



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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November 18, 2022

Amanda Maxwell, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Petland Cemetery, Inc., d/b/a
Petland “The Humane Alternative”*
Commission Staff’s Response to Application for Mitigation of Penalties
Docket TG-220737

Dear Ms. Maxwell:

On October 19, 2022, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Petland Cemetery, Inc., d/b/a Petland “The Humane Alternative” (Petland or Company) in the amount of \$12,900 for violations of Washington Administrative Code (WAC) 480-70-201, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 391 – Qualification of Drivers; 49 C.F.R. Part 393 – Parts and Accessories Necessary for Safe Operation; and 49 C.F.R. Part 396 – Inspection, Repair, and Maintenance, as follows:

- **One hundred twenty-seven violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed driver Scott Lockey to operate a commercial motor vehicle (CMV) without a valid medical certificate on 127 occasions between March 7 and August 30, 2022.
- **One violation of 49 C.F.R. § 393.41 – No or defective parking brake system on CMV.** Commission staff (Staff) discovered a CMV with a defective parking brake system. This CMV was placed out-of-service.¹

¹ Vehicle Identification Number JHHUDM1H9GK001998.

- **Three violations of 49 C.F.R. § 396.17(a) – Using a CMV not periodically inspected.** Petland failed to have an annual inspection performed on three CMVs.

On November 14, 2022, the Company's application for mitigation of penalties was filed with the Commission. In the request for mitigation, David Bielski, President of Petland, admits the violations, references the corrective actions Petland took during and after the safety investigation, and asks that the penalties be reduced. The Company has provided Staff with supporting documentation showing that all violations of 49 C.F.R. § 391.45(a), 49 C.F.R. § 393.41, and 49 C.F.R. § 396.17(a) have been corrected.

In response to Petland's application for mitigation of penalties, the Company corrected the first-time violations and implemented new procedures to prevent recurrence. For these reasons, Staff recommends the penalty of \$12,900 be reduced to \$8,000, calculated as follows:

- Staff recommends the penalty of \$12,700 for 127 violations of 49 C.F.R. § 391.45(a) be reduced to \$7,800.
- Staff recommends no reduction of the \$100 penalty for the out-of-service violation of 49 C.F.R. § 393.41.
- Staff recommends no mitigation for the three violations of 49 C.F.R. § 396.17(a), as the Commission assessed a "per category" penalty of \$100 for these critical violations.

Staff further recommends that \$4,000 of the reduced penalty be suspended for a period of two years before being waived, subject to the conditions that: (1) Staff conducts a focused safety investigation of 49 C.F.R. § 391.45(a) within two years or as soon thereafter as practicable to review the Company's compliance, (2) Petland not incur any repeat violations, and (3) the Company pays the \$4,000 portion of the penalty that is not suspended.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at (360) 867-8305, or by email at Jason.Hoxit@utc.wa.gov.

Sincerely,

Jason Sharp
Motor Carrier Safety Supervisor, Transportation Safety