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South Dakota

PUBLIC UTILITIES COMMISSION

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July 11, 2017

Patricia Van Gerpen, Executive Director
South Dakota Public Utilities Commission
500 East Capitol Ave.
Pierre, SD 57501

RE: GW17-001

Ms. Van Gerpen:

In order to provide a narrative of events prior to the July 21 Commission meeting, Staff put together this letter detailing the events leading up to Staff seeking suspension and ultimately revocation of H & I Grain of Hetland, Inc.'s (H & I) grain buyer license.

Staff received H & I's application for renewal of its grain buyer license, along with their FY15 financial statements on June 2, 2016. The financial statements met the licensing requirements showing [REDACTED]. The balance sheet showed a [REDACTED] receivable from H & I Trucking and we sought additional information from Eide Bailly, the accounting firm that prepared the FY15 financial statements, as to the collectability of this receivable.

On June 6, 2016, we received the required bond in support of the application. On June 8, 2016, we received a letter from Eide Bailly verifying that the related party receivable was collectable and detailing the method of repayment. The letter indicated the receivable had been reduced to [REDACTED] as of April 30, 2016. On June 9, 2016, we issued the license for the licensing period beginning July 1, 2016 and ending June 30, 2017.

In late October 2016, we received a call expressing concern about a pile of soybeans that may have gone out of condition at H & I's Arlington location. The caller was concerned this loss would cause a financial hardship for H & I, making it difficult for them to meet their financial obligations.

On October 27, 2016, Staff traveled to Hetland, De Smet, and Arlington to investigate the out-of-condition grain report. We did not find any significant amounts of out-of-condition grain, however, Staff talked to another grain buyer at Arlington who stated there had been a pile of soybeans at the H & I facility that had gone out-of-condition. The concerns and purpose of our visit centered on grain spoilage. We did not have reason to suspect financial deficiencies at that time.

When we at Hetland, H & I Accounts Manager Tami Steffensen confirmed there was a pile of soybeans that went out-of-condition, and this had been a source of rumors about H & I. She said they had been able to blend them off and market them and they had not created a significant financial hardship. We were able to visit with

H & I Co-owner Duane Steffensen and he confirmed this. He said he was aware of rumors and that contrary to these, everything was fine.

We asked Tami Steffensen how H & I had performed in FY16, and she said the company had a good year. When we asked if she had the FY16 financial statements, she said they were not yet completed. We told her to submit a copy when they were completed and she said she would. Because H & I has an August 31 fiscal year-end, and this conversation took place in October, it was reasonable that the reviewed financial statements from H & I's accountant would not yet be available. Moreover, we had not received complaints regarding non-payment and H & I did not appear to be having difficulty making payments. Nonetheless, Staff followed up on the financial statement request through normal inspections and the annual license renewal process and timeframe.

On January 31, 2017, Staff sent a notice to all licensed grain buyers reminding them to submit FY16 financial statements. On April 24, 2017, Staff inspected H & I and again asked for the financial statements. We were told they were not completed at that time.

On May 8, 2017, Staff sent email reminders to H & I and other license holders statewide to submit financial statements and other required renewal paperwork.

On May 9, 2017, Staff performed a follow up inspection to verify compliance with instructions. We were told the financial statements were still not completed.

On May 17, 2017, Staff sent an email requesting the financials to Tami Steffensen. She replied that they only had a draft statement at that time. We followed up with another email requesting the draft financials. H & I again did not respond. On June 13, 2017, Staff reached out to H & I again and received no reply.

On June 14, 2017, Staff went to Hetland and met with H & I Co-owner JoAnn Steffensen who forwarded the draft balance sheet and income statement. These were attached to the letter filed in the docket by Staff on July 10, 2017. This formed the basis for Staff's petition on June 19, 2017 requesting that the Commission suspend H & I's license.

On June 14, 2017, we learned that H & I had suffered significant financial losses as a result of taking speculative positions on grain. This resulted in CHS Hedging filing a lawsuit against H & I Owners Duane and JoAnn Steffensen on September 14, 2016. The owners filed counter claims on June 2, 2017. At no point prior to June 14, 2017, did H & I inform the Commission of the pending lawsuit or hedging liabilities.

Staff has been in contact with the Kingsbury County States Attorney. We have reason to believe that steps were taken by H & I and/or those in its employ to specifically conceal or mislead the Commission regarding the company's financial condition.

Sincerely,



Jim Mehlhaff, Grain Warehouse Division Director