

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



Phone: 785-271-3100  
Fax: 785-271-3354  
<http://kcc.ks.gov/>

Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Pat Apple, Commissioner

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

September 4, 2014

15-TRAM-078-PEN

Julie A. Gorby, Co-Owner/Office Manager  
G & G Dozer Company, LLC  
PO Box 6  
Caney, Kansas 67333

This is a notice of a penalty assessment for violations of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 16, 2014, by Kansas Corporation Commission Special Investigator Michael Heenan. For a full description of the penalty and process please refer to the Order that is attached to this notice.

### IF YOU ACCEPT THE PENALTY:

You have been assessed a \$1,750 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Fiscal Section of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by calling the Fiscal Office at 785-271-3113.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of dates and locations for the safety seminar 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).

You must submit to one follow-up safety compliance review within the next 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

### IF YOU CONTEST THE PENALTY:

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. Respondent must submit an original and seven (7) copies of the request to the Commission's Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2013 Supp. 77-542.

### IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

Robert E. Vincent  
Litigation Counsel  
(785) 271-3273

**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 **G & G**      )  
**Dozer Company, LLC, of Caney, Kansas,**      )  
Regarding the Violation of the Motor Carrier      )  
Safety Statutes, Rules and Regulations and the      ) Docket No. 15-TRAM-078-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). The Commission, having been briefed on the issues by the Director of the Commission's Transportation Division, finds and concludes as follows:

**I. JURISDICTION**

1. Pursuant to K.S.A. 2013 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. 2013 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. 2013 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 order a hearing 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. G & G Dozer Company, LLC (G & G Dozer Company) obtained private and common operating authority from the Commission on June 15, 2012, and operates under KSMCID number 169054 and USDOT number 694102.

5. Carol L. Beyen attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on June 12, 2012, on behalf of G & G Dozer Company.

6. G & G Dozer Company is a private and common motor carrier which primarily hauls motor vehicles and heavy equipment.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on July 16, 2014, Commission Staff (Staff) Special Investigator Michael Heenan conducted a compliance review of the operations of G & G Dozer Company. 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, Mr. Heenan identified three (3) violations of the Motor Carrier Safety Regulations.

- a. On January 27, 2014, G & G Dozer Company required or permitted its driver, Derek D. Roberds, to operate a commercial motor vehicle, a 1989 Peterbilt truck, Vehicle Identification Number (VIN) ending in 269764, pulling a 1999 unknown model trailer, VIN ending in 111195, in intrastate

commerce from Salina, Kansas to Hutchinson, Kansas. This trip is evidenced by a Driver/Vehicle Examination Report dated January 27, 2014, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, G & G Dozer Company was not enrolled with a consortium to provide random drug and alcohol testing for its CDL drivers. The carrier stated they had not had a drug testing program for more than 10 years. G & G Dozer Company's failure to require its drivers to be enrolled in a random alcohol and controlled substance testing program is a violation of 49 C.F.R. §§ 382.305(a),(i)(2) as adopted by K.A.R. 82-4-3c, and as authorized by K.S.A. 2013 Supp. 66-1,129. Staff recommends a fine of \$500.

- b. On February 12, 2014, G & G Dozer Company required or permitted its driver, Doyle J. Gorby, to operate a commercial motor vehicle, a 2009 Kenworth truck, VIN ending in 246002, in intrastate commerce in and around the area of Independence, Kansas. This trip is evidenced by a Driver/Vehicle Examination Report dated February 12, 2014, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. At the time of this transportation, G & G Dozer Company did not require its driver to prepare any hours of service records showing the: start time, end time, and total hours worked for the day. There were one hundred (100) violations found of this type. The carrier provided a signed statement that the drivers worked the 20 days available in February 2014, but did not provide exact dates or starting or ending times. *See Statement*

dated July 17, 2014, a copy of which is attached hereto as Attachment "D" and is hereby incorporated by reference. G & G Dozer Company's failure to require its drivers to keep records of duty status for each 24-hour period, or in the alternative to maintain and retain time records described in 49 C.F.R. § 395.1(e) under the short haul exemption, using the method described in 49 C.F.R. § 395.8(a), and to submit the original record to the motor carrier within 13 days of creation is a violation of 49 C.F.R. § 395.8(a) as adopted by K.A.R. 82-4-3a, and as authorized by K.S.A. 2013 Supp. 66-1,129. Staff recommends a fine in the amount of \$1,000.

- c. During the transportation described in paragraph a., above, G & G Dozer Company had not made inquiry into the driver's motor vehicle record (MVR) within the preceding 12 months. There were five violations found of this type. G & G Dozer Company's 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. §§ 391.25(a),(c) as adopted by K.A.R. 82-4-3g, and as authorized by K.S.A. 2013 Supp. 66-1,129. Staff recommends a fine of \$250.

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

8. Based upon the available facts, Staff recommends the Commission find G & G Dozer Company committed three (3) violations 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 \$1,750 for three (3) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that G & G Dozer Company be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar 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 G & G Dozer Company submit to one follow-up safety compliance review within the next eighteen (18) months. 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 G & G Dozer Company because it is a motor carrier as defined in K.S.A. 2013 Supp. 66-1,108.

13. The Commission finds G & G Dozer Company committed three (3) violations of Kansas law that govern motor carriers, including various provisions of the 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. G & G Dozer Company, LLC, of Caney, Kansas, is hereby assessed a \$1,750 civil penalty for three (3) violations of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations, and provisions of the FMCSRs as adopted by the Kansas Administrative Regulations.

B. G & G Dozer Company is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of

attendance. Further, G & G Dozer Company is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2013 Supp. 77-537 and K.S.A. 2013 Supp. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Executive Director, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of G & G Dozer Company's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,750 civil penalty against G & G Dozer Company, and ordering G & G Dozer Company to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. A corporation shall not be permitted to enter an appearance, except by its attorney.

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Fiscal Section of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*

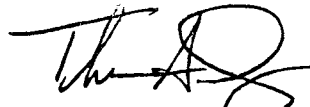
F. Failure to pay the \$1,750 civil penalty within thirty (30) days of the service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in revocation of G & G Dozer Company's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

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

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: SEP 04 2014



ORDER MAILED SEP 05 2014


Thomas A. Day  
Acting Executive Director

REV/mjd



## **ATTACHMENT "A"**

**Kansas Corporation Commission**

	<b>US DOT #</b>	<b>Legal: G &amp; G DOZER COMPANY LLC</b>										
	694102				<b>Operating (DBA):</b>							
<b>MC/MX #:</b>		<b>State #:</b> 169054	<b>Federal Tax ID:</b> [REDACTED]									
<b>Review Type:</b> Compliance Review (CR)												
<b>Scope:</b> Principal Office		<b>Location of Review/Audit:</b> Company facility in the U. S.		<b>Territory:</b> C								
<b>Operation Types</b>			<b>Business:</b> Corporation <b>Gross Revenue:</b> [REDACTED] for year ending: 12/31/2013									
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"><b>Interstate</b></td> <td style="width:33%;"><b>Intrastate</b></td> </tr> <tr> <td><b>Carrier:</b> HM</td> <td>HM</td> </tr> <tr> <td><b>Shipper:</b> N/A</td> <td>N/A</td> </tr> <tr> <td><b>Cargo Tank:</b></td> <td>N/A</td> </tr> </table>					<b>Interstate</b>	<b>Intrastate</b>	<b>Carrier:</b> HM	HM	<b>Shipper:</b> N/A	N/A	<b>Cargo Tank:</b>	N/A
<b>Interstate</b>	<b>Intrastate</b>											
<b>Carrier:</b> HM	HM											
<b>Shipper:</b> N/A	N/A											
<b>Cargo Tank:</b>	N/A											
<b>Company Physical Address:</b>												
[REDACTED]												
<b>Contact Name:</b> Julie A Gorby												
<b>Phone numbers:</b> (1) [REDACTED] (2) [REDACTED] <b>Fax</b> [REDACTED]												
<b>E-Mail Address:</b> [REDACTED]												
<b>Company Mailing Address:</b>												
P O BOX 6 CANNEY, KS 67333-0006												
<b>Carrier Classification</b>												
Private Property												
<b>Cargo Classification</b>												
Motor Vehicles Other: Heavy Equipment												
<b>Hazardous Materials</b>												
9 Miscellaneous HM Carried Non-Bulk												
<b>Equipment</b>												
	<b>Owned</b>	<b>Term Leased</b>	<b>Trip Leased</b>									
Truck	6	0	0	Truck Tractor								
Trailer	2	0	0									
	<b>Owned</b>	<b>Term Leased</b>	<b>Trip Leased</b>									
	2	0	0									
<b>Power units used in the U.S.:</b> 8												
<b>Percentage of time used in the U.S.:</b> 100												
<b>Does carrier transport placardable quantities of HM?</b> No												
<b>Is an HM Permit required?</b> N/A												
<b>Driver Information</b>												
	<b>Inter</b>	<b>Intra</b>	<b>Average trip leased drivers/month:</b> 0 <b>Total Drivers:</b> 6 <b>CDL Drivers:</b> 6									
<b>&lt; 100 Miles:</b>		2										
<b>&gt;= 100 Miles:</b>	4											





G & G DOZER COMPANY LLC

U.S. DOT #: 694102

State #: [REDACTED]

Review Date:

07/14/2014

**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:

Kansas Corporation Commission  
1500 SW Arrowhead Rd  
Topeka, Ks 66604-4027 1-785-271-3145

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

**Person(s) Interviewed**

Name: Julie A Gorbey

Title: Owner/Office Manager.

Name:

Title:





G & G DOZER COMPANY LLC  
U.S. DOT #: 694102

State #: [REDACTED]

Review Date:  
07/14/2014

### Part B Violations

<b>1 FEDERAL ACUTE</b>	Primary: 382.305	<b>Discovered</b> 1	<b>Checked</b> 1	<b>Drivers/Vehicles In Violation</b> 5	<b>Checked</b> 5
<b>Description</b> Failing to implement a random controlled substance and/or an alcohol testing program. <b>Example</b> Driver name: Derek D Roberds Trip date: 01-27-14 Calendar year 2014 At the time of this trip and the time of this review, the carrier had failed to implement any random drug and alcohol testing program for their carrier. Carrier stated that she had randomly selected the carrier picks herself with no scientific random selection method. Carrier stated that they formerly belonged to a drug and alcohol testing consortium and the same driver, Gary Gorby and another driver was chosen randomly 3 times in a row and they did not believe that this was an effective program. The carrier believed they cancelled their consortium almost 10 years ago. This carrier's other drug testing violations preclude to the fact they have no formal program.					
<b>2 STATE CRITICAL</b>	Primary: 395.8(a)  CFR Equivalent: 395.8(a)	<b>Discovered</b> 100	<b>Checked</b> 140	<b>Drivers/Vehicles In Violation</b> 5	<b>Checked</b> 5
<b>Description</b> Failing to require driver to make a record of duty status. <b>Example</b> Driver name: Gorby Doyle J Trip date: 02-12-14 02-14-14 At the time of these trips, and the time of this review, the carrier had no no forms of hours of service in place for their drivers. Drivers call in when they are at work and hours are calculated on a weekly basis for payroll purposes only. No individual days or hours were kept or documented. The carrier computer program only shows weekly and monthly hours as all employees work the same job sites as the owner, Gary Gorby. The month of February 2014 was calculated as there were 2 roadside inspections in that month. 28 days in the month of February made for a sample size of 140 days due to the fact 5 drivers were examined. The carrier stated that her crew worked 20 days out of 28 during the month of February 2014. It was found that the carrier had no Records of Duty Service for 100 days of 140. The two trips listed above were two trips made by 2 drivers in the month of February 2014. These were the only 2 days that any driver could be documented in any specific vehicle during the examined month as the carrier had no record of what drivers were in what vehicles on any specific day.					
<b>3 STATE</b>	Primary: 391.51(b)(1)  CFR Equivalent: 391.51(b)(1)	<b>Discovered</b> 5	<b>Checked</b> 5	<b>Drivers/Vehicles In Violation</b> 5	<b>Checked</b> 5
<b>Description</b> Failing to maintain driver's employment application in driver's qualification file. <b>Example</b> Driver name: Derek D Roberds Trip date: 1/27/2014 At the time of this trip, and the time of this review, the carrier had no driver application for employment in any of the 5 examined driver files:					





G & G DOZER COMPANY LLC  
U.S. DOT #: 694102

State #: [REDACTED]

Review Date:  
07/14/2014

### Part B Violations

4 STATE	Primary: 391.51(b)(3) CFR Equivalent: 391.51(b)(3)	Discovered 2	Checked 5	Drivers/Vehicles In Violation 2 Checked 5
<b>Description</b> Failing to maintain road test certificate in driver's qualification file, or copy of license or certificate the motor carrier accepted as equivalent. Driver name: Derek D Roberds Trip date: 1/27/2014 At the time of this trip, and the time of this review, the carrier had no road test, certificate, or CDL equivalent in 2 of their 5 driver files. (Roberds and Brown)				
5 STATE	Primary: 391.51(b)(4) CFR Equivalent: 391.51(b)(4)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5 Checked 5
<b>Description</b> Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). <b>Example</b> Driver name: Derek D Roberds Trip date: 1/27/2014 At the time of this trip, and the time of this review, the carrier had no current or valid MVRs in the driver files at least every 12 months. Caleb Gorby had a MVR in his driver file dated 06-13-12. No MVRs were found in any other driver file.				
6 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5 Checked 5
<b>Description</b> Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). <b>Example</b> Driver name: Derek D Roberds Trip date: 1/27/2014 At the time of this trip, and the time of this review, the carrier had no annual review in any driver file.				
7 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5 Checked 5
<b>Description</b> Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. <b>Example</b> Driver name: Derek D Roberds Trip date: 1/27/2014 At the time of this trip, and the time of this review, the carrier had no certificate relating to driver violations in any of their driver files.				
<b>Safety Fitness Rating Information:</b> Total Miles Operated 40,000 Recordable Accidents 0 Recordable Accidents/Million Miles 0.00		OOS Vehicle (CR): 0 Number of Vehicle Inspected (CR): 0 OOS Vehicle (MCMIS): 1 Number of Vehicles Inspected (MCMIS): 5		





G & G DOZER COMPANY LLC  
U.S. DOT #: 694102

State #: [REDACTED]

Review Date:  
07/14/2014

### Part B Violations

Your proposed safety rating is :

**CONDITIONAL**

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	C	1	0
Factor 3:	U	0	2
Factor 4:	S	0	0
Factor 5:	S	0	0
Factor 6:	S	-	-

This rating will become the final rating 60 days from the date indicated on a forthcoming official notice from the Federal Motor Carrier Safety Administration headquarters in Washington, D.C.

However, if this rating improves a previous Unsatisfactory rating, it will become effective on the date of the official notice from the FMCSA headquarters.

Corrective actions must be taken for the violations (deficiencies) listed on Part B of this review. Title 49 CFR Sections 385.15 and 385.17 provide for administrative review and a change to a safety rating based on corrective actions, respectively. A request for a change to a safety rating under section 385.17 may be made at any time. A motor carrier may request, in writing, a change in the rating by providing evidence of corrective actions to the Field Administrator for the FMCSA Service Center in which the carrier maintains its principal place of business. (See 49 CFR 385.17 for additional details). A request for administrative review under section 385.15 must be made within 90 days of the date of the proposed safety rating issued under section 385.11(c) or a final safety rating issued under section 385.11(b), or within 90 days after denial of a request for a change in rating under section 385.17.





G & G DOZER COMPANY LLC  
U.S. DOT #: 694102

State #: 169054

Review Date:  
07/14/2014

### Part B Requirements and/or Recommendations

1. Ensure that all drivers are fully and properly qualified before operating on Inter/Intra state commerce. Maintain a complete file as required for each driver, documenting the qualification process.
2. Ensure reasonable suspicion training has been completed
3. Make certain that all drivers of commercial motor vehicles have a proper application for employment that is completed, dated, and signed.
4. All Driver Files are to include a properly signed and executed Road Test and Road Test Certificate for Commercial Motor Vehicles. A current CDL may be used in place of Road Test or Certificate. Tank vehicles twin and triple trailers are exempt from allowing the CDL in place of the road test.
5. Each Driver Qualification File must contain a properly executed and signed Certification of Violations and a Annual Review of Driving Record completed yearly.
6. Make certain that all log books are completed with every item on the log sheet completed. 395.8 (a). Items such as Bill of Lading number, commodity transported, and recap of daily hours must be completed.
7. Make certain that all vehicles that qualify as Commercial Motor Vehicles have a maintenance file that describes the vehicle by the make, model, year, VIN, tire size, unit number, and if the vehicle is leased or owned. Carrier needs to be certain that all repairs and parts are properly entered in the maintenance file as well as the receipts for such parts or repairs.
8. You are encouraged to review your company's safety record at the following website:

<https://ai.fmcsa.dot.gov/login/default.asp>

You will need to enter your US DOT # Personnel Identification Number (PIN) that has been provided to you by FMCSA in the log in form at the bottom of the page. If you have forgotten your PIN you only need to click on a link on the webpage to make a request for your PIN to be forwarded to you by U.S. mail.

Safety Improvement Resources (SIRs) is a compilation of articles, reports, and other tools designed to assist motor carriers with improving their current safety management practices. SIRs are searchable by resource number, BASIC or safety management practice (SMP). Please refer to any Safety Improvement Resource numbers included within the recommendations.

You are encouraged to view all of the SIRs at the following website: [http://ai.fmcsa.dot.gov/sms/Data/carrier\\_sir.aspx](http://ai.fmcsa.dot.gov/sms/Data/carrier_sir.aspx)

9. 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





G & G DOZER COMPANY LLC

U.S. DOT # 694102

State #

Review Date

07/14/2014

## Part B Requirements and/or Recommendations

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.

10. Make certain that all drivers of commercial motor vehicles have a record check of their driving record at least every 12 months and within 30 days of their initial employment.
11. 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 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.
12. Make certain that all CDL holders that operate CDL vehicles are in a random drug and alcohol testing selection pool with only other CDL operators. This gives CDL operators fair and equal chance of selection for drug and alcohol testing.
13. Provide employees and owner operators with a drug and alcohol policy. The policy will provide a signature page to verify the employee or owner operator has been given a copy of the policy to read and does in fact understand its contents.
4. Basic: Driver Fitness  
391.51(b)(2)

Failing to maintain inquiries into drivers records in the driver qualification files

11/10/2014 10:56:14 AM

Page 2 of 3



Capri 5 5 5 5





G & G DOZER COMPANY LLC  
U.S. DOT #: 694102

State #: [REDACTED]

Review Date:  
07/14/2014

### Part B Requirements and/or Recommendations

Please provide written documented proof of obtaining current Motor Vehicle Record Checks on the following drivers

Gary L Gorby-  
Doyle J Gorby-  
Caleb Gorby-  
Derek Roberds  
Leroy Moreland



Please provide current evidence or copies of Motor Vehicle Record Checks on the drivers listed above within 15 days and a letter explaining your actions to correct the violations listed in this report to the person and address listed below.

Mr Gary Davenport  
Kansas Corporation Commission  
1500 SW Arrowhead Rd  
Topeka, Ks 66604-4027

15. Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.
16. Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.
17. Toll receipts and other on-the-road expense receipts, invoices, bills of lading, dispatch records, and other "supporting document" must be kept on file for six (6) months. This requirement also applies to records generated by the use of owner-operators. You may keep legible photocopies in lieu of originals.
18. Ensure that all drivers' records of duty status (logs) are accurate. Check them against "supporting documents" to verify accuracy. Prohibit falsification of logs by any driver. Review the rules on supporting documents. Take appropriate action against drivers who falsify logs.
19. I acknowledge that these requirements 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 [G & G Dozer Company LLC] operating authority and/or the impoundment of [G & G Dozer Company LLC] vehicles.

Carrier Signature \_\_\_\_\_

20. Within 15 days send a letter to our office explaining your actions taken to remedy a non-compliance status. Mail to Kansas Corporation Commission, 1500 SW Arrowhead RD., Topeka, KS 66604-4027  
Attention: Gary Davenport
21. 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





G & G DOZER COMPANY LLC  
U.S. DOT #: 694102

State #: [REDACTED]

Review Date:  
07/14/2014

## Part B Requirements and/or Recommendations

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>

For all Investigations that could result in a Penalty Order:

- **PLEASE NOTE:** The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. 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 Penalty Order. 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.

For all Investigations resulting in serious violations:

Serious violations were recorded on this investigation report. These violations will impact your safety record. Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office:

Division Administrator: Max Strathman  
Federal Motor Carrier Safety Administration  
1303 SW First American Place  
Suite 200  
Topeka, KS 66604

For all Investigations resulting in a proposed conditional or unsatisfactory rating:

385.15

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (copy provided) outlines procedures for petitioning the Federal Motor Carrier Safety Administration for an administrative review of these findings. Your petition should be addressed to:





G & G DOZER COMPANY LLC  
U.S. DOT #: 694102

State #: [REDACTED]

Review Date:  
07/14/2014

### Part B Requirements and/or Recommendations

Chief Safety Officer  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue SE,  
Washington, DC 20590

#### 385.17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385.17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

Division Administrator- Max Strathman  
Federal Motor Carrier Safety Administration  
1303 SW First American Place  
Suite 200  
Topeka, Ks 66604

Ensure that a CC copy of the letter is mailed to:  
Kansas Corporation Commission  
Deputy Director- Gary Davenport  
1500 SW Arrowhead Dr  
Topeka, Ks 66604

This letter should be submitted as soon as possible.

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at <http://www.fmcsa.dot.gov/> and <http://www.safer.fmcsa.dot.gov/>.





G & G DOZER COMPANY LLC  
U.S. DOT #: 694102

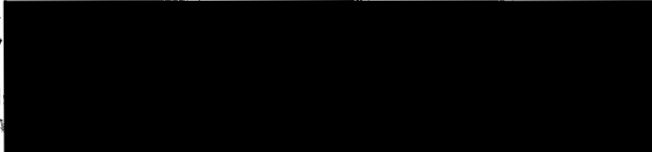
State #: [REDACTED]

Review Date  
07/14/2014

### Part B Requirements and/or Recommendations

Please provide written documented proof of obtaining current Motor Vehicle Record Checks on the following drivers

Gary L Gorby-  
Doyle J Gorby  
Caleb Gorby-  
Derek Roberd  
Leroy Morelan



Please provide current evidence or copies of Motor Vehicle Record Checks on the drivers listed above within 15 days and a letter explaining your actions to correct the violations listed in this report to the person and address listed below.

Mr Gary Davenport  
Kansas Corporation Commission  
1500 SW Arrowhead Rd  
Topeka, Ks 66604-4027

15. Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.
16. Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.
17. Toll receipts and other on-the-road expense receipts, invoices, bills of lading, dispatch records, and other "supporting document" must be kept on file for six (6) months. This requirement also applies to records generated by the use of owner-operators. You may keep legible photocopies in lieu of originals.
18. Ensure that all drivers' records of duty status (logs) are accurate. Check them against "supporting documents" to verify accuracy. Prohibit falsification of logs by any driver. Review the rules on supporting documents. Take appropriate action against drivers who falsify logs.
19. I acknowledge that these requirements 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 [G & G Dozer Company LLC] operating authority and/or the impoundment of [G & G Dozer Company LLC] vehicles.

Carrier Signature

*[Signature]*  
*[Signature]*

20. Within 15 days send a letter to our office explaining your actions taken to remedy a non-compliance status. Mail to Kansas Corporation Commission, 1500 SW Arrowhead RD., Topeka, KS 66604-4027  
Attention: Gary Davenport



## **ATTACHMENT “B”**

# DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.3.2

Kansas Highway Patrol  
MOTOR CARRIER SAFETY ASSISTANCE  
700 SW Jackson, Ste 704  
Topeka, KS 66603  
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KS00WI001763  
Inspection Date: 01/27/2014  
Start: 6:44 PM CT End: 07:35 PM CT  
Inspection Level: II - Walk-Around  
HM Inspection Type: None

G & G DOZER COMPANY LLC

Driver: ROBERDS, DEREK D

License#: [REDACTED]

State: KS

Date of Birth: [REDACTED]

CoDriver:

License#:

State:

Date of Birth:

USDOT#: 00694102

Phone#: [REDACTED]

MC/MX#:

Fax#: [REDACTED]

State#:

Location: RENO COUNTY - 155

MilePost: 57

Shipper:

Highway: K-61 HIGHWAY

Origin: SALINA, KS

Bill of Lading:

County:

Destination: HUTCHINSON, KS

Cargo: MACHINERY, LARGE OBJECT

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	New CVSA #	OOS#
1	TT	PTRB	1989	KS	[REDACTED]	269764	[REDACTED]269764	33000			
2	ST	ETNY	1999	KS	[REDACTED]	NONE	[REDACTED]111195	0			

**BRAKE ADJUSTMENTS:** No Brake Measurements Required For Level 2

## VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
395.8K2	395.8K2	D	Y	[REDACTED]	N	N	Driver failing to retain previous 7 days records of duty status (last entry in driver's log was on 1/14/2014)
392.2	392.2	D	N	[REDACTED]	N	N	Violation of Local Laws - Explain: (oversize load moving after sunset)
392.2RG	392.2RG	2	N		N	N	State vehicle registration or License Plate violation (no registration plate displayed)

**HazMat:** No HM Transported.

**Placard:** No

**Cargo Tank:**

**Special Checks:** Traffic Enforcement;

\* Pursuant to the authority contained in Title 49, CFR; K.S.A. 66-1,129; K.C.C. Reg. 82-4-3, I hereby declare DEREK ROBERDS "OUT OF SERVICE". No person and/or carrier shall permit and/or require this driver to operate any commercial vehicle until: 10 CONSECUTIVE HOURS OFF DUTY. This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report. Driver Initials \_\_\_\_\_

\* NOTE TO MECHANIC: The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.

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

\*\*//\*\* DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. \*\*//\*\* \*CARRIER CERTIFICATION: All defects on this sheet must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

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

Report Prepared By:

S.A. Morris

Badge #:

0342

Copy Received By:

DEREK ROBERDS

Page 1 of 2



00694102 KS KS00WI001763

X \_\_\_\_\_

X \_\_\_\_\_

## **ATTACHMENT “C”**

# DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.3.2

Kansas Highway Patrol  
MOTOR CARRIER SAFETY ASSISTANCE  
700 SW Jackson, Ste 704  
Topeka, KS 66603  
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KS0RZV000190  
Inspection Date: 02/12/2014  
Start: 1:55 PM CT End: 02:15 PM CT  
Inspection Level: II - Walk-Around  
HM Inspection Type: None

G & G DOZER COMPANY LLC

Driver: GORBY, DOYLE J

License#: [REDACTED]

State: OK

Date of Birth: [REDACTED]

CoDriver:

License#:

State:

Date of Birth:

USDOT#: 00694102

Phone#: [REDACTED]

MC/MX#:

Fax#:

State#:

Location: MONTGOMERY COUNTY - 125

MilePost:

Shipper:

Highway: PENN AT PECAN ST INDEP.

Origin: INDEPENDENCE, KS

Bill of Lading:

County: MONTGOMERY, KS

Destination: INDEPENDENCE, KS

Cargo: EMPTY

## VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	New CVSA #	OOS#
1	TR	KW	2009	KS	[REDACTED]	104	[REDACTED] 246002	54600			

**BRAKE ADJUSTMENTS:** No Brake Measurements Required For Level 2

## VIOLATIONS

**HazMat:** No HM Transported.

**Placard:** No

**Cargo Tank:**

**Special Checks:**

\* NOTE TO MECHANIC: The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.

Signature Of Repairer X: \_\_\_\_\_

Facility: \_\_\_\_\_

Date: \_\_\_\_\_

\*\*\* DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. \*\*\*  
must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

\*CARRIER CERTIFICATION: All defects on this sheet

Signature Of Motor Carrier X: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Report Prepared By:  
J.S. BAILEY

Badge #:  
0016

Copy Received By:  
DOYLE GORBY

Page 1 of 1



00694102 KS KS0RZV000190

X \_\_\_\_\_

X \_\_\_\_\_



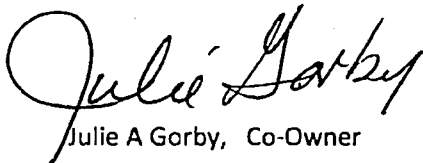
## **ATTACHMENT “D”**

07/17/2014

To whom it may concern;

I, Julie A Gorby, co- owner of G & G Dozer Company LLC would like to state for the record that we are time sheet drivers as we operate CDL required vehicles well within the 100 air mile radius of our principle place of business or normal work reporting location. During the month of February of 2014 our company employees worked Monday thru Friday during every day in the month of February for a total of 20 days of working hours. All of our drivers, a total of 6 drivers, all worked for the entire month for February 2014. All six of our drivers operate CDL required vehicles. We have 6 roll off trucks, 2 tractors, and 2 equipment trailers that are operational at the time of this review.

Sincerely,

A handwritten signature in cursive script that reads "Julie A Gorby".

Julie A Gorby, Co-Owner

G&G Dozer Company LLC

Witnessed:

A handwritten signature in cursive script that reads "Michael Heenan".

Michael Heenan,

Kansas Corporation Commission

IN RE: DOCKET NO. 15-TRAM-078-PEN

DATE SEP 04 2014

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET  
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
JULIE A. GORBY, CO-OWNER/OFFICE MANAGER G & G DOZER COMPANY, LLC PO BOX 6 CANEY, KS 67333		
ROBERT VINCENT, LITIGATION ATTORNEY KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED SEP 05 2014

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.