

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

April 4, 2017

17-TRAM-414-PEN

Dianna D. Hamlin, President  
Black Dog Construction, Inc.  
1806 Pats Drive  
Garden City, Kansas 67846

**Certified Mail Receipt No. 7016 1970 0001 0574 1263**

This is a notice of a penalty assessment against Black Dog Construction, Inc. for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on February 28, 2017, by Kansas Corporation Commission Special Investigator(s) Penny Fryback. For a full description of the penalty and terms and obligations, please refer to the Penalty Order that is attached to this notice.

### IF YOU ACCEPT THE PENALTY:

Black Dog Construction has been assessed a \$2,100 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. A check must be made payable to the Kansas Corporation Commission and mailed to the Transportation Division 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 faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at <http://kcc.ks.gov/trans/creditcard.pdf>.

### **BLACK DOG CONSTRUCTION IS A NEW ENTRANT MOTOR CARRIER AND IS ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:**

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty(s) normally assessed motor carriers in accordance with the FY 2017 Uniform Penalty Assessment Matrix. You have to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the fifty-percent (50%) reduction. A fifty-percent (50%) reduction in the penalty assessed in the attached Order is available if:

(1) the carrier signs and submits within fifteen (15) days from the date of this Penalty Order, the attached Reduced Penalty Agreement to Litigation Counsel at the above address;

(2) within 30 days from the date of the attached Penalty Order, the carrier submits to Transportation Staff an approved Corrective Action Plan (CAP) documenting the violation(s) described in the attached 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; and

(3) within thirty (30) days from the date of the attached Penalty Order, the carrier sends an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to the Transportation Division shortly thereafter.

If a carrier is approved for the fifty-percent (50%) reduced penalty, a Motion to Amend Penalty Order, along with the Reduced Penalty Agreement will be filed with the Commission. An Amended Penalty Order assessing the reduced penalty and setting out the terms and conditions as stated above, will be issued by the Commission shortly thereafter. Payment of the reduced penalty of \$1,050, will be due within thirty (30) days from the date of service of the Amended Penalty Order.

**IF YOU CONTEST THE PENALTY ORDER:**

You have the right to request a hearing if you contest the terms of the Penalty Order. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Black Dog Construction, Inc. 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 by mailing a copy of the request for hearing to Litigation Counsel at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, within fifteen (15) days from the date of service of this Penalty Order and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

**IF YOU FAIL TO ACT:**

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$2,100 within thirty (30) days from the date of service of this Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from the date of service of this Penalty Order, will result in the Order becoming a final Penalty Order and the terms and conditions set out therein will be enforced. If Black Dog Construction submits the attached Reduced Penalty Agreement as explained above, an Amended Penalty order will be issued assessing the reduced penalty of \$1,050 and that payment will become due within thirty (30) days from the date of service of the Amended Penalty Order.

Respectfully,



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

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

### **REDUCED PENALTY AGREEMENT**

Black Dog Construction, Inc. hereby submits this Reduced Penalty Agreement to become eligible for a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated April 4, 2017. Black Dog Construction has agreed to comply with the following terms and obligations:

1. Black Dog Construction has submitted, within fifteen (15) days from the date of the Penalty Order issued on April 4, 2017, this Reduced Penalty Agreement to Litigation Counsel at the above address.
2. Black Dog Construction will, within 30 days from the date of the Penalty Order dated April 4, 2017, submit to Transportation Staff an approved Corrective Action Plan (CAP) documenting the violation(s) describing specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.
3. Black Dog Construction will, within thirty (30) days from the date of the Penalty Order dated April 4, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Transportation Division.

Black Dog Construction, Inc. understands that Transportation Litigation Counsel will file a Motion for Amended Penalty Order with the agreement attached to the motion. The Amended Penalty Order will assess Black Dog Construction a fifty-percent (50%) reduced penalty of \$1,050, and set out the terms and conditions stated above. Once the Amended Penalty Order is issued by the Commission, Black Dog Construction will have thirty (30) days from the date of service of the Amended Order to pay the reduced penalty assessed.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

Black Dog Construction, Inc.

---

Dianna D. Hamlin  
President

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

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

In the Matter of the Investigation of **Black Dog** )  
**Construction, Inc., of Garden City, Kansas,** )  
Regarding the Violation of the Motor Carrier )  
Safety Statutes, Rules and Regulations and the ) Docket No. 17-TRAM-414-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 issue by the Director of the Commission's Transportation Division, 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 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. Black Dog Construction, Inc. (Black Dog Construction) obtained common operating authority from the Commission on November 25, 2014 and private operating authority on May 8, 2014, and operates under KSMCID number 170442 and USDOT number 2333803.

5. Tim Hamlin attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on August 27, 2013, on behalf of Black Dog Construction.

6. Black Dog Construction is a common and private motor carrier which primarily hauls general freight, logs, poles, beams, lumber, building materials, large objects, oil field equipment, grain, feed, hay, commodities dry bulk, farm supply and construction equipment.

7. Black Dog Construction is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction of the original penalty(s) normally assessed motor carriers in accordance with the FY 2017 Uniform Penalty Assessment Matrix.

## **III. STATEMENT OF FACTS**

8. Pursuant to the jurisdiction and authority cited above, on February 28, 2017, Commission Staff (Staff) Special Investigator(s) Penny Fryback conducted a compliance review of the operations of Black Dog Construction. A copy of the safety compliance review is attached hereto as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, Ms. Fryback identified five (5) violation(s) of the Motor Carrier Safety Regulations.

- a. On January 11, 2017, Black Dog Construction required or permitted its driver, William (BJ) Hamlin, to operate a CDL-required commercial motor vehicle, a 1995 Freightliner, VIN ending in 654413, GVWR 33,000 lbs., pulling a 1981 Dunham end dump trailer, VIN ending in 244206, in intrastate commerce from Downs, Kansas to Phillipsburg, Kansas, and then drove to Logan, Kansas and from there drove to Bunker Hill, Kansas. These trips are evidenced by a Driver's Daily Log, dated January 11, 2017, a copy of which is attached hereto as Attachment "B" and is herein incorporated by reference. At the time of this transportation, Black Dog Construction had not provided its driver(s) with educational materials regarding a drug and alcohol policy. Black Dog Construction's failure to provide alcohol and controlled substance use educational materials that complies with 49 C.F.R. 382.601(b) to each of its drivers subsequent to hiring or testing is a violation of 49 C.F.R. 382.601(a)(1) as adopted by K.A.R. 82-4-3c as authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.
- b. During the transportation described in paragraph a., above, Black Dog Construction had not designated a person to supervise staff for the purposes of making reasonable suspicion determinations regarding alcohol and drug usage. This designated person must undergo reasonable suspicion training to include 60 minutes of alcohol training and 60 minutes of controlled substance training. Black Dog Construction's inability to produce documentation of this training and its failure to have a designated person to attend 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use is a

violation of 49 C.F.R. 382.603 as adopted by K.A.R. 82-4-3c and as authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$100.

- c. During the transportation described in paragraph a., above, Black Dog Construction did not have in driver William (BJ) Hamlin's qualification file copies of his application for employment, his medical certificate, a pre-employment motor vehicle record (MVR) or an annual MVR, record of previous employment inquiries, certificate of road test, annual review, and a record of road test or copy of his CDL. The special investigator found three (3) violations of this type. Black Dog Construction's failure to maintain a complete driver qualification file on its drivers is in violation of 49 C.F.R. 391.51(b), as adopted by K.A.R. 82-4-3g and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends fine of \$750.
- d. During the transportation described in paragraph a., above, driver William (BJ) Hamlin had been on duty and driving for 28.5 hours following his last 10-hour break. He drove 3 ¼ hours after being on duty 14 hours following his last 10-hour break. See, Driver's Daily Logs, dated January 9, 10, and 11, 2017, attached hereto as Attachment "C" and are hereby incorporated by reference. Black Dog Construction's failure to require its driver to cease driving at the 14<sup>th</sup> hour is in violation of 49 C.F.R. 395.3(a)(2) as adopted by K.A.R. 82-4-3 and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.
- e. During the transportation described in paragraph a., above, Black Dog Construction could not provide documentation that it had annual inspections on any of its trucks, truck tractors or trailers. The special investigator found five (5)

violations of this type. Black Dog Construction's failure to conduct periodic (annual) inspections on its commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), as adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.

### **III. STAFF'S RECOMMENDATIONS**

9. Based upon the available facts, Staff recommends the Commission find Black Dog Construction committed five (5) 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.

10. Staff recommends the Commission assess Black Dog Construction a civil penalty of \$2,100 for five (5) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Black Dog Construction, Inc. is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduced civil penalty if it submits the application attached to the Notice of Penalty Assessment and is it approved.

12. Staff recommends Black Dog Construction, Inc. submit a Corrective Action Plan (CAP) within 30 days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in the this 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. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.



13. Staff further recommends that Black Dog Construction attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to the Transportation Division.

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

## **V. CONCLUSIONS OF LAW**

15. The Commission finds it has jurisdiction over Black Dog Construction because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds Black Dog Construction committed five (5) 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.

17. The Commission finds Black Dog Construction is a New Entrant motor carrier and is eligible for an a fifty-percent (50%) reduction in the penalty(s) normally assessed motor carriers in accordance with the FY 2017 Uniform Penalty Assessment Matrix. The carrier must submit to Litigation Counsel the Reduced Penalty Agreement attached, which states it will comply with the reduced penalty terms and obligations set out therein. If Black Dog Construction does not submit the Agreement within fifteen (15) days from the date of this Penalty Order, it no longer is eligible for the reduced penalty option and must comply with the terms and conditions of this Order, including payment of the full penalty of \$2,100 within thirty (30) days from the date of service of this Penalty Order.

**THE COMMISSION THEREFORE ORDERS THAT:**

A. Black Dog Construction, Inc., of Garden City, Kansas is hereby assessed penalty of \$2,100 for five (5) 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. 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 Transportation Division 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 (17-TRAM-414-PEN).***

B. Black Dog Construction is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Transportation Staff. 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).

C. Black Dog Construction must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in the attached 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.

D. Black Dog Construction 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 motor carrier at a later date to determine an appropriate time for this review.

E. If Black Dog Construction does not submit the Reduced Penalty Agreement and fails to pay the full penalty(s) of \$2,100 within thirty (30) days from the date of service of this

Penalty Order, *see* K.S.A. 66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of Black Dog Construction's motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. 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, within fifteen (15) days from the date of service of this Penalty Order. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel within fifteen (15) days from the date of service of this Order. If you do not have access to the internet, you can mail an original seven (7) copies of the request to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel within fifteen (15) days from the date of service of this Order. On April 4, 2017, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 7016 1970 0001 0574 1263. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Black Dog Construction's right to a hearing.

G. 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

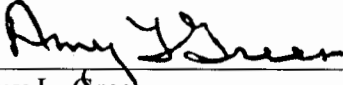
Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

H. 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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: APR 04 2017


  
\_\_\_\_\_  
Amy L. Green  
Secretary to the Commission

AAL

**Order Mailed Date**

**APR 04 2017**

## **ATTACHMENT “A”**

	<b>US DOT #</b> 2333803	<b>Legal: BLACK DOG CONSTRUCTION INC</b> <b>Operating (DBA):</b>																										
<b>MC/MX #:</b>		<b>State #:</b>	<b>Federal Tax ID:</b> (EIN)																									
<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>																								
<b>Operation Types</b> Interstate Intrastate			<b>Business:</b> Corporation <b>Gross Revenue:</b> for year ending: 12/31/2016																									
<b>Carrier:</b> N/A HM																												
<b>Shipper:</b> N/A N/A																												
<b>Cargo Tank:</b> N/A																												
<b>Company Physical Address:</b> <div style="background-color: black; height: 20px; width: 100%;"></div>																												
<b>Contact Name:</b> <b>Phone numbers: (1)</b> <b>Fax</b> <b>E-Mail Address:</b>																												
<b>Company Mailing Address:</b> 1806 PATS DRIVE GARDEN CITY, KS 67846-6324																												
<b>Carrier Classification</b> Authorized for Hire Private Property																												
<b>Cargo Classification</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">General Freight</td> <td style="width: 33%;">Logs, Poles, Beams, Lumber</td> <td style="width: 33%;">Building Materials</td> </tr> <tr> <td>Machinery, Large Objects</td> <td>Oil Field Equipment</td> <td>Grain, Feed, Hay</td> </tr> <tr> <td>Commodities Dry Bulk</td> <td>Farm Supply</td> <td>Construction</td> </tr> </table>					General Freight	Logs, Poles, Beams, Lumber	Building Materials	Machinery, Large Objects	Oil Field Equipment	Grain, Feed, Hay	Commodities Dry Bulk	Farm Supply	Construction															
General Freight	Logs, Poles, Beams, Lumber	Building Materials																										
Machinery, Large Objects	Oil Field Equipment	Grain, Feed, Hay																										
Commodities Dry Bulk	Farm Supply	Construction																										
<b>Hazardous Materials</b> 9 Miscellaneous HM Carried Non-Bulk																												
<b>Equipment</b> <table style="width: 100%; border: none;"> <thead> <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> </thead> <tbody> <tr> <td>Truck</td> <td>1</td> <td>2</td> <td>0</td> <td>Truck Tractor</td> <td>3</td> <td>3</td> <td>0</td> </tr> <tr> <td>Trailer</td> <td>1</td> <td>6</td> <td>0</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>						Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased	Truck	1	2	0	Truck Tractor	3	3	0	Trailer	1	6	0				
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased																					
Truck	1	2	0	Truck Tractor	3	3	0																					
Trailer	1	6	0																									
Power units used in the U.S.: 9 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 style="width: 100%; border: none;"> <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></td> <td>3</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																									



BLACK DOG CONSTRUCTION INC

U.S. DOT #: 2333803

State #

Review Date

02/28/2017

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.

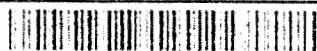
Person(s) Interviewed

Name: Dianna D Hamlin

Title: President

Name:

Title:





**BLACK DOG CONSTRUCTION INC**  
U.S. DOT #: 2333803

State #: [REDACTED]

Review Date:  
02/28/2017

### Part B Violations

1 FEDERAL	Primary: 382.601(a)	Discovered 2	Checked 3	Drivers/Vehicles In Violation 2	Checked 3
<b>Description</b> Failing to provide educational materials explaining requirements of part 382 and employer's drug and alcohol program policies. <b>Example</b> Driver: [REDACTED] Trip Date: 11/21/2016  Carrier did not provide receipts showing the drivers were provided educational materials on the controlled substance and alcohol testing					
2 FEDERAL	Primary: 382.601(b)	Discovered 2	Checked 3	Drivers/Vehicles In Violation 2	Checked 3
<b>Description</b> Failing to provide to employees a written policy on misuse of alcohol and controlled substances that meets the requirements of 382.601(b) 1-11. <b>Example</b> Driver: [REDACTED] Trip Date: 1/11/2017  Carrier provided no written policy to the two CDL drivers					
3 FEDERAL	Primary: 382.603	Discovered 1	Checked 1	Drivers/Vehicles In Violation 2	Checked 3
<b>Description</b> Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances. <b>Example</b> Driver: [REDACTED] Trip Date: 1/11/2017 Company Official: Dianna D Hamlin  Dianna D. Hamlin had not obtained supervisor training for reasonable suspicion testing					
4 STATE	Primary: 391.51(a) CFR Equivalent: 391.51(a)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
<b>Description</b> Failing to maintain driver qualification file on each driver employed. <b>Example</b> Driver: [REDACTED] Trip Date: 11/21/2016  Carrier has no driver qualification file for the three drivers. Missing application for employment, MVR, Road test or copy of the CDL, certificate of violations, annual review and medical examiners certificates					







**BLACK DOG CONSTRUCTION INC**  
U.S. DOT #: 2333803

State #: [REDACTED]

Review Date:  
02/28/2017

### Part B Violations

<b>5</b> STATE	Primary: 395.3(a)(1) CFR Equivalent: 395.3(a)(1)	Discovered 1	Checked 60	Drivers/Vehicles In Violation 1	Checked 2
<b>Description</b> Requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours. <b>Example</b> Driver: [REDACTED] Trip Date 01/11/2017  Driver drove 8 3/4 hours on 1/10/2017 then took 9 1/2 hours off duty and drove 3 1/4 hours on 1/11/2017. Driver was in violation of the eleven hour driving rule by 1 hour					
<b>6</b> STATE	Primary: 395.3(a)(2) CFR Equivalent: 395.3(a)(2)	Discovered 1	Checked 60	Drivers/Vehicles In Violation 1	Checked 2
<b>Description</b> Requiring or permitting a property-carrying commercial motor vehicle driver to drive after the end of the 14th hour after coming on duty. <b>Example</b> Driver: [REDACTED] Trip Date 1/11/2017  Driver [REDACTED] was on duty and driving for 10 1/2 hours on 1/10/2017 and then took 9 1/2 hours off duty. Driver [REDACTED] was in violation of the 14 hours on duty by 3 1/4 hours on 1/11/2017					
<b>7</b> STATE	Primary: 396.3(b)(1) CFR Equivalent: 396.3(b)(1)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5	Checked 5
<b>Description</b> Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size. <b>Example</b> Unit 10 Trip Date: 11/21/2016  Missing Year, VIN number, tire size and Unit number					
<b>8</b> STATE	Primary: 396.17(a) CFR Equivalent: 396.17(a)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5	Checked 5
<b>Description</b> Using a commercial motor vehicle not periodically inspected. <b>Example</b> Unit 10 Trip Date: 11/21/2016  Carrier stated that she did not have copies of the annual inspections because they are in the trucks in Hays					
<b>Safety Fitness Rating Information:</b>					
Total Miles Operated		50,000			
Recordable Accidents		0			
		OOS Vehicle (CR): 0			
		Number of Vehicle Inspected (CR): 0			
		OOS Vehicle (MCMIS): 0			
		Number of Vehicles Inspected (MCMIS): 0			





**BLACK DOG CONSTRUCTION INC**  
U.S. DOT #: 2333803

State #: [REDACTED]

Review Date:  
02/28/2017

**Part B Violations**

Your proposed safety rating is :

**This Review is not Rated.**





**BLACK DOG CONSTRUCTION INC**  
U.S. DOT #: 2333803

State #: XXXXXXXXXX

Review Date:  
02/28/2017

### **Part B Requirements and/or Recommendations**

1. Each employer shall provide educational materials that explain the requirements of this part 382 and obtain a written receipt showing the driver received the materials.
2. Each employer shall provide educational materials that explain the requirements of this part 382 and the employer's policies and procedures with respect to meeting these requirements. Obtain a receipt signed by driver documenting a copy of these materials were provided.
3. Each employer shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under §382.307.
4. Ensure that all drivers are fully and properly qualified before operating in interstate/ intrastate commerce. Maintain a complete driver qualification file for each driver, documenting the qualification process. Included in the driver qualification file is application for employment, previous employer inquiries, copy of the medical examination certificate, road test and certification, certificate of violations, and annual review.
5. Establish a system to control property -carrying drivers' hours of service. Do not dispatch drivers who lack adequate hours to complete assigned trips legally. Do not allow drivers to exceed the 11, 14, 60/70-hour limits.
6. A CDL driver is not required to create a standard log if the following criteria are met:  
The driver operates within a 100 air-mile radius of the normal work reporting location. The driver returns to the work reporting location and is released from work within 12 consecutive hours. The driver has at least 10 consecutive hours off duty separating each 12 hours on duty. The driver does not exceed 11 hours maximum driving time following 10 consecutive hours off duty. And the motor carrier must maintains time records for 6 months showing:
  - " The time the driver reports for duty each day,
  - " The time the driver is released from duty each day,
  - " Total number of hours on duty each day, and
  - " Total time on duty for the preceding 7 days for drivers used for the first time or intermittently.
7. On-duty time means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. On-duty time shall include: All time at a plant, terminal, facility, or other property of a motor carrier or shipper, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier and all time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
8. Establish a systematic maintenance records program for all vehicles. Maintain a complete file for each subject vehicle, recording all repair, maintenance and inspection operations performed. Maintenance files must identify the vehicle by make, serial number, year and tire size.,
9. Require all drivers to prepare a written inspection report for each day a vehicle is operated. Ensure that each report is signed by the driver, certified, and reviewed if defects are reported.
10. Keep all driver vehicle inspection reports, signed, certified, and reviewed as required on file for at least 90 days.
11. Review with your drivers periodically the procedures for doing pre-trip and post-trip inspections. Ensure that safety defects reported by drivers on their Vehicle Inspection Reports (VIR) are repaired before the vehicle is re-dispatched. Require drivers to prepare Vehicle Inspection Reports on a daily basis. Keep them on file for 90 days.





**BLACK DOG CONSTRUCTION INC**

U.S. DOT #: 2333803

State #: XXXXXXXXXX

Review Date:

02/28/2017

### Part B Requirements and/or Recommendations

**12.** Maintain annual inspections in accordance with 398.17 on each vehicle. A motor carrier shall not use a commercial motor vehicle unless each component has passed an inspection at least once during the preceding 12 months. The inspection must identify the vehicle, the date of inspection, and the name and address of the motor carrier or entity where the report is maintained

**13.** 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.

**14.** This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.

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





BLACK DOG CONSTRUCTION INC

U.S. DOT #: 2333803

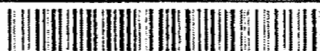
State #: [REDACTED]

Review Date:

02/28/2017

## Part B Requirements and/or Recommendations

16. I, Maria D. Hamlin 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 Black Dog Construction Inc. operating authority and/or the impoundment of Black Dog Construction Inc. vehicles.



## **ATTACHMENT “B”**



## **ATTACHMENT “C”**



# DRIVER'S DAILY LOG

(24 HOURS)

315

Total Miles Driven Today

1 9 17

Black Ops

get

Bunker Hill

Name of Carrier or Consignee

Main Office Address

Home Terminal Address

Truck and Trailer Numbers or License Plates (State show each unit)

#8/456K

Truck and Trailer Numbers or License Plates (State show each unit)

Driver's Full Signature

Co-Driver's Name

1. OFF DUTY

2. SLEEPER BERTH

3. DRIVING

4. ON DUTY

REMARKS

STOPPING DOCUMENTS

H/L or Manifest No.

or

Shipper's Commodity

From

USE THE STANDARD AT HOME TERMINAL

DATE

TRACTOR/TRUCK NO.

TRAILER(S) NO(S)

DEFECT NO DEFECT OR DEFICIENCY IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS OPERATION OR

RESULT IN ITS MECHANICAL BREAKDOWN

IN THE FOLLOWING DEFECTS OR DEFICIENCIES IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS

OR MECHANICAL BREAKDOWN

DEFECT NO DEFECT OR DEFICIENCY IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS

OR MECHANICAL BREAKDOWN

DEFECT NO DEFECT OR DEFICIENCY IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS

OR MECHANICAL BREAKDOWN

DEFECT NO DEFECT OR DEFICIENCY IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS

OR MECHANICAL BREAKDOWN

DEFECT NO DEFECT OR DEFICIENCY IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS

OR MECHANICAL BREAKDOWN

DEFECT NO DEFECT OR DEFICIENCY IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS

OR MECHANICAL BREAKDOWN

DEFECT NO DEFECT OR DEFICIENCY IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS

OR MECHANICAL BREAKDOWN

DEFECT NO DEFECT OR DEFICIENCY IN THIS MOTOR VEHICLE AS WOULD BE LIKELY TO AFFECT THE SAFETY OF ITS

# DRIVER'S DAILY LOG

12 HOURS

assigned the vehicle to be used

Year

Day

Month

Time

12 HOURS

12 HOURS

509

Black Dos

State of California

Total Miles Driven Today

Home Office Address

Home Terminal Address

#8/4562

Bunker Hill

Driver's Full Signature

Truck/Tractor and Trailer Numbers of

Truck/Tractor (State when each unit)

Hour	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	TOTAL HOURS
------	---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-------------

1. OFF DUTY

2. SLEEPER BERTH

3. DRIVING

4. ON DUTY (not driving)

REMARKS

SHIPPING DOCUMENTS

U/I of Manifest No

Lincoln Ks - K&M Wheat

K&M 7 Ph. Wheat Seed

Bunker Hill K

To: DOWNS K.S

USE TIME STANDARD AT HOME TERMINAL

## DRIVER'S VEHICLE INSPECTION REPORT

DATE: 1/10/17

TRACTOR/TRUCK NO. 718

TRAILER(S) NO(S): 4562

THE LOG IS SUBJECT TO INSPECTION BY THE MOTOR VEHICLE DIVISION OF THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CDOT) AT ANY TIME. IF THE LOG IS FOUND TO BE FALSIFIED, THE DRIVER WILL BE SUBJECT TO A FINE OF \$100.00 AND A SUSPENSION OF THE DRIVER'S LICENSE FOR 30 DAYS.

THE FOLLOWING DEFECTS OR DEFICIENCIES IN THE MOTOR VEHICLE AS DESCRIBED WOULD BE LIKELY TO AFFECT THE SAFETY OF THE OPERATION OF THE VEHICLE:

DRIVER'S SIGNATURE

# DRIVER'S DAILY LOG

Quantity of fuel used in trip  
 Report on back of log for fuel used in trip

Month Day Year  
 1 11 17

173

Total Miles Driven Today

Total Miles Driven Today

Name of Carrier or Owners

Main Office Address

Home Telephone Address

Locality, time, entries, or time and correct

Driver's Full Signature

Co-Driver's Name

Locality, time, entries, or time and correct

Driver's Full Signature

Co-Driver's Name

1. OFF DUTY	2. SLEEPER BERTH	3. DRIVING	4. ON DUTY	5. REMARKS
18.5	-75	3.25	1.5	24

SHIPPING DOCUMENT

U/L or Manifest No.

Shipper's Company

Port of Origin

Port of Destination

U/L or Manifest No.

Shipper's Company

Port of Origin

Port of Destination

DRIVER'S VEHICLE INSPECTION REPORT

TRAILER(S) NO.

TRACTOR/ENGINE NO.

DATE

INSPECTOR'S NAME

INSPECTOR'S SIGNATURE

INSPECTOR'S TITLE

INSPECTOR'S ADDRESS

INSPECTOR'S PHONE

INSPECTOR'S FAX

INSPECTOR'S E-MAIL

INSPECTOR'S WEBSITE

INSPECTOR'S SOCIAL MEDIA

INSPECTOR'S OTHER CONTACT INFO

INSPECTOR'S COMMENTS

INSPECTOR'S SIGNATURE

INSPECTOR'S TITLE

INSPECTOR'S ADDRESS

INSPECTOR'S PHONE

INSPECTOR'S FAX

INSPECTOR'S E-MAIL

INSPECTOR'S WEBSITE

INSPECTOR'S SOCIAL MEDIA

INSPECTOR'S OTHER CONTACT INFO

INSPECTOR'S SIGNATURE

INSPECTOR'S TITLE

INSPECTOR'S ADDRESS

INSPECTOR'S PHONE

INSPECTOR'S FAX

INSPECTOR'S E-MAIL

INSPECTOR'S WEBSITE

INSPECTOR'S SOCIAL MEDIA

INSPECTOR'S OTHER CONTACT INFO

INSPECTOR'S COMMENTS

INSPECTOR'S SIGNATURE

INSPECTOR'S TITLE

INSPECTOR'S ADDRESS

INSPECTOR'S PHONE

INSPECTOR'S FAX

INSPECTOR'S E-MAIL

INSPECTOR'S WEBSITE

INSPECTOR'S SOCIAL MEDIA

INSPECTOR'S OTHER CONTACT INFO

**CERTIFICATE OF SERVICE**

17-TRAM-414-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 APR 04 2017.

DIANNA D. HAMLIN, PRESIDENT  
BLACK DOG CONSTRUCTION, INC.  
1806 PATS DRIVE  
GARDEN CITY, KS 67846-6324  
dhamlin@gcblackdog.com

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

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe

**Order Mailed Date**

**APR 04 2017**