



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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Kansas Corporation
Commission
Phone: 785-271-3100
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<http://kcc.ks.gov/>

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
24-TRAM-881-PEN

June 27, 2024

Jon Wayne Yocum, President
Brush Creek Harvesting LLC
1046 W Limestone Road
Prairie View, Kansas 67664-6435

This is a notice of a penalty assessment against Brush Creek Harvesting LLC (Brush Creek Harvesting) for violations of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted June 6, 2024, by a Kansas Corporation Commission Special Investigator. Penalties are assessed in accordance with the FY 2024 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2023. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Brush Creek Harvesting has been assessed a \$900 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$900, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Brush Creek Harvesting to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for a hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Brush Creek Harvesting must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel.¹

IF YOU FAIL TO ACT: Failure to pay the penalty of \$900 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,
/s/ Ahsan A. Latif
Ahsan A. Latif
Litigation Counsel
(785) 271-3118
Ahsan.Latif@ks.gov

¹ K.A.R. 82-1-215; K.S.A. 77-542.

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Investigation of **Brush**)
Creek Harvesting LLC, of Prairie View,)
Kansas. Regarding the Violation(s) of the Motor)
Carrier Safety Statutes, Rules and Regulations) Docket No. 24-TRAM-881-PEN
and the Commission’s Authority to Impose)
Penalties, Sanctions and/or the Revocation of)
Motor Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On June 6, 2024, a Commission Staff (“Staff”) Special Investigator (“SI”) completed a safety compliance investigation of the operations of Brush Creek Harvesting LLC (Brush Creek Harvesting or Carrier). Brush Creek Harvesting is a motor carrier as defined in 49 C.F.R. 390.5, and operates under USDOT number 3872296.

2. On June 18, 2024, Staff submitted its Report and Recommendation (“R&R”), attached hereto as Attachment “A” and is hereby incorporated by reference, recommending a penalty of \$900 to be issued to Brush Creek Harvesting based on the frequency, timeline and severity of the violations discovered. Staff’s R&R indicates that as a result of the safety compliance investigation, the SI identified fourteen (14) violation(s), accounting for three (3)

count(s), of the Motor Carrier Safety Regulations (MCSRs), which carries a penalty according to the FY2024 Uniform Penalty Assessment Matrix.²

3. Additionally, Staff recommends that Brush Creek Harvesting be required to have a representative responsible for the Carrier's safety compliance attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance.³ A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

4. Staff further recommends Brush Creek Harvesting submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.⁴

5. Finally, Staff recommends that Brush Creek Harvesting submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order.⁵ Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

6. Pursuant to K.S.A 66-1,108b, 66-1,111, 66-1,112, 66-1,114b, and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, doing business or

² Order Designating Guidance Document and Approving Staff's Use of the Transportation Division's Uniform Penalty Assessment Table, pp. 11 – 26 (Jun. 29, 2023) ("Penalty Matrix").

³ See Staff's Report and Recommendation, p.3 (Jun. 18, 2024).

⁴ *Id.*

⁵ *Id.*

procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

7. Pursuant to K.S.A. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

8. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and issue an order on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Brush Creek Harvesting is hereby assessed a \$900 civil penalty for fourteen (14) violation(s), accounting for three (3) count(s), of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Brush Creek Harvesting is hereby ordered to have a representative responsible for the Carrier's safety compliance attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Brush Creek Harvesting is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and

detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Brush Creek Harvesting is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the Carrier to set up the appointment.

E. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Brush Creek Harvesting's right to a hearing, and this Penalty Order will become a Final Order.

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.⁶ For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation.⁷

⁶ . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

⁷ K.S.A. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$900 is due in thirty (30) days from the date of service of this Order. Payment of \$900 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$900 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of Brush Creek Harvesting's motor carrier operating authority without further notice.⁸ Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 06/27/2024



Lynn M. Retz
Executive Director

AAL

⁸ K.S.A. 66-1,105.

ATTACHMENT “A”

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Jared Smith, Deputy Director of Transportation

DATE: June 18, 2024

SUBJECT: Docket No. 24-TRAM-881-PEN

In the Matter of the Investigation of **Brush Creek Harvesting LLC of Prairie View, Kansas**, Regarding the Violation of the Motor Carrier Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority

EXECUTIVE SUMMARY:

Brush Creek Harvesting LLC is a motor carrier (MC) possessing public for-hire and private operating authority from the Commission, primarily hauling grain, feed, hay, commodities dry bulk, farm supplies. Brush Creek Harvesting LLC operates under USDOT 3872296. On June 6, 2024, a Commission Staff Special Investigator (SI) completed a safety compliance investigation of the operations of Brush Creek Harvesting LLC. A copy of the safety compliance report is attached hereto as **Exhibit 1** and is hereby incorporated by reference. As a result of this investigation, the SI identified fourteen (14) violations, accounting for three (3) specific count(s), of the Motor Carrier Safety Regulations (MCSRs), which carries a penalty according to the FY2024 Uniform Penalty Assessment Matrix approved by the Commission. Based on the frequency, timeline and severity of the violations discovered by the SI, Staff recommends penalty of \$900 be issued to the MC.

DISCUSSION AND ANALYSIS:

On June 6, 2024, a Commission Staff SI conducted a safety compliance investigation of the operations of Brush Creek Harvesting LLC. The investigation covers a 365 day period and any previous compliance review. Each specific count is detailed below.

Count One (1 of 3)

Jurisdiction: K.S.A. 8-1901, et. seq., and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 66-1,129.

Intent of Law: The MC must require its drivers to stay within the legal gross weight limits for vehicles pursuant to K.S.A. 8-1909.

Supporting Documents: On March 15, 2024, Brush Creek Harvesting LLC required or permitted its driver, Gunner Yocum, to operate a commercial driver's license (CDL) required commercial motor vehicle (CMV), a 2001 Kenworth truck, VIN ending in 5764, GVWR 52,000 lbs., pulling a 2000 Timpte trailer, VIN ending in 8267, GVWR 68000 lbs., in interstate commerce from Orleans, Nebraska to Oakley, Kansas. This transport is evidenced by BOL NO. N-215368, and Scale Ticket No. 540580, attached hereto as **Exhibit 2**. As evidenced by the attached scale ticket, at the time of this transport Mr. Youcm was hauling a load with a gross weight of 90,660 lbs., exceeding the 85,500 lbs. statutory limit in Kansas.

Violation: Brush Creek Harvesting LLC failed to require its drivers to stay within the legal gross weight limits for vehicles pursuant to K.S.A. 8-1909 (**Exhibit 1, Page 3**). Ten (10) violations were discovered.

Recommendation: Staff recommends a fine of \$500.

Count Five (2 of 3)

Jurisdiction: 49 C.F.R. 382.701(b), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129.

Intent of Law: The MC must conduct an annual inquiry into its drivers with the FMCSA Drug and Alcohol Clearinghouse (DACH).

Supporting Documents: This violation took place during the transport described in Count One, above. The MC's a DACH Employer Compliance report is attached hereto as **Exhibit 3**. The MC failed to conduct an annual query into its driver, Mr. Yocum. The attached report does not list any annual queries that had been completed on either of its drivers.

Violation: Brush Creek Harvesting LLC failed to conduct an annual inquiry into its drivers with the FMCSA DACH (**Exhibit 1, Page 3**). Two (2) Violations were discovered.

Recommendation: Staff recommends a fine of \$150.

Count Six (3 of 3)

Jurisdiction: 49 C.F.R. 391.51(b)(4), adopted by K.A.R. 82-4-3g and authorized by K.S.A. 66-1,129.

Intent of the Law: Requires the MCs to receive the motor vehicle record (MVR) annually from each driver's licensing authority to the annual driver record inquiry required by 391.25(a).

Supporting Documents: This violation took place during the transport described in Count One, above. The MC was unable to provide the SI with any MVRs for its drivers.

Violation: Bush Creek Harvesting LLC failed to receive the MVR annually from each driver's licensing authority to the annual driver record inquiry required by 391.25(a). (**Exhibit 1, Page 3 to 4**). Two (2) violations were discovered.

Recommendation: Staff recommends a fine of \$250.

RECOMMENDATION:

Transportation Staff recommends the Commission find Brush Creek Harvesting LLC committed fourteen (14) violation(s), accounting for three (3) specific counts, of Kansas law that governs MCs, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations (K.A.R.s), and is therefore subject to sanctions or fines imposed by the Commission.

Due to the frequency, timeline and severity of the violations, Staff recommends a civil penalty of \$900 for fourteen (14) violation(s) of the MC Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

Staff further recommends Brush Creek Harvesting LLC require a representative responsible for the company's safety to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

Staff further recommends Brush Creek Harvesting LLC submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in the Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

Finally, Staff recommends that Brush Creek Harvesting LLC submit to one follow-up safety compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for the review.

EXHIBIT 1

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 3872296
MC/MX#: 1516262

Legal: BRUSH CREEK HARVESTING LLC
Operating (DBA):

Investigation Date:
06/06/2024

Investigation Type: Onsite Comprehensive Investigation

Location of Investigation: Company principal place of business (PPOB)
Extent of Operations: Entire Operation

Physical Address

1046 W LIMESTONE RD
PRAIRIE VIEW, KS 67664-6435
United States

Mailing Address

1046 W LIMESTONE RD
PRAIRIE VIEW, KS 67664-6435
United States

Contact Information

Contact Name: JON WAYNE YOCUM
Email: gyocum28@gmail.com
Phone: (785)973-8072 **Cell:** (785)973-8166 **Fax:** () -

Business and Financial

Business Type: Limited Liability Corporation
Name of Gross Revenue Provider: Gunner Yokum
Title of Gross Revenue Provider: Owner
Gross Revenue: ██████████ **For Year Ending:** 06/05/2024
Federal Tax ID: ██████████

Operation Classification and Type

Type of Operation: Non-HM Interstate Carrier

Cargo

Grain, Feed, Hay, Livestock, Commodities Dry Bulk, Farm Supplies

Operation Classification

For-Hire Motor Carrier
Property
Exempt Commodities
Private Motor Carrier
Property – Non-Hazardous Materials

Equipment

	Owned	Term Leased	Trip Leased	Drivers	Intrastate	Interstate
Truck Tractors	2					
Trailers	1	1		> = 100 Miles		2

Power units used in the U.S.: 2

Percentage of time used in the U.S.: 100%

Average trip leased driver/month: 0
Drivers with CDL: 0
Total Drivers: 2

Person(s) Interviewed

Name: JON WAYNE YOCUM

Title: PRESIDENT

Person(s) Interviewed**Name:** Gunner Tyrell Yocum**Title:** Member**Questions**

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:	1303 SW FIRST AMERICAN PL STE 200 TOPEKA, KS 66604-4040 Phone: (785) 271-1260 Fax: (877) 547-0378
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This report will be used to assess your safety compliance.

Violations

1. Primary: 392.2

State Equivalent: K.S.A. 8-1901

Operating in excess of the maximum gross weight of 85,500 pounds that is allowed in Kansas.

Example/Notes:

Driver: Gunner Yocum

Trip Date: 3/15/2024

Ticket #540580 on a trip from Orleans, NE to Oakley Ks. weighing gross weight of 90660 lbs.

Violations Discovered

Fed	State	Total
	10	10

Checked

Fed	State	Total
	17	17

Drivers/Vehicles in Violation

Fed	State	Total
	1	1

Checked

Fed	State	Total
	1	1

2. Primary: 382.701 (b)(1)

Failing to conduct an annual query.

Example/Notes:

Driver Gunner Yocum

Trip date - 3/15/2024.

The company has 2 drivers that they failed to run the annual query on.

Violations Discovered

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

Drivers/Vehicles in Violation

Fed	State	Total
2		2

Checked

Fed	State	Total
2		2

3. Primary: 391.51(b)(4)

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

Violations Discovered

Fed	State	Total
	2	2

Checked

Fed	State	Total
	2	2

Example/Notes:

Driver name, Gunner Yokum

Trip date. 3/15/2024

Description of violation: Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

Drivers/Vehicles in Violation

Fed	State	Total
	2	2

Checked

Fed	State	Total
	2	2

4. Primary: 391.51(b)(5)

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

Violations Discovered

Fed	State	Total
	2	2

Checked

Fed	State	Total
	2	2

Example/Notes:

Driver name, Gunner Yocum

Trip date. 3/15/2024

Description of violation: Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

Drivers/Vehicles in Violation

Fed	State	Total
	2	2

Checked

Fed	State	Total
	2	2

Safety Fitness Rating

Your proposed safety rating is: **SATISFACTORY** 0 UNSATISFACTORY rating factors and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory	0	0
Factor 2: Driver = Parts 382, 383 and, 391	Satisfactory	0	0
Factor 3: Operational = Parts 392 and 395	Satisfactory	0	0
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 0 Number of Vehicles Inspected (CR): 0 OOS Vehicles (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 0 OOS Rate: 0%	Satisfactory		
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	N/A	N/A	N/A
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 12,648 Recordable Accidents: 0 Recordable Accidents/Million Miles: 0.00	Satisfactory	N/A	N/A

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Driver Fitness

Process Breakdown: Policies and Procedures

The carrier did not complete annual MVRs

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification.
2. Establish a policy requiring drivers to submit copies of all vehicle and roadside inspections and moving violations to carrier management within 24 hours, and to notify management of suspended or revoked Commercial Driver's Licenses (CDLs) immediately following notification of suspension/revocation.

BASIC: Controlled Substances/Alcohol

Process Breakdown: Policies and Procedures

The company did not complete the required annual limited queries.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
2. Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.

Recommendations

1. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

2. **For All Investigations Not Un-Sat**

For all Investigations:

Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.

Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.

NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.

NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years. The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information: <http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:

<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carriers currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

For all Investigations that could result in a Notice of Claim:

PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review.

Attached to this report is Table 1, which identifies all the documented violations which were discovered during the course of this review.

3. **Obtain copies of the regulations, forms, interpretations, manuals.**

Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm

4. **Employers are responsible for the compliance of 49 CFR Part 40.**

Employers are responsible for their officers', employees', agents', consortia, and/or contractors' compliance with the requirements of 49 CFR Parts 40 and 382.

5. **Clearinghouse Annual Query**

Ensure annual queries are conducted in the Clearinghouse at least once per year. You may conduct a full or limited query to fulfill this requirement.

6. **Alcohol Testing**

Ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.

7. **Conduct periodic internal reviews. (non-HM)**

Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.

8. **All investigations signature page**

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all the violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. ~~Submit the letter along with copies of your supporting evidence to:~~

Email: j.smith@kcc.ks.gov FAX: 785-271-3124 or mail: Kansas Corporation Commission Attn: Jared Smith 1500 SW Arrowhead Rd Topeka, KS 66604-4027

Failure to submit the plan & attend a KCC safety presentation within 30 days of the closing of the compliance review can result in further penalties in a follow up review. Carrier Brush Creek Harvesting LLC Date 06-06-24

I acknowledge that these requirements/violations and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Brush Creek Harvesting LLC vehicles operating authority and/or the impoundment of Brush Creek Harvesting LLC vehicles.

Signed James Jorum Date 06-06-24

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. Carrier representative James Jorum Date: 06-06-24

Exhibit 2

CONSIGNEE - NOTE!

PLEASE RETURN WHITE
COPY TO HANNEBAUM GRAIN
WITH FINANCIAL RETURNS.

HANNEBAUM GRAIN CO., INC.**TRUCK SHIPMENT LADING G.D. — 2422**

P.O. Box 1157 • Salina, KS 67402-1157
Phone (785) 825-8205 WATS 800-365-4424

No. N- 215368

SHIPPED FROM			SHIPPED TO	
SHIPPER: <i>Hannebaum</i>			CONSIGNEE:	
ORIGIN: <i>Murdoch Partnership</i>			DESTINATION: <i>Western Plains</i>	
DATE LOADED: <i>3-14-24</i>	TIME OF DAY A.M. P.M.	LOADING ELEVATOR CONT. NO.:	DATE UNLOADED: _____, 20____	UNLOADING ELEVATOR CONT. NO.:
COMMODITY: <i>yc bin # 2</i>			UNLOADING GRADE:	
LOADING SCALE TICKET NO.:			UNLOADING SCALE TICKET NO.:	

WEIGHTS			CARRIER	
	LOADING	UNLOADING	FIRM NAME: <i>Brush Creek Harvesting LLC</i>	
GROSS			DRIVER'S NAME: <i>Cummer Youm</i>	
TARE			DRIVER'S ADDRESS: <i>198 A St Phillipstburg</i>	
NET			DRIVER'S LICENSE NO.:	STATE: <i>KS</i>
LOSS IN TRANSIT:			DRIVER'S SOC. SEC. NO.:	
SHIPPERS SIGNATURE:			LICENSE NO.	TRACTOR: MAKE:
				TRAILER: MAKE:
			DRIVER'S SIGNATURE: <i>Cummer Youm</i>	

***WARNING TO SELLER:** Effective August 30, 2015, Nebraska producers who sell their grain will have no recourse to the grain dealer's security posted with the Nebraska Public Service Commission (NPSC) unless you (1) demand payment from the Buyer within fifteen (15) days after the date of the last shipment of any contract; and (2) cash or negotiate any check or draft issued as payment for your grain within fifteen (15) days after its issuance; and (3) notify the Nebraska Public Service Commission, P.O. Box 94927, Lincoln, NE 68509-4927, within fifteen (15) days after an apparent loss to be covered under the terms of the grain dealer's security.
Neb. Rev. State 75-902(8) defines a producer as, "the owner, tenant, or operator of land in this state who has an interest in and receives all or part of the proceeds from the sale of grain produced on the land."

Western Plains Energy, LLC
3022 Country Road 18
Oakley, KS 67748
785-672-8810

INBOUND

TICKET NO.: 540580
CONTRACT#: 7872
BOL: 215368
BIN/Farm: ORLEANS, NE
UNLOAD DATE: 03/15/2024

VENDOR:
10019 Hannebaum Grain Company
PO Box 1157
Salina, KS 67402-1157

PRODUCER:
CARRIER:

DRIVER: ON
SCALE:
TRUCK ID: BRUSHCREEK

GROSS WT	90,660	LBS	3/15/2024 9:44:20AM	CORN		
TARE WT	31,040	LBS	3/15/2024 9:55:44AM	M	14.0	
NET WT	59,620	LBS		TW	59.1	

U.S. No. 1

GROSS BU 1064.64
SHRINK BU 0.00
NET BU 1064.64

NOTES:

RECEIVING HOURS: 8:00 A.M.-4:30 P.M. Mon-Fri
We appreciate your business!

EXHIBIT 3



DRUG & ALCOHOL CLEARINGHOUSE

[← BACK TO DASHBOARD](#)

Brush Creek Harvesting LLC

Address: 1046 w limestone rd; Prairie View, KS 676646435;

US

Email: Gyocum28@gmail.com

Owner Operator: Yes

As of: 5/31/2024 16:37

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REGISTERED USERS

Email	Name	Role	Created	Last Login
gyocum28@gmail.com	Gunner Yocum	Admin	3/13/2023	4/3/2024

C/TPAS DESIGNATED

C/TPA	Status <i>i</i>	Report Violations	Report RTD Information <i>i</i>	Conduct Queries
CMCI Official	Active	Yes	Yes	Yes

DRIVER CHECK (ANNUAL QUERIES CONDUCTED)

Name	Country	CDL	Most Recent Query	Submitted on	Consent Received	Result
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PRE-EMPLOYMENT QUERIES CONDUCTED

Name	Country	CDL	Most Recent Query	Submitted on	Consent Received	Result
GUNNER YOCUM	United States	██████████	Pre-employment	3/13/2023	3/13/2023	Driver Not Prohibited

Name	Country	CDL	Most Recent Query	Submitted on	Consent Received	Result
JON YOCUM	United States	[REDACTED]	Pre-employment	3/13/2023	4/29/2023	Driver Not Prohibited

VIOLATIONS REPORTED

Test Date	Driver Name	CDL/CLP i	Test Reason	Violation Type	Reported By	Reported On	Updated By	Updated On
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U.S. DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

1200 NEW JERSEY AVENUE, SE

WASHINGTON, DC 20590

202-366-4000

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Information Collection #: OMB Control No. 2126-0057

CERTIFICATE OF SERVICE

24-TRAM-881-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 06/27/2024.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
ahsan.latif@ks.gov

Jon Yocum, PRESIDENT
Brush Creek Harvesting LLC
1046 W Limestone Rd
Prairie View, KS 67664
gyocum28@gmail.com

/S/ KCC Docket Room
KCC Docket Room