



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590**

May 20, 2022

**VIA E-MAIL
DELIVERY RECEIPT REQUESTED**

Scotty B. White, Owner/President
Knight Transport LLC
1016 West Main Street
Auburn, Washington 98001
sbw@knighttransport.com

Dear Scotty White:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Knight Transport LLC, docket no. CAA-05-2022-0017. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on May 20, 2022.

Pursuant to paragraph 35 of the CAFO, Knight Transport LLC must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Cynthia King, Associate Regional Counsel at (312) 886-6831.

Sincerely,

Frank,
Nathan

Digitally signed by Frank,
Nathan
Date: 2022.05.09
09:41:11 -05'00'

Nathan Frank, Supervisor
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
Regional Hearing Clerk/via electronic mail/r5hearingcleark@epa.gov
Cynthia King/via electronic mail

Consent Agreement and Final Order
In the matter of: **Knight Transport LLC**
Docket Number: **CAA-05-2022-0017**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2022-0017, which was filed on May 20, 2022, in the following manner to the following addressees:

Copy by E-mail to Respondent: Scotty B. White
sbw@knighttransport.com

Copy by E-mail to Cynthia King
Attorney for Complainant: king.cynthia@epa.gov

Copy by E-mail to Michael E. McAleenan
Attorney for Respondent: mmc@smithalling.com

Copy by E-mail to Ann Coyle
Regional Judicial Officer: coyle.ann@epa.gov

ISIDRA
MARTINEZ 
Digitally signed by ISIDRA
MARTINEZ
Date: 2022.05.20
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Isidra Martinez
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 205(c)(1) of the Clean Air Act (the CAA), 42 U.S.C. § 7524(c)(1), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Knight Transport LLC, a company doing business in Washington.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). *See* 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1) prohibits a vehicle manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity (COC).

10. “Motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway. *See Section 216(2) of the CAA, 42 U.S.C. § 7550(2); See also 40 C.F.R. § 85.1703.*

11. “Motor vehicle engine” means an engine that is designed to power a motor vehicle. *See Section 216(3) of the CAA, 42 U.S.C. § 7550(3).*

12. EPA issues COCs to motor vehicle and motor vehicle engine manufacturers to certify that a particular group of motor vehicles or motor vehicle engines conforms to applicable EPA requirements governing motor vehicle emissions. *See Section 206(a) of the CAA, 42 U.S.C. § 7525(a).*

13. EPA promulgated emissions standards for particulate matter, nitrogen oxides, hydrocarbons, and other pollutants applicable to motor vehicles and motor vehicle engines, including standards for heavy-duty diesel engines (HDDE). *See Section 202 of the CAA, 42 U.S.C. § 7521; 40 C.F.R. Part 86.*

14. To meet the emission standards in 40 C.F.R. Part 86 and qualify for a COC, HDDE motor vehicle and engine manufacturers may utilize devices and elements of design such as exhaust gas recirculation systems (EGR) or clean gas induction systems (CGIs), diesel oxidation catalysts (DOCs), diesel particulate filters (DPFs), and/or selective catalytic reduction systems (SCRs).

15. Modern HDDE motor vehicles are equipped with electronic control modules (ECMs). ECMS continuously monitor engine and other operating parameters and control the emission control devices and elements of design, such as the engine fueling strategy, EGRs, CGIs, DOCs, DPFs, and SCRs.

16. Under Section 202(m) of the CAA, 42 U.S.C. § 7521(m), EPA promulgated regulations for motor vehicles manufactured after 2007 that require HDDE motor vehicles to have numerous devices or elements of design that, working together, can detect problems with the vehicle's emission-related systems, alert drivers to these problems, and store electronically-generated malfunction information. *See* 40 C.F.R. §§ 86.005-17, 86.007-17, 86.1806-05. These devices or elements of design are referred to as "onboard diagnostic systems" or OBDs.

17. It is unlawful for "any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA] prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser." *See* Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), 40 C.F.R. § 1068.101(b)(1). This is also referred to as "tampering."

18. It is unlawful for "any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle

engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle in compliance with regulations under [Title II of the CAA], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.” *See* Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), 40 C.F.R. § 1068.101(b)(2). These parts or components are also referred to as “defeat devices.”

19. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$5,179 per motor vehicle, motor vehicle engine, or part or component for violations of Section 203(a) of the CAA, 42 U.S.C. § 7522(a) that occurred after November 2, 2015, where penalties are assessed on or after January 12, 2022, under Section 205(a) of the CAA, 42 U.S.C. § 7524(a) and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

20. Respondent owns and operates a fleet out of its office at 1016 West Main Street, Auburn, Washington.

21. Respondent is a “person,” as that term is defined in Section 302(e) of the CAA. 42 U.S.C. § 7602(e).

22. On May 19, 2020, EPA issued to Respondent a request for information (May 2020 Request) pursuant to Section 208 of the CAA 42 U.S.C. § 7542. The May 2020 Request sought documents related to all HDDE motor vehicles owned, operated, and/or leased by Respondent and the purchase of, and/or installation of, parts, components, and services which bypass, defeat, or render inoperative any emission control component, element of design, or emissions-related part or component for the period from January 1, 2017 to the date of receipt of the May 2020 Request.

23. Between October 27, 2020 and December 10, 2020, Respondent provided EPA with work orders, a narrative, and a spreadsheet indicating that between December 3, 2017 and August 29, 2019, Respondent modified 26 HDDE trucks (Modified Vehicles) in its fleet by removing or rendering inoperative the EGR/CGIs, DPFs, and/or SCRs and installing EGR block plates (EGR Delete Hardware) and tuners or tunes manufactured by Diesel Spec, Inc. (ECM Tuning Products).

24. Each Modified Vehicle constitutes a “motor vehicle” as that term is defined by the CAA.

25. The manufacturer of each Modified Vehicle has obtained a COC to comply with CAA emission standards.

26. The EGR Delete Hardware and ECM Tuning Products that the Respondent installed on the Modified Vehicles were intended for use with, or as part of, motor vehicles or motor vehicle engines in compliance with the CAA.

27. The installation of these EGR Delete Hardware and ECM Tuning products on the Modified Vehicles by Respondent bypassed, defeated, or rendered inoperative elements of design installed on or in the Modified Vehicles and allowed for the removal or rendering inoperative of emission control devices (i.e., EGR/CGIs, DPFs, and/or SCRs) without illuminating a malfunction indicator lamp in the vehicle’s OBD system, prompting any diagnostic trouble code in the OBD system, or causing any engine derating due to the removal or disabling of an emission control device.

28. On March 8, 2021, the EPA issued a Finding of Violation (FOV) to the Respondent alleging violations of Section 203(a)(3)(A) and (B) of the CAA, 42 U.S.C.

§ 7522(a)(3)(A) and (B) for the Respondent's installation of defeat devices and tampering of motor vehicles or motor vehicle engines.

29. On May 24, 2021, representatives from EPA and Respondent held a teleconference to discuss the FOV.

30. Following the May 24, 2021 teleconference, Respondent confirmed that it had already sold 13 of the 26 Modified Vehicles and ceased operation of the remaining 13 Modified Vehicles, and, on October 19, 2021, Respondent agreed to remediate the remaining 13 Modified Vehicles in Respondent's fleet.

31. On April 28, 2022, Respondent certified and provided evidence that all 13 Modified Vehicles remaining in Respondent's fleet have either been: (A) returned to their stock configurations or are in process thereof while waiting for parts and that they will not operate such Modified Vehicles until they are fully returned to stock configuration (Modified Vehicles Returned to Stock), or (B) permanently scrapped (Scrapped Modified Vehicles). Modified Vehicles are identified in Appendix A.

32. Respondent knowingly removed and/or rendered inoperative devices or elements of design installed in or on at least 26 motor vehicles or motor vehicle engines in compliance with the CAA by installing or modifying software on ECUs to allow the motor vehicles to operate without EGR/CGI, DPF, and/or SCR systems, by physically removing or boring through the DPF, and by installing parts or components that removed and/or bypassed EGR/CGIs, DPFs, and/or SCRs in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A).

33. Respondent installed parts or components, including EGR Delete Hardware and ECM Tuning Products, intended for use with, or as part of, a motor vehicle or motor vehicle engine, where a principal effect of the part or component was to bypass, defeat or render

inoperative devices and elements of design that control emissions, such as the engine fueling strategy, EGR/CGIs, DPFs, SCRs, and/or OBD systems, installed on or in 26 motor vehicles or motor vehicle engines in compliance with the CAA. Respondent knew or should have known that such part or component was being offered for sale or installed for such use or put to such use in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

Civil Penalty

34. Based on analysis of the factors specified in Section 205(c) of the CAA, 42 U.S.C. § 7524(c), the facts of this case, information that Respondent provided to EPA, the remediation of the 13 Modified Vehicles (as described in Paragraph 31), and Respondent's cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$97,027.

35. Respondent must pay the above civil penalty plus accrued interest in no more than three (3) installments, with interest, as follows:

Installment	Due By	Payment	Principal	Interest (1%)
Payment #1	Within 30 days of effective date of CAFO	\$32,504.04	\$32,342.33	0
Payment #2	Within 180 days of effective date of CAFO	\$32,504.04	\$32,342.33	\$323.42
Payment #3	Within 360 days of effective date of CAFO	\$32,504.04	\$32,342.33	\$161.70

36. Respondent must pay the installments by ACH electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, state Respondent's name and the docket number of this CAFO.

37. Respondent must send an electronic notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
r5airenforcement@epa.gov

Cynthia King (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
king.cynthia@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
R5hearingclerk@epa.gov

38. This civil penalty is not deductible for federal tax purposes.

39. If Respondent does not timely pay any installment payment as set forth in Paragraph 35, above, the entire unpaid balance of the civil penalty and any amount required by Paragraph 40, below, shall become due and owing upon written notice by EPA to Respondent of the delinquency. EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 205(c)(6) of the CAA, 42 U.S.C. § 7524(c)(6). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

40. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established

by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7524(c)(6)(B).

Other Conditions

41. By signing this Consent Agreement, Respondent agrees to the following: (i) Respondent will not remove or render inoperative any emissions-related device or element of design installed on or in a motor vehicle or motor vehicle engine in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A); (ii) Respondent will not manufacture, sell, offer for sale, or install any defeat device, including ECM Tuning Products, in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B); and (iii) Respondent certifies that it has reviewed EPA's November 23, 2020 "Tampering Policy: The EPA Enforcement Policy on Vehicles and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act."

42. By signing this Consent Agreement, Respondent understands that the violations addressed in this CAFO may be considered as a "History of Noncompliance" for any future violations of Title II of the CAA, 42 U.S.C. § 7522(a)(3)(A) and (B), by Respondent or any other business entity owned or operated by Scotty B. White, as addressed in the January 18, 2021, Clean Air Act Title II Vehicle & Engine Civil Penalty Policy.

43. By the date of its signature on this CAFO, Respondent shall no longer provide any technical support, maintenance, repair, or information pertaining to defeat devices, including ECM Tuning Products, for use with motor vehicles or motor vehicle engines.

44. Respondent certifies that, by the date of its signature on this CAFO, it has removed all defeat devices from, reinstalled all emission control devices on, returned to the original equipment manufacturer settings the ECM equipped by, and returned to its certified configuration each Modified Vehicle Returned to Stock (with the exception of the 8 vehicles for which Respondent has stated that they are still awaiting parts).

45. By signing this CAFO, Respondent agrees that it shall not operate these 8 vehicles until they have been fully returned to stock (i.e. all OEM emission controls reinstalled) and shall provide invoices and receipt within 14 days of completion for any such work.

46. By the date of its signature on this CAFO, Respondent shall permanently destroy or return to the manufacturer all defeat devices in its inventory and/or possession (including, but not limited to, any remote tuning devices or EGR block plates, such as those manufactured or sold by Diesel Spec Inc.) and permanently uninstall any DSI related software installed on any laptops owned or operated by Respondent. Respondent shall provide EPA with its certification and proof that Respondent has completed the actions required by this paragraph within 30 calendar days from the Effective Date of this CAFO.

47. Within 14 calendar days from the Respondent's signature on this CAFO, Respondent shall remove from its webpages and any social media platform(s) all advertisements, photos, videos, and information that relate to performing tampering and/or selling, offering to sell, and/or installing defeat devices except advertisements, photos, videos, or information relating to how to comply with the CAA. Respondent shall provide EPA with its certification that Respondent has completed the actions required by this paragraph within 30 calendar days from the Effective Date of this CAFO.

48. Within 14 calendar days from date of the Respondent's signature on this CAFO, Respondent shall post a publicly-accessible announcement about Respondent's settlement with EPA prominently on Respondent's current website homepage(s), Respondent's social media homepage(s), including, but not limited to, all Facebook, Twitter, Pinterest, and Instagram accounts associated with Respondent. The announcement shall remain posted for at least 60 calendar days from the date the announcement is posted. Respondent shall use the text contained in Appendix B (Announcement) in at least 12-point font, or another notice reviewed and approved by EPA, to provide such announcement. Respondent shall provide EPA with proof of posting the announcement within 30 calendar days from the Effective Date of this CAFO.

49. Respondent shall submit the certifications and supporting materials required by Paragraphs 44, 45, 46, 47, and 48 via electronic mail to king.cynthia@epa.gov and r5airenforcement@epa.gov.

50. Failure to comply with Paragraph 41 of this CAFO may constitute a violation or violations of Sections 203(a)(3)(A) and/or (B) of the CAA, 42 U.S.C. § 7522(a)(3)(A) and/or (B), and Respondent could be subject to penalties up to the statutory civil penalties in 40 C.F.R. § 19.4.

51. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about Respondent's remediated fleet, are false or, in any material respect,

inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent is aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

52. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the Other Conditions Section above is restitution, remediation, or required to come into compliance with the law.

General Provisions

53. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: king.cynthia@epa.gov (for Complainant), mmc@smithalling.com and scottyb@knighttransport.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

54. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

55. The effect of the settlement described in Paragraph 54, above, is conditioned upon the accuracy of Respondent's representations to EPA.

56. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

57. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in Paragraph 54, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

58. Respondent certifies that it is fully complying with Section 203(a)(3)(A) and (B) of the CAA, 42 U.S.C. § 7522(a)(3)(A) and (B).

59. This CAFO constitutes an “enforcement response” as that term is used in EPA’s January 18, 2021, Clean Air Act Title II Vehicle & Engine Civil Penalty Policy to determine Respondent’s “full compliance history” under Section 205(b) of the CAA, 42 U.S.C. § 7524(b).

60. The terms of this CAFO bind Respondent, its successors and assigns.

61. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

62. Each party agrees to bear its own costs and attorney’s fees in this action.

63. This CAFO constitutes the entire agreement between the parties.

Knight Transport, LLC., Respondent

5/6/22
Date



Scotty B. White, Manager/Member
Knight Transport, LLC

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2022.05.17
09:54:26 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Knight Transport LLC
Docket No. CAA-05-2022-0017

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective (“Effective Date”) immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Digitally signed by ANN
COYLE
Date: 2022.05.19
16:32:48 -05'00'

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Appendix A:
Modified Vehicles

Unit #	Vehicle Identification Number	Status
4212	1XKFDP9X2DJ346319	Scrapped
223	1XP4DP9X8CD133020	Scrapped
I1602	3HSDJSJR2DN391602	Scrapped
I1606	3HSDJSJRXdN391606	Scrapped
I1611	3HSDJSJR3DN391611	Scrapped
I1598	3HSDJSJR4DN391598	Returned to Stock
I2181	3HSDJSJR5DN172181	Returned to Stock
I2182	3HSDJSJR7DN172182	Returned to Stock
I2192	3HSDJSJRXdN172192	Returned to Stock
I2517	3HSDJSJR1DN172517	Returned to Stock
I2532	3HSDJSJR8DN172532	Returned to Stock
I8571	3HSDJSJR9DN168571	Returned to Stock
R1214	1FUJGBDV4FLGE1930	Returned to Stock

Appendix B: Announcement

On XX Date, Knight Transport LLC (Knight Transport) entered into a settlement with the United States Environmental Protection Agency (U.S. EPA) to resolve alleged violations of Section 203(a)(3)(A) and 203(a)(3)(B) of the Clean Air Act, related to the removal and/or rendering inoperative of emission control devices or elements of design and selling, offering to sell, and/or installing defeat devices for use on heavy-duty diesel engines.

By signing a consent agreement with U.S. EPA, Knight Transport has certified that it will comply with Section 203(a)(3) of the CAA, which makes it unlawful for: "(A) any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA] prior to its sale and delivery to the ultimate purchasers, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or (B) for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle engine in compliance with regulations under [Title II of the CAA], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use."

Knight Transport will pay a penalty of \$97,027 and comply with the consent agreement to ensure ongoing compliance with the Clean Air Act.

If you have any questions regarding this announcement, please ask for [Knight Transport Representative].

Thank you,
[Knight Transport Representative]