

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

In the Matter of the Investigation of **Herl )**  
**Ag Spraying LLC of Grainfield, Kansas, )**  
Regarding the Violation of the Motor )  
Carrier Safety Statutes, Rules and )  
Regulations and the Commission's ) Docket No. 25-TRAM-208-PEN  
Authority to Impose Penalties, Sanctions )  
and/or the Revocation of Motor Carrier )  
Authority. )

**MOTION TO SUSPEND INTRASTATE MOTOR CARRIER AUTHORITY**

The Staff of the State Corporation Commission of the State of Kansas (Staff), by and through its counsel, files its motion requesting the Commission suspend Herl Ag Spraying LLC of Grainfield, Kansas (Carrier) from all intrastate commercial motor carrier operations. In support of its Motion, Staff states as follows:

1. Pursuant to K.S.A. 66-1,108b, 66-1,111, 66-1,112 and 66-1,114b, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 40 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f, 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. 66-1,129(a)(7), no public motor carrier of property, household goods or passengers or private motor carrier of property shall operate, or allow the operation of, any commercial motor vehicle on any public highway in this state without following rules and regulations consistent with the federal motor carrier safety assistance program.

3. K.S.A. 66-1,108c states:

“The corporation commission shall have the authority to examine all accounts and records pertaining to its regulation of motor carriers. The agents, accountants, examiners or inspectors designated by the commission shall have authority under the direction of the

transportation division to inspect and examine any and all books, accounts, papers, records, property and memoranda pertinent to its regulation of motor carriers.”

4. Carrier is a motor carrier as defined in 49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f, in that it operates commercial motor vehicle(s) in intrastate commerce.

5. Carrier is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT number 1444818. Carrier’s USDOT Profile was updated on August 29, 2023 by the filing of an MCS-150 file that lists its current physical and mailing address, phone number and email address. A copy of Carrier’s MCS-150 form is attached hereto as Attachment “A” and is hereby incorporated by reference.

6. On September 25, 2024, a Staff Special Investigator sent formal letters to the Carrier to schedule a compliance investigation. The letters were sent to the address listed as Carrier’s mailing address on its MCS-150. An affidavit signed by the SI is attached hereto as Attachment “B” and is hereby incorporated by reference.

7. Ahsan Latif, Litigation Counsel, wrote and mailed Carrier a letter on October 11, 2024, informing Carrier that should it continue to resist by failing to respond, the Commission may suspend its motor carrier operations, revoke or amend certificates, and/or initiate sanctions or fines against Carrier. The Carrier was given ten (10) days from the date of the letter to respond and contact the special investigator. A copy of the letter is attached hereto as Attachment “C” and is hereby incorporated by reference.

8. As of November 6, 2024, the Special Investigator and Litigation Counsel have not been contacted by Carrier to complete the safety compliance investigation or otherwise.

9. Staff asks that the Commission find Carrier received sufficient notice of the need facilitate a safety compliance review, including written notice by Litigation Counsel’s November 6, 2024 letter.

10. Staff asks that the Commission find Carrier failed to respond to attempts at contact.

11. Based on the presented facts, Staff requests the Commission issue an order suspending Carrier's intrastate motor carrier authority operations until such time as Carrier contacts the Special Investigator to cooperate with Staff and permit the safety compliance review, at which time Staff will recommend the Commission issue an order of reinstatement of intrastate motor carrier operations.

**WHEREFORE**, for the reasons stated above, Staff respectfully requests that the Commission issue an order suspending Carrier's intrastate motor carrier operations.

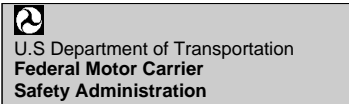
Respectfully submitted,

*/s/ Ahsan Latif*

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Ahsan A. Latif, #24709  
Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, Kansas 66604  
(785) 271-3118 (Telephone)  
(785) 271-3124 (Facsimile)  
[ahsan.latif@ks.gov](mailto:ahsan.latif@ks.gov) (E-mail)  
For Commission Staff

# **ATTACHMENT “A”**



# MOTOR CARRIER IDENTIFICATION REPORT (Application for U.S. DOT NUMBER)

**REASON FOR FILING**

(Check Only One)

 NEW APPLICATION BIENNIAL UPDATE OR CHANGES OUT OF BUSINESS NOTIFICATION REAPPLICATION (AFTER REVOCATION OF NEW ENTRANT)

1. NAME OF MOTOR CARRIER <b>HERL AG SPRAYING LLC</b>			2. TRADE OR D.B.A. (DOING BUSINESS AS) NAME			
3. PRINCIPAL ADDRESS <b>182 EAST STREET</b>		4. CITY <b>GRAINFIELD</b>	5. STATE/PROVINCE <b>KANSAS</b>	6. ZIP CODE + 4 <b>67737</b>	7. COLONIA (MEXICO ONLY)	
8. MAILING ADDRESS <b>PO BOX 191</b>		9. CITY <b>GRAINFIELD</b>	10. STATE/PROVINCE <b>KANSAS</b>	11. ZIP CODE+4 <b>67737</b>	12. COLONIA (MEXICO ONLY)	
13. PRINCIPAL BUSINESS PHONE NUMBER <b>(785) 673-4392</b>		14. PRINCIPAL CONTACT CELL PHONE NUMBER <b>(785) 673-9066</b>		15. PRINCIPAL BUSINESS FAX NUMBER <b>(785) 673-4393</b>		
16. USDOT NO. <b>1444818</b>	17. MC OR MX NO.	18. DUN & BRADSTREET NO.	19. IRS/TAX ID NO. EIN# <b>[REDACTED]</b> SSN#			
20. INTERNET E-MAIL ADDRESS <b>HERLAG@RURALTEL.NET</b>			21. CARRIER MILEAGE (to nearest 10,000 miles for Last Calendar Year) <b>70000</b>		YEAR <b>2021</b>	

22. COMPANY OPERATION (Mark all that apply)  
 A. Interstate Carrier B. Intrastate Hazmat Carrier  C. Intrastate Non-Hazmat Carrier D. Interstate Hazmat Shipper  E. Intrastate Hazmat Shipper F. Vehicle Registrant Only

23. OPERATION CLASSIFICATION (Circle All that Apply)

<input checked="" type="radio"/> A. Authorized For-Hire	<input type="radio"/> D. Private Passengers (Business)	<input type="radio"/> G. U. S. Mail	<input type="radio"/> J. Local Government
<input checked="" type="radio"/> B. Exempt For-Hire	<input type="radio"/> E. Private Passengers (Non-Business)	<input type="radio"/> H. Federal Government	<input type="radio"/> K. Indian Tribe
<input type="radio"/> C. Private Property	<input type="radio"/> F. Migrant	<input type="radio"/> I. State Government	<input type="radio"/> L. Other

24. CARGO CLASSIFICATIONS (Circle All that Apply)

<input checked="" type="radio"/> A. GENERAL FREIGHT	<input type="radio"/> F. LOGS, POLES, BEAMS, LUMBER	<input type="radio"/> J. FRESH PRODUCE	<input checked="" type="radio"/> P. GRAIN, FEED, HAY	<input type="radio"/> V. COMMODITIES DRY BULK	<input type="radio"/> BB. CONSTRUCTION
<input type="radio"/> B. HOUSEHOLD GOODS	<input type="radio"/> G. BUILDING MATERIALS	<input type="radio"/> K. LIQUIDS/GASES	<input type="radio"/> Q. COAL/COKE	<input type="radio"/> W. REFRIGERATED FOOD	<input type="radio"/> CC. WATER WELL
<input type="radio"/> C. METAL; SHEETS; COILS; ROLLS	<input type="radio"/> H. MOBILE HOMES	<input type="radio"/> L. INTERMODAL CONT.	<input type="radio"/> R. MEAT	<input type="radio"/> X. BEVERAGES	<input type="radio"/> DD. OTHER
<input type="radio"/> D. MOTOR VEHICLES	<input checked="" type="radio"/> I. MACHINERY, LARGE OBJECTS	<input checked="" type="radio"/> M. PASSENGERS	<input type="radio"/> S. GARBAGE, REFUSE, TRASH	<input type="radio"/> Y. PAPER PRODUCTS	
<input type="radio"/> E. DRIVE AWAY/TOWAWAY	<input checked="" type="radio"/> N. OIL FIELD EQUIPMENT	<input checked="" type="radio"/> O. LIVESTOCK	<input checked="" type="radio"/> T. U.S. MAIL	<input type="radio"/> Z. UTILITY	
			<input checked="" type="radio"/> U. CHEMICALS	<input checked="" type="radio"/> AA. FARM SUPPLIES	

25. HAZARDOUS MATERIALS CARRIED OR SHIPPED (Circle All that Apply) C-CARRIED S-SHIPPED B(BULK) - IN CARGO TANKS NB(NON-BULK) - IN PACKAGE

C S A. DIV 1.1	B NB	C S K. DIV 2.2A (Ammonia)	B NB	C S U. DIV 4.2	B NB	C S EE. HRCQ	B NB
C S B. DIV 1.2	B NB	C S L. DIV 2.3A	B NB	C S V. DIV 4.3	B NB	C S FF. CLASS 8	B NB
C S C. DIV 1.3	B NB	C S M. DIV 2.3B	B NB	C S W. DIV 5.1	B NB	C S GG. CLASS 8A	B NB
C S D. DIV 1.4	B NB	C S N. DIV 2.3C	B NB	C S X. DIV 5.2	B NB	C S HH. CLASS 8B	B NB
C S E. DIV 1.5	B NB	C S O. DIV 2.3D	B NB	C S Y. DIV 6.2	B NB	C S II. CLASS 9	B NB
C S F. DIV 1.6	B NB	C S P. Class 3	B NB	C S Z. DIV 6.1A	B NB	C S JJ. ELEVATED TEMP MAT.	B NB
C S G. DIV 2.1	B NB	C S Q. Class 3A	B NB	C S AA. DIV 6.1B	B NB	C S KK. INFECTIOUS WASTE	B NB
C S H. DIV 2.1 LPG	B NB	C S R. Class 3B	B NB	C S BB. DIV 6.1 Poison	B NB	C S LL. MARINE POLLUTANTS	B NB
C S I. DIV 2.1 (Methane)	B NB	C S S. COM LIQ	B NB	C S CC. DIV 6.1 SOLID	B NB	C S MM. HAZARDOUS SUB(RQ)	B NB
C S J. DIV 2.2	B NB	C S T. DIV 4.1	B NB	C S DD. CLASS 7	B NB	C S NN. HAZARDOUS WASTE	B NB
				C S		C S OO. ORM	B NB

26. NUMBER OF VEHICLES THAT CAN BE OPERATED IN THE U.S.

	Straight Trucks	Truck Tractors	Trailers	Hazmat Cargo Tank Trucks	Hazmat Cargo Tank Trailers	Motor Coach	School Bus		Mini-bus	Van		Limousine			
							Number of vehicles carrying number of passengers (including the driver) below								
							1-8	9-15	16+	16+	1-8	9-15	1-8	9-15	16+
OWNED			3	4											
TERM LEASED															
TRIP LEASED															

27. DRIVER INFORMATION

Within 100-Mile Radius	INTERSTATE	INTRASTATE	TOTAL DRIVERS	TOTAL CDL DRIVERS
Beyond 100-Mile Radius	0	2	2	2

28. IS YOUR U.S. DOT NUMBER REGISTRATION CURRENTLY REVOKED BY THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION? Yes \_\_\_ No  X \_\_\_  
 If Yes, enter your U.S. DOT Number. \_\_\_\_\_

29. PLEASE ENTER NAME(S) OF SOLE PROPRIETOR(S), OFFICERS OR PARTNERS AND TITLES (e.g. PRESIDENT, TREASURER, GENERAL PARTNER, LIMITED PARTNER)

1. DAVID HERL, OWNER (Please print Name)

2. \_\_\_\_\_ (Please print Name)

30. CERTIFICATION STATEMENT (to be completed by an authorized official)

I, DAVID HERL (Please print Name), certify that I am familiar with the Federal Motor Carrier Safety Regulations and/or Federal Hazardous Materials Regulations. Under penalties of perjury, I declare that the information entered on this report is, to the best of my knowledge and belief, true, correct, and complete.

Signature DAVID HERL Date 10/02/2024 Title HERL AG SPRAYING LLC (Please print)

## **ATTACHMENT “B”**

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

In the Matter of the Investigation of **Herl Ag** )  
**Spraying LLC, of Grainfield, Kansas,** )  
Regarding the Violation of the Motor Carrier )  
Safety Statutes, Rules and Regulations and the ) Docket No. 25-TRAM-208-PEN  
Commission's Authority to Impose Penalties, )  
Sanctions and/or the Revocation of Motor Carrier )  
Authority. )

**AFFIDAVIT OF MATT ADAMS**

I, Matt Adams, affiant, of lawful age, first being duly sworn upon oath, depose and say the following:

1. I have personal knowledge of the facts stated herein and they are all true and correct.
2. I am a Special Investigator employed by the Kansas Corporation Commission's Transportation Division.
3. I have been assigned to complete a compliance investigation on Herl Ag Spraying LLC (Herl Ag Spraying or Carrier).
4. In effort to schedule the compliance investigation, I attempted contact of the Carrier using the contact information provided on its MCS-150 Form, filed by the Carrier on August 29, 2023.
5. Carrier has failed to respond to my requests to schedule a compliance investigation.
6. I sent a formal letter to the Carrier at its listed mailing address, PO Box 191, Grainfield, Kansas 67737 on September 25, 2024. I received no response.
7. Despite my attempt at contact, Carrier refuses to respond or schedule a follow-up compliance investigation.
8. I have read the above information under penalty of perjury, that the information and records are true, correct and complete to the best of my knowledge.

FURTHER, Affiant sayeth not.

A handwritten signature in black ink, appearing to read "Matt Adams", written over a horizontal line.

Matt Adams

10/28/2024

Date



# **ATTACHMENT “C”**

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Annie Kuether, Commissioner

Laura Kelly, Governor

October 11, 2024

Herl Ag Spraying LLC  
Attn: David Herl, Owner  
PO Box 191  
Grainfield, KS 67737

Re: Scheduling a Compliance Review

Dear Mr. Herl:

I am an attorney with the Kansas Corporation Commission (KCC) contacting you regarding a compliance matter. KCC Special Investigator (SI) Matt Adams has made several attempts to contact you to perform a safety compliance review on your company, to no avail. This letter serves to notify you that if you fail to contact SI Adams and submit to a safety compliance review, **within ten days of the date of this letter**, the Commission may suspend your motor carrier operations, revoke or amend certificates, and/ or initiate sanctions or fines against you, pursuant to K.S.A. 66-1, 129a. If you have any further questions, you may contact SI Matt Adams with the Transportation Division of the KCC at (785) 414-0625.

K.S.A. 66-1,108b grants the KCC the “power, authority and jurisdiction to supervise and control motor carriers” operating in this state. Herl Ag Spraying LLC is a motor carrier that is subject to the Commission’s jurisdiction and therefore, is required by law to submit to a Commission compliance investigation. Deliberate avoidance of a Commission-sponsored safety compliance review is a violation of K.S.A. 66-1,108c. Failure to respond to this letter will result in further enforcement actions, including but not limited to suspension of your operating authority and fines.

Thank you for your attention to this matter.

Sincerely,  
*/s/ Ahsan Latif*  
Ahsan A. Latif  
Litigation Counsel

**CERTIFICATE OF SERVICE**

25-TRAM-208-PEN

I, the undersigned, certify that a true copy of the attached Motion has been served to the following by means of electronic service on November 6, 2024.

DAVID HERL, OWNER  
HERL AG SPRAYING LLC  
PO BOX 191  
GRAINFIELD, KS 67737  
herlag@ruraltel.net

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
ahsan.latif@ks.gov

/S/ Kiley McManaman  
Kiley McManaman

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