

**Notice of Formal Investigation**

June 22, 2016

File #: 0011

Federal Express Tracking #

Jeffrey Brannon



Dear Mr. Brannon:

You are directed to appear for a Formal Investigation as indicated below:

**Date: June 29, 2016**

**Time: 14:00 PM**

**Place: Commuter Rail Maintenance Facility Transportation Office Rm 213  
5151 Fox Street  
Denver, CO 80216**

The purpose of this investigation is to develop the facts and determine your responsibility, if any in connection with the following:

**CHARGE 1:** Alleged violation of Rule 16-D of the current RTDC Operating Rules that reads "When a stop order is in effect, the train must stop with the lead unit within 50 feet of the crossing." (This is a violation of FRA 49 CFR 240.117 (e) 4: Occupying main track or a segment of the main track without proper authority or permission.)

**CHARGE 2:** Alleged violation of Rule 5-E(4) of the current RTDC Operating Rules that reads "EMERGENCY, repeated three times, will be used for initial reports of hazardous conditions which could result in death or injury, damage to property or serious disruption of railroad operations such as: Overrunning Limits of Authority."

**SPECIFICATIONS:** It is alleged that on Sunday, June 19, 2016 at approximately 14:26 pm you placed your train into emergency to get stopped for a Mandatory Directive Form C in place at Ulster St. MP 6.32. After placing your train in emergency the train came to a stop approximately 1 ½ train lengths (132 feet) into the middle of the crossing. This is a violation of Rule 16 D- which reads "When a stop order is in effect, the train must stop with the lead unit within 50 feet of the crossing". It is also alleged that you did not follow Rule 5-E(4) as cited in Charge 2 above that reads "EMERGENCY, repeated three times, will be used for initial reports of hazardous conditions which could result in death or injury, damage to property or serious disruption of railroad operations such as: Overrunning Limits of Authority."

You may produce any witnesses you so desire without expense to the Regional Transportation District Commuter Railroad.

All requests for postponements of this investigation must be handled through this office at [REDACTED]

You are removed from service pending the outcome of this formal investigation.

You are notified that under the provision of FRA 49 CFR 240.307, "Revocation of Certification", this investigation will serve as a consolidated hearing to make a determination as provided for in FRA CFR Part 240.307(b) 4.

You may waive your right to a formal investigation and discuss the suspension requirements through the Charging Officer, Matt Alonzo [REDACTED]

Sincerely,

Kim A. Bartell  
Hearing Officer

Regional Transportation District Commuter Railroad

Charging Officer  
Matt Alonzo

Cc: F. Hauser  
M. Claiborne  
J. Clawson



Jun 19 2016 20:26:31



Record Information

Locomotive: 4018

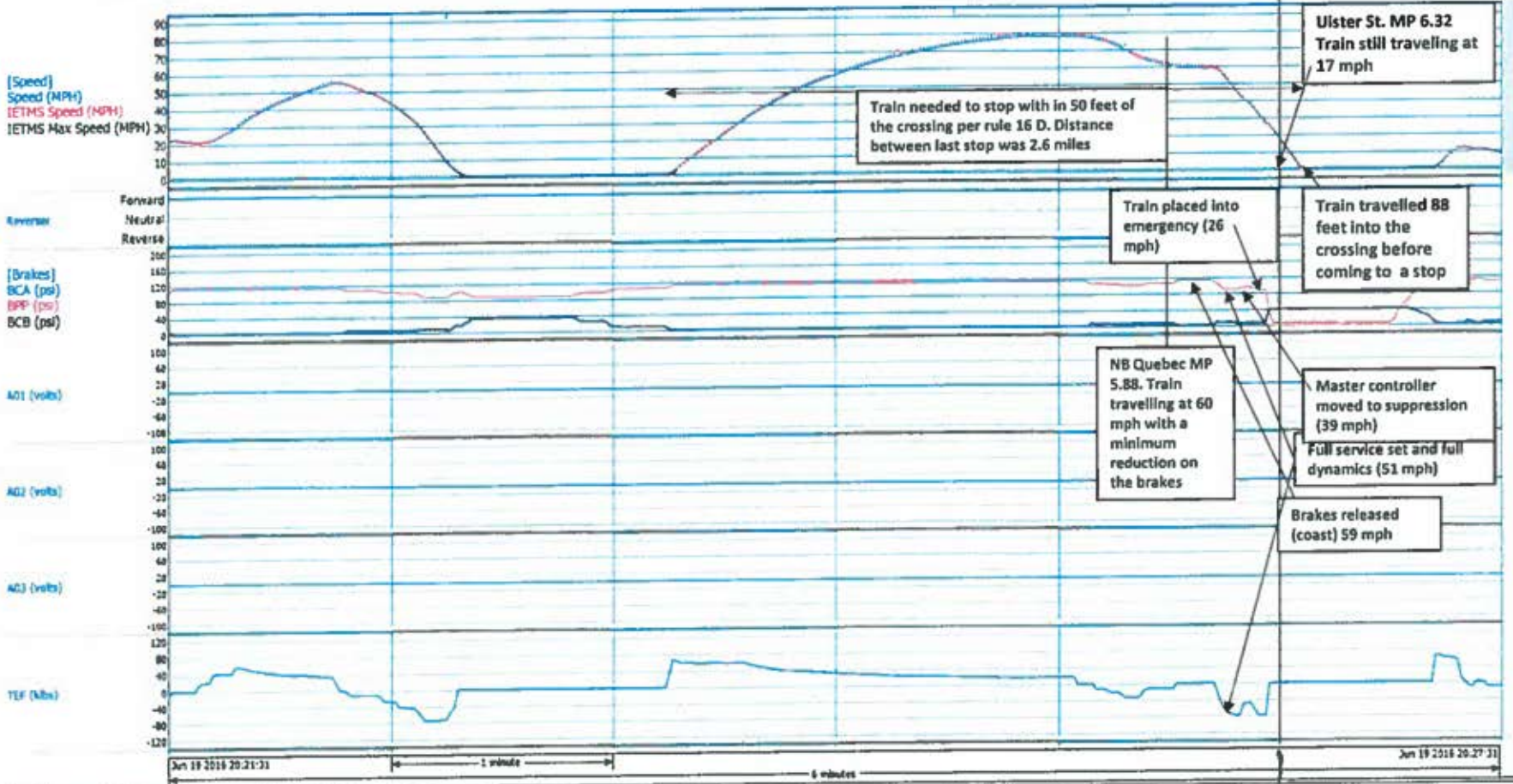
Forward 32,84178 mi  
Reverse 23,44853 mi  
Total 55,48231 mi

Recorder Type LL-DEN-100, IETHS  
LL-DEN-100 Wheel Size 32.00"  
Serial # 10-99434

2 hours 45 minutes and 59 seconds

Jun 19 2016 21:17:55

LL-DEN 100, IETHS LL-DEN 100 IETHS



Channel Name	Value
Speed (MPH)	17
IETHS Speed (MPH)	16
IETHS Max Speed (MPH)	0
Reverse	Forward
BCA (psi)	40
BPP (psi)	2
BCB (psi)	28
A01 (volts)	0
A02 (volts)	0
A03 (volts)	0
TEP (lbs)	1
A08 (volts)	0
CST	Off
SWT	Off
PO1	Off
PO2	Off
PO3	Off
MC Position	Off
BE1	Off
CAB	Yes
EWS	Yes
PKB	Off
PWD	Forward
PEV	Not Reverse
DYN	No
D13	Off
MSP	On
SAS	On
SAS	Off
PEM	Yes
QVR	Off
BTE	Off
A-CC	Off
EOV	0
HLS	On
DCB	Off
DCR	On
DD9	Off
WE	Off
BST	Off
D33	Off
D34	Off
D35	Off
D36	Off
MAS	On
60	Off
45	Off
30	Off
15	Off
0	Off

## NOTIFICATION OF CERTIFICATE REVOCATION FOR WAIVING PROCESS

Employee Name: BRANNON, JEFFREY	Employee ID: [REDACTED]
Date of Revocation: JUNE 19 2016	Revocation Period Ends: JULY 4 2016
Brief description of incident: OCCURRED ULSTER CROSSING WHICH HAD A FORM C APPLIED TO IT WITHOUT STOPPING WITHIN THE REQUIRED 50 FT. RULE 16 D AND 16 D.1	

- Performing as an Operator and in accordance with FRA 49 CFR, Part 240 you are hereby notified of the revocation of your certification. This action is being taken as a result of:
- 240.117 (e) (1) Failure to control a locomotive or train in accordance with a signal indication, excluding a hand or a radio signal indication or a switch, that requires a complete stop before passing it;
- 240.117 (e) (2) Failure to adhere to limitations concerning train speed when the speed at which the train was operated exceeds the maximum authorized limit by at least 10 miles per hour. Where restricted speed is in effect, railroads shall consider only those violations of the conditional clause of restricted speed rules (i.e., the clause that requires stopping within one half of the locomotive engineer's range of vision), or the operational equivalent thereof, which cause reportable accidents or incidents under part 225 of this chapter, except for accidents and incidents that are classified as "covered data" under §225.5 of this chapter (i.e., employee injury/illness cases reportable exclusively because a physician or other licensed health care professional either made a one-time topical application of a prescription-strength medication to the employee's injury or made a written recommendation that the employee: Take one or more days away from work when the employee instead reports to work (or would have reported had he or she been scheduled) and takes no days away from work in connection with the injury or illness; work restricted duty for one or more days when the employee instead works unrestricted (or would have worked unrestricted had he or she been scheduled) and takes no other days of restricted work activity in connection with the injury or illness; or take over-the-counter medication at a dosage equal to or greater than the minimum prescription strength, whether or not the employee actually takes the medication, as instances of failure to adhere to this section;

- 240.117 (e) (3) Failure to adhere to procedures for the safe use of train or engine brakes when the procedures are required for compliance with the Class I, Class IA, Class II, Class III, or transfer train brake test provisions of 49 CFR part 232 or when the procedures are required for compliance with the Class I, Class IA, Class II, or running brake test provisions of 49 CFR part 238;
- 240.117 (e) (4) Occupying main track or a segment of main track without proper authority or permission;
- 240.117 (e) (5) Failure to comply with prohibitions against tampering with locomotive mounted safety devices, or knowingly operating or permitting to be operated a train with an unauthorized disabled safety device in the controlling locomotive. (See 49 CFR part 218, subpart D and appendix C to part 218);
- 240.117 (e) (6) Incidents of noncompliance with §219.101 of this chapter; however such incidents shall be considered as a violation only for the purposes of paragraphs (g)(2) and (3) of this section;

**Pursuant to CFR Part 240, you will not be allowed to operate an EMU while your certification is revoked.**

**Operator hereby accepts this revocation and does not desire a hearing as provided in 49 CFR 240.307. By signing below Operator indicates his/her understanding that he/she is waiving all rights to appeal as prescribed in 49 CFR Part 240, Subpart E.**

- Performing as a Passenger conductor and in accordance with FRA 49 CFR, Part 242, you are hereby notified of the revocation of your certification pending possible revocation. This action is being taken as a result of the following regulation(s):
- 242.403 (e) (1) Failure to take appropriate action to prevent the locomotive engineer of the train the conductor is assigned to from failing to control a locomotive or train in accordance with a signal indication, excluding a hand or a radio signal indication or a switch, that requires a complete stop before passing it, when the conductor is located in the operating cab, or otherwise has knowledge of the signal indication. Appropriate action does not mean that a conductor must prevent a violation from occurring at all costs; the duty may be met by warning an engineer of a potential or foreseeable violation.
- 242.403 (e) (2) Failure to take appropriate action to prevent the locomotive engineer of the train the conductor is assigned to from failing to adhere to the following limitations concerning train speed:
  - (i) When the conductor is located in the operating cab and the speed at which the train was operated exceeds the maximum authorized limit by at least 10 miles per hour. Where restricted speed is in effect, railroads shall consider only those violations of the conditional clause of restricted speed rules (i.e., the clause that requires stopping within one half of the locomotive engineer's range of vision), or the operational equivalent thereof, which cause



## DENVER TRANSIT OPERATORS (DTO)

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reportable accidents or incidents under part 225 of this chapter, except for accidents and incidents that are classified as “covered data” under §225.5 of this chapter. Appropriate action does not mean that a conductor must prevent a violation from occurring at all costs; the duty may be met by warning an engineer of a potential or foreseeable violation.

(ii) When not in the operating cab, the conductor is deemed to have taken appropriate action when in compliance with all applicable Railroad Operating Rules and Special Instructions.

- 242.403 (e) (3) Failure to perform or have knowledge that a required brake test was performed pursuant to the Class I, Class IA, Class II, Class III, or transfer train brake test provisions of part 232 of this chapter or the Class I, Class 1A, Class II, or running brake test provisions of part 238 of this chapter.
- 242.403 (e) (4) Failure to take appropriate action to prevent the locomotive engineer of the train the conductor is assigned to from occupying main track or a segment of main track without proper authority or permission. Appropriate action does not mean that a conductor must prevent a violation from occurring at all costs; the duty may be met by warning an engineer of a potential or foreseeable violation.
- 242.403 (e) (5) Failure to comply with prohibitions against tampering with locomotive mounted safety devices; knowingly fail to take appropriate action to prevent the locomotive engineer of the train the conductor is assigned to from failing to comply with prohibitions against tampering with locomotive mounted safety devices; or knowingly fail to take appropriate action to prevent the locomotive engineer of the train the conductor is assigned to from operating or permitting to be operated a train with an unauthorized disabled safety device in the controlling locomotive. (See 49 CFR part 218, subpart D and appendix C to part 218);
- 242.403 (e) (6) Failure to comply with the provisions of §218.99 of this chapter (Shoving or pushing movements). Railroads shall only consider those violations of §218.99 of this chapter which cause reportable accidents or incidents under part 225 of this chapter, except for accidents and incidents that are classified as “covered data” under §225.5 of this chapter.
- 242.403 (e) (7) Failure to comply with the provisions of §218.101 of this chapter (Leaving rolling and on-track maintenance-of-way equipment in the clear). Railroads shall only consider those violations of §218.101 of this chapter which cause reportable accidents or incidents under part 225 of this chapter, except for accidents and incidents that are classified as “covered data” under §225.5 of this chapter.
- 242.403 (e) (8) Failure to comply with the provisions of §218.103 of this chapter (Hand-operated switches, including crossover switches). Railroads shall only consider those violations of §218.103 of this chapter which cause reportable accidents or incidents under part 225 of this chapter, except for accidents and incidents that are classified as “covered data” under §225.5 of this chapter.

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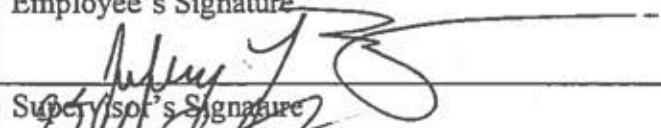



- 242.403 (e) (9) Failure to comply with the provisions of §218.105 of this chapter (Additional operational requirements for hand-operated main track switches). Railroads shall only consider those violations of §218.105 of this chapter which cause reportable accidents or incidents under part 225 of this chapter, except for accidents and incidents that are classified as "covered data" under §225.5 of this chapter.
- 242.403 (e) (10) Failure to comply with the provisions of §218.107 of this chapter (Additional operational requirements for hand-operated crossover switches). Railroads shall only consider those violations of §218.107 of this chapter which cause reportable accidents or incidents under part 225 of this chapter, except for accidents and incidents that are classified as "covered data" under §225.5 of this chapter.
- 242.403 (e) (11) Failure to comply with the provisions of §218.109 of this chapter (Hand-operated fixed derails). Railroads shall only consider those violations of §218.109 of this chapter which cause reportable accidents or incidents under part 225 of this chapter, except for accidents and incidents that are classified as "covered data" under §225.5 of this chapter.
- 242.403 (e) (12) Failure to comply with §219.101 of this chapter; however such incidents shall be considered as a violation only for the purposes of §242.405(a)(2) and (3).

Pursuant to 49 CFR Part 242, you will not be allowed to perform service as a passenger conductor, as defined by the regulation, while your certification is revoked.

Passenger conductor hereby accepts this revocation and does not desire a hearing as provided in 49 CFR 242.407. By signing below, Passenger conductor indicates his/her understanding that he/she is waiving all rights to appeal as prescribed in 49 CFR Part 242, Subpart E.

### Receipt Acknowledged

Employee's Signature 	Date 6-29-16
Supervisor's Signature 	Date 6-29-16