

STATE OF SOUTH DAKOTA  
COUNTY OF KINGSBURY

IN CIRCUIT COURT  
THIRD JUDICIAL CIRCUIT

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IN THE MATTER OF RECEIVERSHIP  
OF H&I GRAIN OF HETLAND, INC.

38 Civ. 18-000068

**MOTION TO WITHDRAW  
PETITION AND DISMISS**


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1. The South Dakota Public Utilities Commission (Commission) hereby requests the above Court dismiss the above-entitled proceedings seeking the appointment of an independent receiver pursuant to SDCL 49-45-16.1 and SDCL Chapter 21-21, without prejudice.
2. In support of its Request to Withdraw Petition and Dismiss, the Commission states:
  - a) On December 12, 2018, the Commission filed the Petition to Appoint an Independent Receiver.
  - b) Five days later, H & I Grain petitioned for bankruptcy in the U.S. Bankruptcy Court for the District of South Dakota. *See In re H & I Grain of Hetland, Inc.*, No. 4:18-bk-40580 (Bankr. D.S.D. Dec. 17, 2018).
  - c) Under section 362 of the United States Bankruptcy Code, automatic stay begins at the moment the bankruptcy petition is filed, thereby making the Commission's petition for receivership impermissible.

WHEREFORE, the Commission requests that this Court:

1. Dismiss the proceedings initiated by the Commission pursuant to SDCL 49-45-16.1 and SDCL Chapter 21-2 seeking appointment of an independent receiver, without prejudice.

Dated this 2<sup>nd</sup> day of January 2019.

  
Adam de Hueck (#4186)  
Special Assistant Attorney General  
South Dakota Public Utilities Commission  
500 East Capitol Avenue, Pierre, SD 57501  
(605) 773-3201 adam.dehueck@state.sd.us