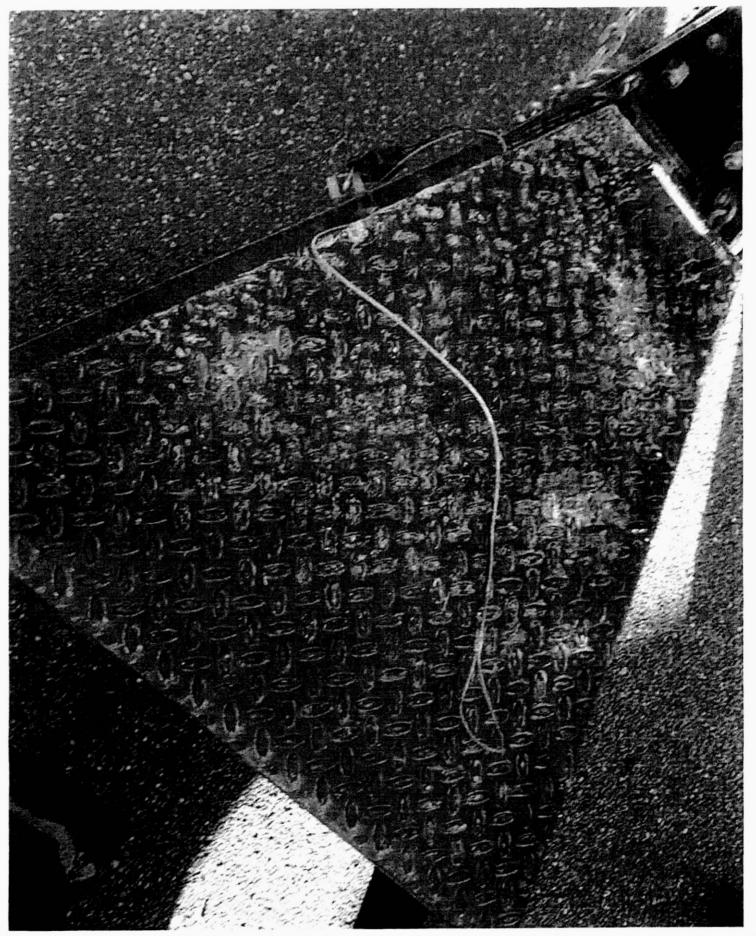


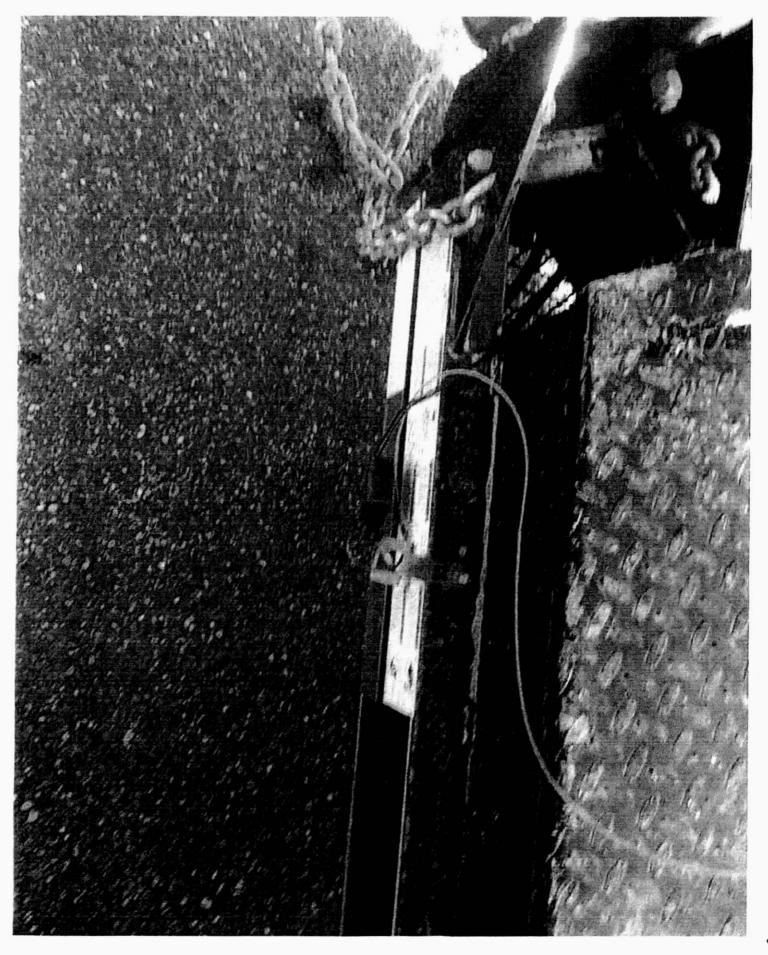


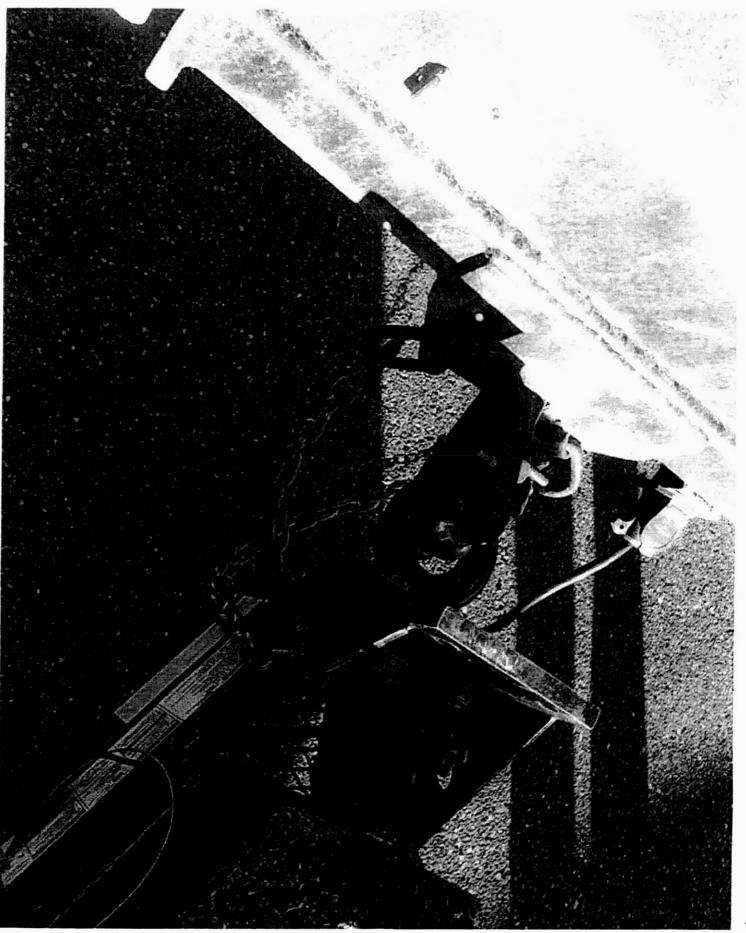


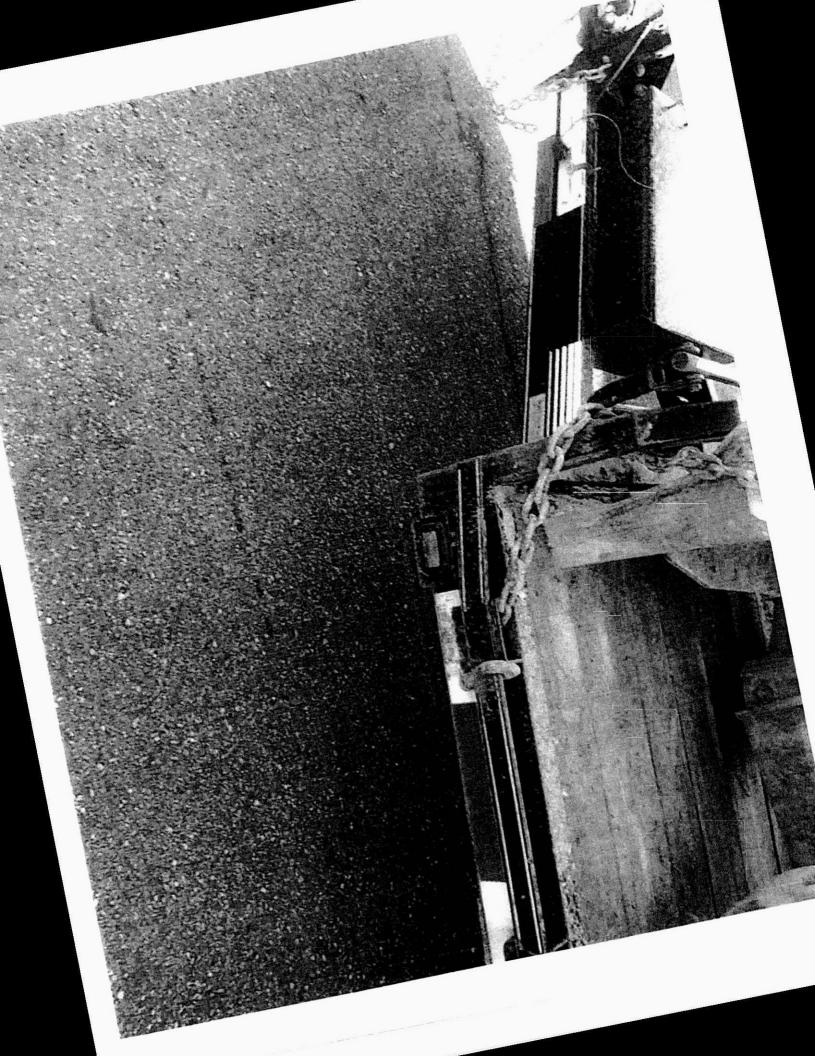


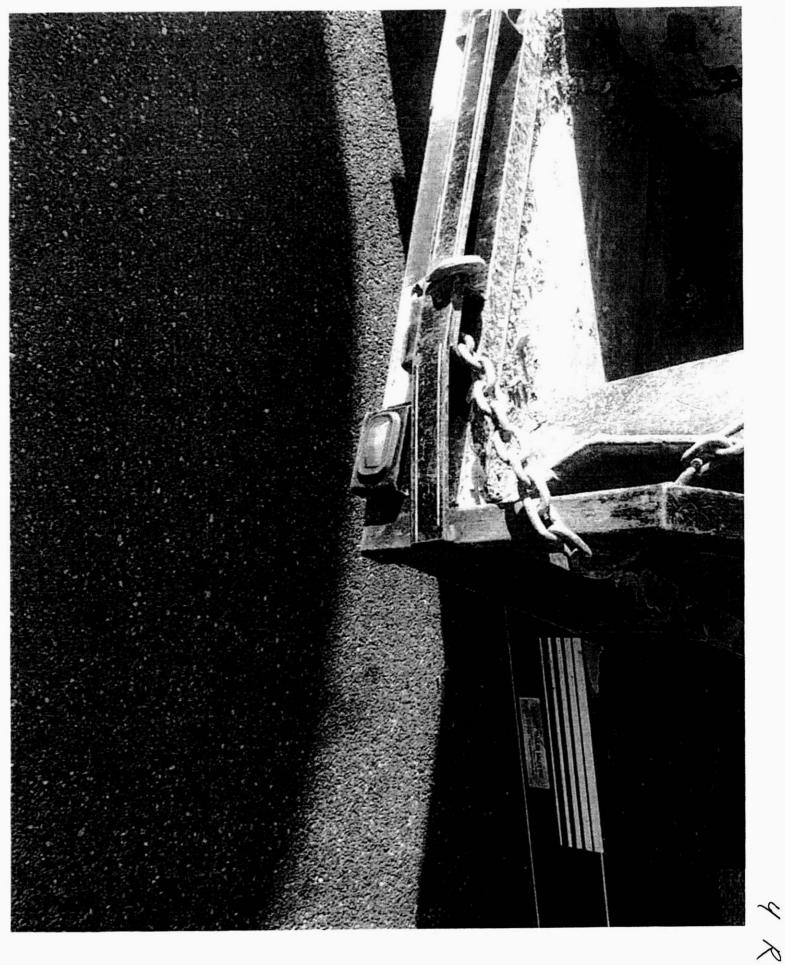














ECONOMY 3721304

NOT FOR HIRE

NGAD 800-631-698

EXHIBIT





EXHIBIT S889-153-008 GYDNAL

CLASS: A Combination > 25,000 / Tow > 19,000 ENDORSEMENTS: M - Motorcycle

RESTRICTIONS: K - intrastate only, O - No tractor-trailer CMV