

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

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.)
)
)

ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. 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. 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. 66-1,129a, 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. 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.

4. 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.”

II. FINDINGS OF FACTS

5. Herl Ag Spraying LLC, of Grainfield, Kansas, Kansas (Carrier) is a motor carrier as defined in 49 C.F.R. 390.5 as adopted in K.A.R. 82-4-3f, which operates commercial motor vehicle(s) in interstate commerce.

6. Carrier operates under USDOT Number 1444818.

7. On September 25, 2024, a Staff Special Investigator sent formal letters to the Carrier to schedule a safety compliance investigation on its operations as a motor carrier pursuant to K.S.A. 66-1,108c. The letters were sent to the address listed as Carrier’s mailing address on its MCS-150.

8. 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.

9. 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.

10. On October 16, 2024, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations due to the carrier's failure to respond.

III. CONCLUSIONS OF LAW

11. The Commission finds it has jurisdiction over Carrier as the Carrier is a motor carrier, as defined in 49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.

12. The Commission finds Carrier received sufficient notices of the need to submit to a safety compliance review of its motor carrier operations.

13. The Commission finds that Carrier has violated K.S.A. 66- 1,129(a)(7) and 66-1,108c by failing to permit a safety compliance investigation by Staff.

14. The Commission finds Carrier intentionally failed to act upon these notices and respond to Staff's attempts to contact. The Commission concludes that suspending Carrier's intrastate motor carrier authority operations is appropriate and the suspension shall remain in place until such time as Carrier comes into compliance with the applicable motor carrier statutes, rules and regulations, and cooperates with Transportation Staff to permit the safety compliance investigation to be completed.

THE COMMISSION THEREFORE ORDERS THAT:

A. Herl Ag Spraying LLC of Grainfield, Kansas, is suspended and ordered to immediately cease all intrastate commercial motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, until such time as Carrier comes into compliance with the applicable motor carrier statutes, rules and regulations, and cooperates with Transportation Staff to permit the safety compliance investigation to be completed. This Suspension of Intrastate Motor Carrier Operations Order may also attach and apply to the operations of successor entities, including any motor carrier entity or entities established or used to avoid the consequences of any Order to cease operations or suspending operating authority.

B. **Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Secretary, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order.** Failure to timely request a hearing will result in a waiver of Carrier's right to a hearing, and this Order will become a Final Order against Carrier, suspending Carrier's motor carrier operations,

C. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

D. 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.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 11/14/2024



Lynn M. Retz
Executive Director

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CERTIFICATE OF SERVICE

25-TRAM-208-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 and electronic service on 11/14/2024.

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/S/ KCC Docket Room
KCC Docket Room