



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT

January 7, 2020

20-TRAM-276-PEN

Michael Hammersmith, Vice President
Trinity Oilfield Services, Inc.
PO Box 1305
Hutchinson, KS 67504

This is a notice of a penalty assessment against Trinity Oilfield Services, Inc. (Trinity Oilfield) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on December 13, 2019, by Kansas Corporation Commission Special Investigator Verna Jackson. Penalties are assessed in accordance with the FY 2020 Uniform Penalty Assessment Matrix, approved by the Commission on July 16, 2019. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Trinity Oilfield has been assessed a \$1,000 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,000, through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Trinity Oilfield to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm. The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Trinity Oilfield must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2018 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$1,000 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

Ahsan A. Latif
Litigation Counsel
(785) 271-3118

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Investigation of **Trinity**)
Oilfield Services, Inc., of Hutchinson, KS,)
Regarding the Violation(s) of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 20-TRAM-276-PEN
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A 2018 Supp. 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 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. 2018 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard

to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and issue an order on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

II. BACKGROUND

4. Trinity Oilfield Services, Inc. (Trinity Oilfield) has common operating authority with the Commission and further operates under USDOT number 1811771.

5. Mike Hammersmith attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on November 5, 2018, on behalf of Trinity Oilfield.

6. Trinity Oilfield is a common motor carrier which primarily hauls oil field equipment.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on December 13, 2019, Commission Staff (Staff) Special Investigator Verna Jackson conducted a safety compliance review of the operations of Trinity Oilfield. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On November 21, 2019, Trinity Oilfield required or permitted its driver, Jacob Philbern, to operate a CDL-required commercial motor vehicle, a

1978 Cooper, VIN ending in 050, GVWR 68,000 lbs., in intrastate commerce from Seward, Kansas to Ellinwood, Kansas. This trip is evidenced by an Intrastate Move statement, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Trinity Oilfield did not have Kansas Corporation Commission common motor carrier authority to operate point-to-point in the state of Kansas. The carrier’s commercial operations of motor vehicles prior to obtaining and maintaining proper Commission authority is a violation of K.S.A. 2018 Supp. 66-1,111 and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$500.

- b. During the transportation described in paragraph a, above, Trinity Oilfield used a driver not having a valid commercial driver’s license to operate the commercial motor vehicle. The carrier’s operations using a driver without a CDL is in violation of 49 C.F.R. 392.2, authorized by K.S.A. 8-2,125. Staff recommends a fine of \$500.

IV. STAFF’S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Trinity Oilfield committed two (2) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$1,000 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Trinity Oilfield be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

11. Finally, Staff recommends that Trinity Oilfield submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Trinity Oilfield because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

13. The Commission finds Trinity Oilfield committed two (2) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Trinity Oilfield Services, Inc., of Hutchinson, KS is hereby assessed a \$1,000 civil penalty for two (2) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Trinity Oilfield is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Carrier is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order.

D. Trinity Oilfield is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the carrier to set up the appointment.

E. Pursuant to K.S.A. 2018 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Trinity Oilfield's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,000 civil penalty against Trinity Oilfield, and ordering a representative from Trinity Oilfield to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Litigation Counsel with written proof of attendance, and to submit to a safety compliance review within 18 months from the date of this Order.

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2018 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$1,000 is due in thirty (30) days from the date of service of this Order. Payment of \$1,000 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$1,000 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Trinity Oilfield's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

I. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: _____


A handwritten signature in dark ink, appearing to read "Lynn M. Retz". The signature is fluid and cursive, with a prominent flourish at the end.

Lynn M. Retz
Executive Director

AAL

ATTACHMENT “B”

UNITED STATES DEPARTMENT OF TRANSPORTATION

		U.S. DOT#: 1811771 MC/MX#:	Legal: TRINITY OILFIELD SERVICES INC Operating (DBA): TRINITY OILFIELD SERVICES	Investigation Date: 12/13/19
Investigation Type: Offsite Investigation				
Physical Address		Mailing Address		
610 E Santa Fe Ellinwood, KS 67526 United States		PO Box 1305 Hutchinson, KS 67504 United States		
Contact Information				
Contact Name: MIKE HAMMERSMITH Email: [REDACTED] Phone: [REDACTED] : ()- Fax: ()-				
Business and Financial				
Business Type: Corporation Gross Revenue: [REDACTED] For Year Ending: 12/31/18 Federal Tax ID: [REDACTED] (N)				
Operation Classification and Type			Cargo	
Type of Operation: Non-HM Intrastate Carrier Operation Classification For-Hire Motor Carrier Property Other Non-Hazardous Freight			Oil Field Equipment	
Equipment			Driver Information	
	Owned	Term Leased	Drivers	
Straight Trucks	2		Intrastate	Interstate
Trailers	1		< 100 Miles	2
			>= 100 Miles	
Power units used in the U.S.: 2 Percentage of time used in the U.S.: 100.0%			Average trip leased driver/month: 0 Drivers with CDL: 1 Total Drivers: 2	
Person(s) Interviewed				

Questions

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:

Kansas Corporation Commission 1500 SW Arrowhead Rd
Topeka, KS 66604
Phone: (785) 271-3104
Fax: (785) 271-3124

This report will be used to assess your safety compliance.

Violations

<p>1. Primary: 392.2 State Equivalent: KSA 66-1,111</p> <p>Operating a commercial motor vehicle without KCC public carrier (KAN-C) operating authority</p>	<table><tr><th colspan="3">Violations Discovered</th></tr><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>1</td><td>1</td></tr></table> <table><tr><th colspan="3">Violations Checked</th></tr><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>1</td><td>1</td></tr></table>	Violations Discovered			Fed	State	Total		1	1	Violations Checked			Fed	State	Total		1	1
Violations Discovered																			
Fed	State	Total																	
	1	1																	
Violations Checked																			
Fed	State	Total																	
	1	1																	
<p>Example/Notes:</p> <p>Jacob Philbern 11/21/2019</p> <p>Returned RIG from location in Seward, KS to yard in Ellinwood, KS</p> <p>At the time of this investigation, Trinity Oilfield Services Inc failed to renew the motor carrier's Kansas operating authority and was canceled in January 2019. The carrier was advised at the collection of documents for this investigation of the issue and the motor carrier promptly initiated the process to reapply. However, the motor carrier paid registration on the vehicles for 2019 only. Kansas is currently in the renewal for 2020 which the carrier will need to pay prior to December 31, 2019 or the authority will be canceled again.</p>	<table><tr><th colspan="2">Drivers/Vehicles</th></tr><tr><th>In Violation</th><th>Checked</th></tr><tr><td></td><td></td></tr></table>	Drivers/Vehicles		In Violation	Checked														
Drivers/Vehicles																			
In Violation	Checked																		

<p>2. Primary: 392.2</p> <p>Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.</p>	<table><tr><th colspan="3">Violations Discovered</th></tr><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>1</td><td>1</td></tr></table> <table><tr><th colspan="3">Violations Checked</th></tr><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>1</td><td>1</td></tr></table>	Violations Discovered			Fed	State	Total		1	1	Violations Checked			Fed	State	Total		1	1
Violations Discovered																			
Fed	State	Total																	
	1	1																	
Violations Checked																			
Fed	State	Total																	
	1	1																	
<p>Example/Notes:</p> <p>RIG - VIN LT01050, License Place Kansas 5172, 1978 Cooper</p> <p>Jacob Philbern</p> <p>11/21/2019 - From Seward, KS to Ellinwood, KS</p> <p>Operating a CMV when not in possession of CDL issued by his/her State or Junsdiction of domicile per KSA 8-2,125.</p>	<table><tr><th colspan="2">Drivers/Vehicles</th></tr><tr><th>In Violation</th><th>Checked</th></tr><tr><td>1</td><td>1</td></tr></table>	Drivers/Vehicles		In Violation	Checked	1	1												
Drivers/Vehicles																			
In Violation	Checked																		
1	1																		

Safety Fitness Rating

This Investigation is Not Rated

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report.

This was an offsite investigation. An offsite investigation allows FMCSA to evaluate your safety compliance with minimal disruption to your business. An offsite investigation will not result in a safety rating.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Unsafe Driving

Process Breakdown: Monitoring and Tracking

Trinity Oilfield Services Inc allowed a driver to operate their CDL CMV without being in possession of a valid operator's license. The driver's operator's license was suspended in September. The motor carrier should not have allowed a disqualified driver in the operation of a CDL CMV. Carrier needs to educate their drivers on the rules of requiring the operator to maintain a valid license.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Monitoring and Tracking:

1. Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to safe driving. If a driver seems to have license-related problems, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.

Recommendations

1. Additional Information

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

2. If you have any questions concerning this report, contact KCC.

If you have any questions concerning this report, please contact the Kansas Corporation Commission, 1500 SW Arrowhead Rd, Topeka, KS 66604 or call 785-271-3104.

3. SMS website

You are encouraged to review your company's SMS results and take action to make the roads safer for everyone. Your public safety records are available at the following website: <http://ai.fmcsa.dot.gov/sms>. Also visit <https://portal.fmcsa.dot.gov> which provides real time data and the opportunity to review your safety data. You will need to use your PIN number that has been provided by FMCSA. Registration and access is free.

4. No/Invalid Operator's License

Operating a CMV when not in possession of CDL issued by his/her State or Jurisdiction of domicile per KSA 8-2,125.

5. INTRASTATE Registration Required

Cease all INTRASTATE transportation until properly registered with the Kansas Corporation Commission.

6. CAP Requirement

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all the violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Submit the letter along with copies of your supporting evidence to:

Email: g.davenport@kcc.ks.gov

FAX: 785-271-3124

or mail:

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

7. CAP Penalty

Motor carriers are responsible for complying with all tasks ordered by the Commission. You are required to prepare a corrective action plan (CAP), addressing the measures taken to correct all the violations identified within this report. Failure to fulfill this requirement may lead to the issuance of further penalties or other repercussions, including revocation of authority to operate intrastate in Kansas.

8. Acknowledgement Stmt - Offsite

I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of [motor carrier's] operating authority and/or the impoundment of [motor carrier's] commercial motor vehicles.

Carrier Representative

Date

After reviewing these Requirements and/or Recommendations, please sign and date where indicated, and return to the Kansas Corporation Commission, ATTN Verna Jackson, Transportation Division, 1500 SW Arrowhead Rd, Topeka, Kansas 66604-4027, or fax 785-271-3124

9. **Monetary Penalties**

I understand that monetary penalties will be assessed as a result of violations found in this compliance investigation. The penalty schedule can be found at this web site: http://kcc.ks.gov/trans_penalty_assessment_table.htm

Carrier Name

Carrier Official

10. **Safety Seminar Requirement**

Motor carriers are responsible for complying with all tasks ordered by the Commission in its Penalty Order. In addition to paying any civil fines issued, carriers are also required to attend a Commission sponsored safety seminar. Failure to fulfill this requirement may lead to the issuance of further penalties or other repercussions, including revocation of authority to operate intrastate in Kansas.

ATTACHMENT “B”

TRINITY OILFIELD SERVICES, INC.

Intrastate Move

11/14/2019 Rig on location Seward, KS

11/21/2019 Rig moved off location back to yard, Ellinwood, KS

Driver: Jacob Philbern

CERTIFICATE OF SERVICE

20-TRAM-276-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail/hand delivered on 01/08/2020.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
a.latif@kcc.ks.gov

MICHAEL HAMMERSMITH, VICE-PRESIDENT
TRINITY OILFIELD SERVICES, INC.
D/B/A Trinity Oilfield Services
PO BOX 1305
HUTCHINSON, KS 67504
Fax: 620-564-3004
mikeh@hbpetro.com

/S/ DeeAnn Shupe

DeeAnn Shupe