

# STATE OF KANSAS

20180306163221  
Kansas Corporation Commission

CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027



PHONE: 785-271-3100  
FAX: 785-271-3354  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | PAT APPLE, COMMISSIONER

## NOTICE OF PENALTY ASSESSMENT 18-TRAM-369-PEN

March 6, 2018

Blake Beal, Member  
Muddy Water Farms, LLC  
1320 265th St  
Fort Scott, Kansas 66701

Certified Mail No. 70161970000105744066

This is a notice of a penalty assessment against Muddy Water Farms, LLC (Muddy Water Farms) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on February 23, 2018, by Kansas Corporation Commission Special Investigator Jared Smith. Penalties are assessed in accordance with the FY 2018 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2017. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

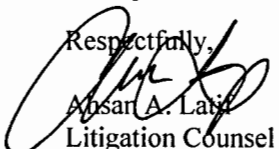
**IF YOU ACCEPT THE PENALTY:** Muddy Water Farms has been assessed a \$500 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$500, through your personal account with the Kansas Corporation Commission's KTRAN system located at <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 Muddy Water Farms 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](http://www.kcc.state.ks.us/trans/safety_meetings.htm). The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

**IF YOU CONTEST THE PENALTY ORDER:** You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Muddy Water Farms 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 Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$500 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,

  
Ahsan A. Latif  
Litigation Counsel  
(785) 271-3118

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

Before Commissioners:      Shari Feist Albrecht, Chair  
                                 Jay Scott Emler  
                                 Pat Apple

In the Matter of the Investigation of **Muddy**      )  
**Water Farms, LLC, of Fort Scott, Kansas,**      )  
Regarding the Violation of the Motor Carrier      )  
Safety Statutes, Rules and Regulations and the      ) Docket No. 18-TRAM-369-PEN  
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:

**I.      JURISDICTION**

1.      Pursuant to K.S.A. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 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 K.S.A. 2016 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2.      Pursuant to K.S.A. 2016 Supp. 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.

3. 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.

## **II. BACKGROUND**

4. Muddy Water Farms, LLC (Muddy Water Farms) operates USDOT number 2320691.

5. Muddy Water Farms is an interstate for-hire and private property carrier and owns four (4) truck tractors and (4) trailers and employs three (3) CDL drivers.

6. Muddy Water Farms is a private and common motor carrier which primarily hauls general freight, grain, feed, hay and farm supplies.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on February 23, 2018, Commission Staff (Staff) Special Investigator Jared Smith conducted a compliance review of the operations of Muddy Water Farms. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On December 17, 2017, Muddy Water Farms required or permitted its driver, Russell E. Beal, to operate a CDL-required commercial motor vehicle, a 2007 Peterbilt, VIN ending in 679295, GVWR 50,000 lbs., pulling a 2009 Timppte trailer, VIN ending in 121144, GVWR 65,000 lbs.,

in interstate commerce from Kincaid, Kansas to Springdale, Arkansas. This trip is evidenced by Driver/Vehicle Examination Report Number MODT04002542, dated December 17, 2017, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Muddy Water Farms failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The special investigator found two (2) violations of this type. Further, this carrier was cited for the same violation in a Safety Compliance Review conducted on May 13, 2016. Muddy Water Farms' failure to inquire into its driver's MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2016 Supp. 66-1,112. Staff recommends an enhanced fine of \$500.

#### **IV. STAFF'S RECOMMENDATIONS**

8. Based upon the available facts, Staff recommends the Commission finds Muddy Water Farms committed one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$500 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Muddy Water Farms be required to 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. 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](http://kcc.ks.gov/trans/safety_meetings.htm).

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

## **V. CONCLUSIONS OF LAW**

12. The Commission finds it has jurisdiction over Muddy Water Farms because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. The Commission finds Muddy Water Farms committed one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

### **THE COMMISSION THEREFORE ORDERS THAT:**

A. Muddy Water Farms, LLC, of Fort Scott, Kansas is hereby assessed a \$500 civil penalty for one (1) violation(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. Muddy Water Farms is hereby ordered to 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. Muddy Water Farms 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.

D. On March 6, 2018, this Penalty Order was mailed to Muddy Water Farms via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105744066. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

E. Pursuant to K.S.A. 2016 Supp. 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 Secretary to the Commission, 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 Muddy Water Farms's right to a hearing, and this Penalty Order will become a Final Order assessing a \$500 civil penalty against Muddy Water Farms, and ordering a representative from Muddy Water Farms to 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, and to submit to a safety compliance review within 18 months from the date of this 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. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$500 is due in thirty (30) days from the date of service of this Order. Payment of \$500 must be made through your personal account with the Kansas Corporation Commission's 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 \$500 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Muddy Water Farms's motor carrier operating authority without further notice. 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.

I. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: MAR 06 2018

  
Lynn M. Retz  
Secretary to the Commission


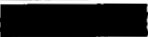





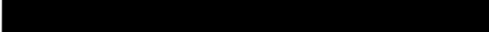
Order Mailed Date

AAL

MAR 07 2018

## **ATTACHMENT "A"**



	<b>US DOT #</b> 2320691	<b>Legal:</b> MUDDY WATER FARMS LLC <b>Operating (DBA):</b>																		
<b>MC/MX #:</b> 982005		<b>Federal Tax ID:</b>  (EIN)																		
<b>Review Type:</b> Non-ratable Review - CSA																				
<b>Scope:</b> Principal Office		<b>Location of Review/Audit:</b> CSA Off-site		<b>Territory:</b>																
<b>Operation Types</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><b>Carrier:</b> Non-HM</td> <td style="width: 10%;">N/A</td> <td style="width: 30%;"><b>Business:</b> Corporation</td> <td colspan="2"></td> </tr> <tr> <td><b>Shipper:</b> N/A</td> <td>N/A</td> <td><b>Gross Revenue:</b> </td> <td colspan="2">for year ending: 12/31/2017</td> </tr> <tr> <td><b>Cargo Tank:</b></td> <td>N/A</td> <td colspan="3"></td> </tr> </table>					<b>Carrier:</b> Non-HM	N/A	<b>Business:</b> Corporation			<b>Shipper:</b> N/A	N/A	<b>Gross Revenue:</b> 	for year ending: 12/31/2017		<b>Cargo Tank:</b>	N/A				
<b>Carrier:</b> Non-HM	N/A	<b>Business:</b> Corporation																		
<b>Shipper:</b> N/A	N/A	<b>Gross Revenue:</b> 	for year ending: 12/31/2017																	
<b>Cargo Tank:</b>	N/A																			
<b>Company Physical Address:</b> 																				
<b>Contact Name:</b> Blake Beal <b>Phone numbers:</b> (1)  <b>Fax</b> <b>E-Mail Address:</b> 																				
<b>Company Mailing Address:</b> 1320 265TH STREET FORT SCOTT, KS 66701																				
<b>Carrier Classification</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Authorized for Hire</td> <td style="width: 33%;">Exempt for Hire</td> <td style="width: 34%;">Private Property</td> </tr> </table>					Authorized for Hire	Exempt for Hire	Private Property													
Authorized for Hire	Exempt for Hire	Private Property																		
<b>Cargo Classification</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">General Freight</td> <td style="width: 33%;">Grain, Feed, Hay</td> <td style="width: 34%;">Farm Supply</td> </tr> </table>					General Freight	Grain, Feed, Hay	Farm Supply													
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<b>Equipment</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> </tr> <tr> <td>Truck Tractor</td> <td>4</td> <td>0</td> <td>0</td> <td>Trailer</td> <td>4</td> <td>0</td> <td>0</td> </tr> </table>						Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased	Truck Tractor	4	0	0	Trailer	4	0	0
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased													
Truck Tractor	4	0	0	Trailer	4	0	0													
Power units used in the U.S.: 4 Percentage of time used in the U.S.: 100																				
Does carrier transport placardable quantities of HM? No Is an HM Permit required? N/A																				
<b>Driver Information</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"></td> <td style="width: 10%;">Inter</td> <td style="width: 10%;">Intra</td> <td style="width: 50%;">Average trip leased drivers/month: 0</td> </tr> <tr> <td>&lt; 100 Miles:</td> <td></td> <td></td> <td>Total Drivers: 3</td> </tr> <tr> <td>&gt;= 100 Miles:</td> <td>3</td> <td></td> <td>CDL Drivers: 3</td> </tr> </table>						Inter	Intra	Average trip leased drivers/month: 0	< 100 Miles:			Total Drivers: 3	>= 100 Miles:	3		CDL Drivers: 3				
	Inter	Intra	Average trip leased drivers/month: 0																	
< 100 Miles:			Total Drivers: 3																	
>= 100 Miles:	3		CDL Drivers: 3																	



	<b>MUDDY WATER FARMS LLC</b> U.S. DOT # 2320691	Review Date 02/23/2018
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**Part A**

QUESTIONS regarding this report or the Federal Motor Carrier Safety or Hazardous Materials rules may be addressed to the Office of Motor Carriers at

**This report will be used to assess your safety compliance.**

**Person(s) Interviewed**

**Name:** Blake Beal

**Title:** Operations Manager

**Name:**

**Title:**



	<b>MUDDY WATER FARMS LLC</b>	Review Date: 02/23/2018
	U.S. DOT #: 2320691	

### Part B Violations

1 FEDERAL	Primary 391.51(b)(4)	Discovered 2	Checked 3	Drivers/Vehicles In Violation	Checked 3
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#### Description

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

#### Example

On December 17, 2017 Muddy Water Farms LLC had driver [REDACTED] (MO CDL # [REDACTED]) operate a 2007 Peterbilt (Unit # 4- VIN # [REDACTED] 679295) in combination with a 2009 Timpette trailer (unit # T4- VIN # [REDACTED] 21144.) These units have a gross vehicle weight rating of 50,000 lbs. and 65,000 lbs. Driver [REDACTED] operate in commerce on an interstate trip from Kincaid, Kansas to Springdale, Arkansas. This trip is evidenced by a level III roadside inspection performed by E. Walker (MO1236) of the Missouri Highway Patrol. At the time of this trip carrier was found to be in violation of failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

2 FEDERAL	Primary 391.51(b)(5)	Discovered 2	Checked 3	Drivers/Vehicles In Violation	Checked 3
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#### Description

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

#### Example

On December 17, 2017 Muddy Water Farms LLC had driver [REDACTED] (MO CDL # [REDACTED]) operate a 2007 Peterbilt (Unit # 4- VIN # [REDACTED] 679295) in combination with a 2009 Timpette trailer (unit # T4- VIN # [REDACTED] 121144.) These units have a gross vehicle weight rating of 50,000 lbs. and 65,000 lbs. Driver [REDACTED] operate in commerce on an interstate trip from Kincaid, Kansas to Springdale, Arkansas. This trip is evidenced by a level III roadside inspection performed by E. Walker (MO1236) of the Missouri Highway Patrol. At the time of this trip carrier was found to be in violation of failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

3 FEDERAL	Primary. 391.51(b)(6)	Discovered 2	Checked 3	Drivers/Vehicles In Violation	Checked 3
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#### Description

Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

#### Example


On December 17, 2017 Muddy Water Farms LLC had driver [REDACTED] (MO CDL # [REDACTED]) operate a 2007 Peterbilt (Unit # 4- VIN # [REDACTED] 679295) in combination with a 2009 Timpette trailer (unit # T4- VIN # [REDACTED] 121144.) These units have a gross vehicle weight rating of 50,000 lbs. and 65,000 lbs. Driver [REDACTED] operate in commerce on an interstate trip from Kincaid, Kansas to Springdale, Arkansas. This trip is evidenced by a level III roadside inspection performed by E. Walker (MO1236) of the Missouri Highway Patrol. At the time of this trip carrier was found to be in violation of failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

<b>Safety Fitness Rating Information:</b>		<b>OOS Vehicle (CR): 0</b>	
<b>Total Miles Operated</b>	286,507	<b>Number of Vehicle Inspected (CR): 0</b>	
<b>Recordable Accidents</b>	0	<b>OOS Vehicle (MCMIS): 0</b>	
		<b>Number of Vehicles Inspected (MCMIS): 0</b>	

Your proposed safety rating is :

**This Review is not Rated.**



	<b>MUDDY WATER FARMS LLC</b> U S. DOT #. 2320691	Review Date 02/23/2018
<b>Safety Management Process Breakdowns and Remedies</b>		

1. FMCSA recently announced planned improvements to the Carner 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 carrier's 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.

2. 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.

For all Investigations that did not result in a Cooperative Safety Plan.

The KCC requires that you prepare a corrective action letter, addressing the measures taken to correct the



	<b>MUDDY WATER FARMS LLC</b> U.S. DOT # 2320691	Review Date 02/23/2018
<b>Safety Management Process Breakdowns and Remedies</b>		

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. Mail the letter along with copies of your supporting evidence to

Kansas Corporation Commission  
 Attn: Gary Davenport  
 1500 SW Arrowhead Rd  
 Topeka, KS 66604-4027

### 3. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking

**DESCRIPTION OF PROCESS BREAKDOWN** Muddy Waters LLC's violations occurred due to a breakdown regarding the monitoring and tracking elements within this section. It is the carriers responsibility to execute all the annual requirements and to verify that all drivers are qualified to operate commercial motor vehicles.

**BASIC SPECIFIC RECOMMENDED REMEDIES:** Make sure that you have all drivers complete a listing of violations when you run the MVR. Then sign the certificate qualifying the driver for another year if they meet the standards. Make sure that all the MVR's are run annually, make sure that you track when they MVR's expire and make sure to obtain a new MVR prior to the old MVR expiring.


**Implement Safety Improvement Practices:** The following are recommended practices related to Monitoring and Tracking Processes.

- Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.
- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files, applying the performance standards fairly, consistently, and equitably; and documenting the evaluations.
- Regularly evaluate the company's driver fitness-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with driver-fitness regulations and company policies.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

#### Seek Out Resources

- You are encouraged to review your company's record at the following website. <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in



	<b>MUDDY WATER FARMS LLC</b> U.S. DOT # 2320691	Review Date: 02/23/2018
<b>Safety Management Process Breakdowns and Remedies</b>		

the industry.

4. I acknowledge that the requirements and/or recommendations resulting from this off-site, focused review have been discussed with me and my questions have been answered. I further acknowledge that KCC recommendations only cover the scope of this focused review, and that areas not reviewed by the KCC have not necessarily been endorsed as compliant. 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 Muddy Water Farms LLC's operating authority and/or the impoundment of Muddy Water Farms LLC's commercial motor vehicles

\_\_\_\_\_  
Carrier Representative

\_\_\_\_\_  
Date

After reviewing these Requirements and/or Recommendations, please sign and date where indicated, and return to the Kansas Corporation Commission, ATTN Verna Jackson, Transportation Division, 1500 SW Arrowhead Rd, Topeka, Kansas 66604-4027, or fax 785-271-3124.



## **ATTACHMENT "B"**

# DRIVER/VEHICLE EXAMINATION REPORT

Missouri State Highway Patrol  
Commercial Vehicle Enforcement Division  
Post Office Box 568  
Jefferson City, MO 65102-0568  
Phone: (573)526-6128 Fax: (573)526-4637

Report Number: MODT04002542  
Inspection Date: 12/17/2017  
Start: 3 00 PM CT End: 3:30 PM CT  
Inspection Level: III - Driver/Credential  
HM Inspection Type: None

MUDDY WATER FARMS LLC

Driver: BEAL, RUSSELL E

State: MO

FORT SCOTT, KS, 66701

License#:

Date of Birth:

USDOT: 2320691

Phone#:

CoDriver:

MC/MX#: 982005

Fax#:

License#:

State:

State#:

Date of Birth:

Location: MO 43 N/O ROUTE M

Milepost:

Shipper: BEACHNER GRAIN

Highway: MO 43

Origin: KINCAID, KS

Bill of Lading: 3300502537

County: JASPER

Destination: SPRINGDALE, AR

Cargo: CORN

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TT	PTRB	2007	KS		04		679295	50000		
2	ST	TIMP	2009	KS		T04		21144	65000		

**BRAKE ADJUSTMENTS** No brake measurements required for level II or level III

**VIOLATIONS.** No violations were discovered

**HazMat:** No HM transported

**Placard:**

**Cargo Tank:**

**Special Checks:** No data for special checks

I certify that the above violation(s) was/were corrected

Signature Of Repairer X \_\_\_\_\_ Facility \_\_\_\_\_ Date \_\_\_\_\_

**NOTICE TO DRIVER/MOTOR CARRIER** The motor carrier name that appears on this report must sign the certification and fax, mail to the Missouri State Highway Patrol, Commercial Vehicle Enforcement Division, P O Box 568, Jefferson City, MO 65102-0568 or Email to [cvermail@mshp.dps.mo.gov](mailto:cvermail@mshp.dps.mo.gov) within 15 days. If no violations were discovered, you are NOT required to sign and return a copy of the report.

\*\*\*\*Warning\*\*\*\* If this box is checked ( ), A separate traffic citation was issued to the violator. Please refer to the issued traffic citation for additional information.

DO NOT send fine payment with the return of this report

Signature Of Motor Carrier X \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Report Prepared By: E. WALKER  
Badge #: 1236

Copy Received By: RUSSELL BEAL

X

X





**CERTIFICATE OF SERVICE**

18-TRAM-369-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on MAR 06 2018.

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

BLAKE A. BEAL, TRUCKING OPERATIONS MANAGER  
MUDDY WATER FARMS, LLC  
1320 265TH STREET  
FORT SCOTT, KS 66701  
blakemwf@outlook.com

/s/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe

Order Mailed Date

MAR 07 2018