

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

)	Order No.: GA-2012-IMH-01
)	
JUDSON MOBLEY LOGGING, INC.)	Service
USDOT 590038, and)	Date: _____
)	
JUDSON MOBLEY)	Service
Individually.)	Date: _____
)	

IMMINENT HAZARD
OPERATIONS OUT-OF-SERVICE ORDER

This notice is an Imminent Hazard Operations Out-of-Service Order (“Order”) by the United States pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 31144(c)(1) and (2), 49 U.S.C. § 31144(c)(5), and 49 C.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Field Administrator, Southern Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Atlanta, Georgia. This Order applies to JUDSON MOBLEY LOGGING, INC., USDOT number 590038, and Judson Mobley, individually (referred to collectively herein as “you,” “your,” and /or “Judson Mobley Logging, Inc.”) and to the commercial motor vehicles described herein.

The United States finds your commercial motor vehicle operations and the continued operations of your commercial motor vehicles (VIN 1M2AA14Y7LW005555, VIN 1XP5DR9X2ND316271 and VIN 1XP9DB9X4BD200199, herein “commercial motor vehicles,” “motor vehicles,” and/or “vehicles”) constitute an “imminent hazard.” This finding means that based upon your present state of unacceptable safety compliance, your operation of any commercial motor vehicles poses an “imminent hazard” to public safety.

EFFECTIVE IMMEDIATELY, YOU MUST CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS, INCLUDING ALL INTERSTATE AND INTRASTATE TRANSPORTATION OF VEHICLES AND/OR GOODS BY DRIVERS. FURTHER THE COMMERCIAL MOTOR VEHICLES IDENTIFIED IN THIS ORDER ARE PROHIBITED FROM BEING OPERATED IN INTERSTATE OR INTRASTATE COMMERCE BY ANY OTHER MOTOR CARRIER OR ANY DRIVER.

Commercial motor vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination, which is defined as the next scheduled stop for vehicles already in motion where the cargo can be safely secured. (*See* 49 C.F.R. § 386.72(b)(4) and (5)).

NO ADDITIONAL CARGO MAY BE LOADED OR TRANSPORTED, NOR MAY THE COMMERCIAL MOTOR VEHICLES BE OPERATED IN INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT. A COMMERCIAL MOTOR VEHICLE MAY BE MOVED TO A LOCATION TO BE REPAIRED ONLY UPON APPROVAL FROM THE FIELD ADMINISTRATOR, FMCSA SOUTHERN SERVICE CENTER.

I. JURISDICTION

JUDSON MOBLEY LOGGING, INC. is a motor carrier engaged in interstate commerce and is therefore subject to the Federal Motor Carrier Safety Regulations (“FMCSRs”), 49 C.F.R. Parts 350-399, as well as the Orders of the USDOT and FMCSA. (*See* 49 U.S.C. §§ 506, 507, 13501, 31133 and 31136). JUDSON MOBLEY LOGGING, INC. is required to comply, and to ensure its drivers comply, with the FMCSRs. (49 C.F.R. § 390.11). This Order applies to JUDSON MOBLEY and JUDSON MOBLEY LOGGING, INC., as well as any and all officers,

directors, successors, assigns and closely affiliated companies. This Order applies to all motor carrier operations and all vehicles owned, leased, rented or otherwise operate by you, including but not limited to commercial motor vehicles, VIN 1M2AA14Y7LW005555, VIN 1XP5DR9X2ND316271 and VIN 1XP9DB9X4BD200199. You may not use lessees, lessors, owner-operators, affiliates, assigns or other commercial motor vehicles or motor carriers to conduct any continued operations.

II. BASIS FOR ORDER

The basis for determining that JUDSON MOBLEY LOGGING, INC.'s motor carrier operations pose an imminent hazard to the public is that JUDSON MOBLEY LOGGING, INC. is currently operating commercial motor vehicles in knowing, substantial and flagrant disregard of the Federal requirements on vehicle maintenance and repair, vehicle out-of-service orders, qualification of drivers, and controlled substances and alcohol use and testing. In addition, JUDSON MOBLEY LOGGING, INC. continues to operate its commercial motor vehicles after being ordered by FMCSA to cease operations for an Unsatisfactory safety fitness rating. The FMCSA's Safety Measurement System ("SMS") also indicates that JUDSON MOBLEY LOGGING, INC. exceeds by a significant margin the intervention thresholds for the Vehicle Maintenance and Driver Fitness Behavior Analysis and Safety Improvement Categories ("BASICS") with scores of 99.8 % and 98.1% respectively in these BASICS.¹ Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of

¹ The SMS is a tool for assessing available roadside performance data and ranking an entity's relative performance in any of the six Behavior Analysis and Safety Improvement Categories (BASICS). The SMS quantifies the on-road safety performance of individual entities to identify entities with significant safety problems, determine the specific safety problems an entity exhibits, and monitor safety problems through the Intervention Process. The SMS computes a percentile for each BASIC on a 0-100 scale and assigns a percentile rank to each BASIC, with 100 indicating the worst performance. JUDSON MOBLEY LOGGING, INC.'s score is near the worst safety performance in these two BASICS.

serious injury or death to JUDSON MOBLEY LOGGING, INC. drivers and to the motoring public.

III. BACKGROUND

On November 23, 2011, FMCSA conducted an on-site review of JUDSON MOBLEY LOGGING, INC., uncovering violations of the Federal Motor Carrier Safety Regulations (“FMCSRs”) so serious as to demonstrate a management philosophy indifferent to motor carrier safety. The Compliance Review (“CR”) proposed a safety fitness rating of “Unsatisfactory.”

The CR identified a total and complete breakdown of management controls and oversight to ensure safe operations of the company’s commercial motor vehicles. JUDSON MOBLEY LOGGING, INC. did not have a vehicle maintenance program in place to prevent the operation of unsafe motor vehicles. JUDSON MOBLEY LOGGING, INC. did not prepare or maintain vehicle inspection, repair and maintenance records, and it did not require its drivers to complete driver vehicle inspection reports.

JUDSON MOBLEY LOGGING, INC. also failed to follow FMCSA driver qualification requirements to ensure that its drivers were qualified to operate its commercial motor vehicles. JUDSON MOBLEY LOGGING, INC.’s officials did not possess any driver qualification files containing the required employment applications, medical certificates, driver road test certificates, or state motor vehicle record of drivers. JUDSON MOBLEY LOGGING, INC. had not implemented an alcohol or controlled substances testing program to ensure that its drivers were able to safely operate its commercial motor vehicles.

On January 30, 2012, FMCSA ordered JUDSON MOBLEY LOGGING, INC. to cease operations after it failed to correct its safety violations discovered during the CR and the

proposed Unsatisfactory rating became the carrier's final safety fitness rating.

However, JUDSON MOBLEY LOGGING, INC. blatantly and defiantly ignored FMCSA's Order to Cease Operations. On April 30 2012, a logging tractor trailer being operated by JUDSON MOBLEY LOGGING, INC. crashed into an escorted tractor trailer carrying a military airplane on US-301 in South Carolina. At the scene of the accident, the South Carolina Transport police officer placed JUDSON MOBLEY LOGGING, INC.'s vehicle out-of-service for defective brakes.² The South Carolina Transport officer discovered twenty other vehicle maintenance violations.

JUDSON MOBLEY LOGGING, INC. currently has an alarmingly high vehicle maintenance³ score of 99.8% and a driver fitness⁴ score of 98.1%. JUDSON MOBLEY LOGGING, INC.'s continued and blatant disregard for the FMCSRs establishes an imminently hazardous and potentially deadly risk for its drivers and the motor public.

IV. REMEDIAL ACTION

To eliminate this imminent hazard, and before JUDSON MOBLEY LOGGING, INC. will be permitted to resume operations placed out of service by this Order, JUDSON MOBLEY LOGGING, INC. must take specific steps to ensure and demonstrate compliance with the FMCSRs.

² Almost twelve months earlier, this same tractor trailer had been placed out-of-service for brake violations.

³ Its 2006 commercial motor vehicle, VIN 1M2AA14Y7LW005555, has been cited twice at road inspections for stop lamp, tail lamp, turn signals, and auto brake adjustment system violations and three times at roadside inspections for brakes out of adjustment during the past 24 month time period. Its 1992 commercial motor vehicle, VIN 1XP5DR9X2ND316271, has been cited six times for stop lamp, tail lamp and turn signal violations, twice for failure to complete periodic inspections and out-of-service brake violations, and once for auto brake adjustment system failure during the past 24 month time period.

⁴ Its drivers have been cited for driving a commercial motor vehicle while disqualified and expired/none medical examiner's certificate during the past 24 months.

YOU MUST COMPLY WITH ALL PROVISIONS OF THIS ORDER

1. The commercial motor vehicles identified in this Order (VIN 1M2AA14Y7LW005555, VIN 1XP5DR9X2ND316271 and VIN 1XP9DB9X4BD200199) may not be operated in interstate and/or intrastate commerce by any entity or by any individual until you have fully complied with the Remedial Actions set forth in this section.
2. JUDSON MOBLEY LOGGING, INC. must ensure and demonstrate that its vehicles are in a safe operating condition, are in full compliance with 49 C.F.R. Part 393 (Parts and Accessories Necessary for Safe Operations) and Part 396 (Vehicle Maintenance), and there is an adequate maintenance program in place to ensure compliance with the FMCSRs.
3. JUDSON MOBLEY LOGGING, INC. must require its driver to prepare Driver Vehicle Inspection Reports at the end of each day, implement a procedure so that its drivers can report safety defects and/or deficiencies and establish procedures to ensure that reported safety defects and/or deficiencies are repaired immediately before the commercial motor vehicle is operated again. JUDSON MOBLEY LOGGING, INC. must train its drivers and ensure all drivers understand the meaning of a roadside out-of-service order and comply with roadside out-of-service orders.
4. JUDSON MOBLEY LOGGING, INC. must ensure that it maintains driver qualification files, as required by 49 C.F.R. Part 391. JUDSON MOBLEY LOGGING, INC. must ensure that every driver it uses has completed and furnished an employment application. JUDSON MOBLEY LOGGING, INC. must investigate each driver's background within 30 days of employment, and must maintain a copy of the response from each State agency in the driver's qualification file. JUDSON MOBLEY LOGGING, INC.

must ensure that an annual list of traffic violations is obtained from each driver, an annual Motor Vehicle Record is obtained, and that an annual review is performed on each driver's driving record. JUDSON MOBLEY LOGGING, INC. must ensure that a three-year previous employment check is performed on its drivers prior to their operating a commercial motor vehicle, in accordance with 49 C.F.R. § 391.23.

5. JUDSON MOBLEY LOGGING, INC. must establish a DOT controlled substance and alcohol testing program in compliance with 49 C.F.R. parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 382 (Controlled Substances and Alcohol Use and Testing) and provide evidence of this program to the Southern Service Center Field Administrator. JUDSON MOBLEY LOGGING, INC. must use only those laboratories certified by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration for the analysis of urine specimens. JUDSON MOBLEY LOGGING, INC. must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b). JUDSON MOBLEY LOGGING, INC. must ensure that driver supervisors undergo at least 60 minutes of training on alcohol misuse as well as an additional 60 minutes of training on controlled substance use that conforms to 49 C.F.R. § 382.603.

6. JUDSON MOBLEY LOGGING, INC. must implement a policy on the misuse of alcohol and controlled substances that conforms to 49 C.F.R. § 382.601(b). Further, JUDSON MOBLEY LOGGING, INC. must ensure that each driver selected for random controlled substances or alcohol testing has an equal chance of being selected each time selections are made. JUDSON MOBLEY LOGGING, INC. must ensure that it has received a negative pre-employment controlled substances test for each driver before using

that driver.

7. JUDSON MOBLEY LOGGING, INC. must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations consistent with those regulations.

8. JUDSON MOBLEY LOGGING, INC. must comply with all Orders issued by FMCSA.

V. RESCISSION OF ORDER

Before resuming motor carrier operations JUDSON MOBLEY LOGGING, INC. must comply with the provisions of this Order, eliminate the problems constituting the imminent hazard that its operations pose, and adequately demonstrate to the Field Administrator, Southern Service Center, Federal Motor Carrier Safety Administration, United States Department of Transportation, the actions taken to eliminate the safety problems. JUDSON MOBLEY LOGGING, INC. cannot avoid this Operations Out-of-Service Order by continuing operations under the name of another person or company. Any sale, lease, or other transfer of equipment and/or direct assignment of contracts or other agreements for service by JUDSON MOBLEY LOGGING, INC. requires the written approval of the Southern Service Center Field Administrator. Any such action taken in anticipation of this Operations Out-of-Service Order must cease immediately. JUDSON MOBLEY LOGGING, INC. must have the Order rescinded by the Southern Service Center Field Administrator before it may continue interstate or intrastate operations.

Prior to rescission of the Order, JUDSON MOBLEY LOGGING, INC. will be required to:

- 1. IDENTIFY THE CAUSE FOR ITS NONCOMPLIANCE.**
- 2. DEVELOP A DETAILED PLAN OF ACTION THAT ADDRESSES EACH AREA OF NON-COMPLIANCE, THE STEPS IT INTENDS TO TAKE TO OVERCOME ITS NON-COMPLIANCE AND A TIME TABLE FOR THESE STEPS (THE SAFETY MANAGEMENT PLAN).**
- 3. DEVELOP AND CERTIFY THE COMMITMENT OF JUDSON MOBLEY LOGGING, INC. TO COMPLY WITH THE FMCSRs.**
- 4. EXECUTE THE SAFETY MANAGEMENT PLAN AND PROVIDE CERTIFICATION BY ALL OWNERS AND COMPANY OFFICIALS. FOR PURPOSES OF THIS PARAGRAPH, "OWNERS AND COMPANY OFFICIALS" MEANS ANY PERSON OWNING MORE THAN A 10 PERCENT SHARE IN JUDSON MOBLEY LOGGING, INC., ALL REGISTERED CORPORATE OFFICERS AND ANY INDIVIDUAL RESPONSIBLE FOR OR PERFORMING HIRING, QUALIFYING, OR SCHEDULING OF DRIVERS, OR SCHEDULING OR DIRECTING VEHICLE INSPECTION, REPAIR AND/OR MAINTENANCE.**

Any request to rescind this ORDER, and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Field Administrator, Southern Service Center with a copy to the Division Administrator, Georgia Division, at the following addresses:

Field Administrator, Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Blvd., NE, Suite 1700
Atlanta, Georgia 30345

Division Administrator, Georgia Division
Federal Motor Carrier Safety Administration
Two Crown Center
1745 Phoenix Boulevard, Suite 380
Atlanta, Georgia 30349

VI. FAILURE TO COMPLY

Failure to comply with the provisions of this Operations Out-of-Service Order may subject JUDSON MOBLEY LOGGING, INC. to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. JUDSON MOBLEY LOGGING, INC. may be assessed civil penalties of up to \$16,000 per day for each day it continues the proscribed interstate or intrastate operations after the effective date and time of this Order. (49 C.F.R. Part 386 App. A. § IV(g)). If violations are determined to be willful, criminal penalties may be imposed, including a fine of up to \$25,000 or imprisonment for a term not to exceed one year, or both. (49 U.S.C. § 521 (b)(6)(A)).

VII. ADDITIONAL PENALTIES FOR OTHER VIOLATIONS

Any motor carrier that violates Federal requirements, including the FMCSRs, and/or permits its employee(s) to violate Federal requirements is subject to civil and/or criminal penalty provisions. Penalty provisions for violations of Federal statutes and regulations are separate and distinct from this ORDER. Penalties may be assessed for the violations of Federal requirements, including the FMCSRs, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

VIII. RIGHT TO REVIEW

You have the right to an administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(4). If requested, administrative review shall occur within 10 working days of the issuance of this ORDER. (49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72(b)(4)). A request for review must be addressed to the Assistant Administrator, United States Department of Transportation, Federal Motor Carrier Safety Administration, with a copy sent to the Field Administrator, Eastern Service Center at the following addresses:

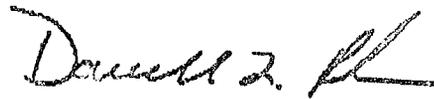
Assistant Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Field Administrator, Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Blvd., NE, Suite 1700
Atlanta, Georgia 30345

The request must state the material facts at issue which you believe dispute or contradict the finding that JUDSON MOBLEY LOGGING, INC.'s operation constitutes an "imminent hazard" to the public.

A REQUEST FOR REVIEW DOES NOT IN ANY WAY DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY. JUDSON MOBLEY LOGGING, INC.'S RESPONSE TO THIS OPERATIONS OUT-OF-SERVICE ORDER WILL NOT ALTER THE PROPOSED "UNSATISFACTORY" SAFETY FITNESS RATING THAT RESULTED FROM THE NOVEMBER 23, 2011 COMPLIANCE REVIEW.

Date: 5/3/2012



Darrell Rubin, Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration