



Steve Kolbeck, Chair
Gary Hanson, Vice Chair
Chris Nelson, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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February 25, 2011

Dale Locken
SDWG
908 Lamont St S
Aberdeen, SD 57401

Dear Mr. Locken:

Enclosed please find a copy of a Memorandum of Adjustments (MOA) issued to the SDWG facility currently operating in Andover, SD. The MOA was issued when our Inspector discovered the Andover facility has been operating without a grain buyer bond or license since October 14, 2010. I understand the facility is full, and over 1800 scale tickets have been issued since SDWG began taking grain at this facility.

These are serious violations of South Dakota statute and we must seek a penalty. A violation of SDCL 49-45-1 is a class one misdemeanor for which the penalty is one year in jail or a \$2000 fine, or both. Each purchase of grain is considered a separate violation. In addition, the commission may assess a \$1000 fine for each purchase of grain up to a maximum fine of \$20,000. A violation of SDCL 49-45-9 is also a class one misdemeanor, for which the penalty is one year in jail or a \$2000 fine, or both. Each day that a person conducts the business of a grain buyer without a bond is a separate offense.

Based on the information available, civil fines for the violations of SDCL 49-45-1 could easily reach the maximum of \$20,000. In addition, Staff could pursue all criminal penalties listed above. Staff proposes, however, to waive all other applicable penalties if you agree to pay a single monetary settlement of \$6700 for the violations of SDCL 49-45-1 and immediately obtain the required bond and license for the Andover facility. With that being said, all settlements are subject to Commission approval. As such, please advise if you agree to settle this matter as specified above. If so, commission staff will draft a stipulation and schedule the matter for a Commission hearing. Alternatively, if you contest the violations we will file a formal complaint, set a hearing date and will reserve the option to seek all available penalties.

Regards,

Jim Mehlhaff
Director, Warehouse Division

cc: Patty Van Gerpen
Kara Semmler