

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

Before Commissioners: Jay Scott Emler, Chairman
Shari Feist Albrecht
Pat Apple

In the Matter of the Investigation of **Midwest**)
Shotcrete Inc., d/b/a Midwest Pools, of)
Pleasanton, Kansas, Regarding the Violation of)
the Motor Carrier Safety Statutes, Rules and) Docket No. 16-TRAM-536-PEN
Regulations and the Commission's Authority to)
Impose Penalties, Sanctions and/or the Revocation)
of Motor Carrier Authority.)

ORDER REINSTATING INTRASTATE MOTOR CARRIER OPERATIONS

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission), on Transportation Staff's motion. The Commission, being fully advised in the premises, finds as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 2015 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2015 Supp. 66-1,108, 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. 2015 Supp. 66-1,129a, 66-1,130, and 66-1,142b, and amendments thereto, 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. 2015 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

II. BACKGROUND

4. Midwest Shotcrete Inc., d/b/a Midwest Pools, of Pleasanton, Kansas (Respondent), is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108 that operates commercial motor vehicles in intrastate commerce.

5. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 1040563.

6. On August 16, 2016, the Commission issued an Order suspending Respondent's intrastate motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, due to non-compliance with a Penalty Order issued in this docket on June 7, 2016. The Penalty Order also assessed Respondent a \$300 civil fine. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

7. On August 23, 2016, Respondent submitted evidence to Transportation Staff (Staff) of bringing its motor carrier operation into compliance with Kansas motor carrier safety statutes, rules and regulations pursuant to the above-referenced Penalty Order. Respondent also paid the \$300 civil assessment.

III. STAFF'S RECOMMENDATION

8. Based on Respondent's compliance with the June 7, 2016, Penalty Order issued in this docket, Staff recommends the Commission reinstate Respondent's Kansas motor carrier operations.

IV. CONCLUSIONS OF LAW

9. The Commission finds it has jurisdiction over Respondent because it is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

10. Based on the available facts, the Commission finds that Staff's recommendation to reinstate Midwest Shotcrete Inc., d/b/a Midwest Pools's motor carrier operations is reasonable.

THE COMMISSION THEREFORE ORDERS THAT:

A. Midwest Shotcrete Inc., d/b/a Midwest Pools's ability to carry on motor carrier operations in the state of Kansas is hereby reinstated.


B. Midwest Shotcrete Inc., d/b/a Midwest Pools remains obligated to attend a Commission-sponsored safety seminar within the next ninety (90) days pursuant to the above-referenced Penalty Order at paragraph B, entered on June 7, 2016. Respondent must also provide Staff with written proof of attendance.

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

BY THE COMMISSION IT IS SO ORDERED.

Emler, Chair; Albrecht, Commissioner; Apple, Commissioner

Dated: AUG 30 2016



Amy L. Green
Secretary to the Commission

AAL

Order Mailed Date

AUG 31 2016

CERTIFICATE OF SERVICE

16-TRAM-536-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on **AUG 30 2016**.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
a.latif@kcc.ks.gov

EMILY E. THIES, TREASURER
MIDWEST SHOTCRETE INC
D/B/A MIDWEST POOLS
16349 YOUNG RD
PLEASANTON, KS 66075-8320
midwestpoolsinc@aol.com

/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

AUG 31 2016