

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE GRAIN BUYER)	
LICENSE OF UTICA GRAIN, INC. DBA)	PETITION TO IMMEDIATELY
UPPER MIDWEST GRAIN ELEVATOR)	SUSPEND GRAIN BUYER
)	LICENSE PURSUANT TO SDCL
)	49-45-16
)	
)	GW18-

COMES NOW, the Staff of the South Dakota Public Utilities Commission, pursuant to SDCL 49-45-16, and Petitions the Commission to immediately suspend the grain buyer license held by Utica Grain, Inc. dba Upper Midwest Grain Elevator. In support of its Petition, Staff asserts as follows:

1. Utica Grain, Inc. dba Upper Midwest Grain Elevator (“Midwest Grain”), a South Dakota Corporation in good standing with the South Dakota Secretary of State, is located at 30653 N. Highway 81 P.O. Box 1040, Yankton, SD 57078.
2. The registered agent for Midwest Grain listed with the Secretary of State is Ralph J. Marquardt, PO Box 1040, 30653 US HWY 81, Yankton, SD 57078.
3. Midwest Gain holds a Class A Grain Buyer License #1860 issued by the South Dakota Public Utilities Commission.
4. Midwest Grain has locations in Irene, Meckling, Tabor, and Utica, South Dakota. Each location has a separate grain buyer license issued by the South Dakota Public Utilities Commission.
5. For several months, Staff has been working with Midwest Grain to monitor its financial position, protect sellers, and remedy financial difficulties. When Staff first became aware of Midwest Grain’s financial deficiencies, Staff began closely monitoring Midwest Grain, requested Midwest Grain submit weekly financial information to Staff and conducted regular on-site reviews of Midwest Grain’s books to ensure that Midwest Grain corrected, and maintained, the deficiencies in working capital and to ensure that

Midwest Grain was not increasing a risk to producers.

6. On July 18 and July 27, 2018 Midwest Grain provided financial information which showed a significant deficiency in payables.
7. Midwest Grain failed to submit the weekly financial information, as requested, to Staff for the weeks ending in August 3, 2018, August 10, 2018, and August 17, 2018.
8. On or about August 6, 2018, Staff received a quarter-ending balance sheet. The balance sheet showed significant deficiencies in working capital as well as a negative net worth. The quarter-ending balance sheet also showed a significant and negative change in Midwest Grain's financial position since the previous balance sheet Midwest Grain submitted as support for its June 2018 license renewal. Staff Immediately followed up with Midwest Grain.
9. On or about August 17, 2018, Staff received correspondence from Midwest Grain indicating that Midwest Grain reclassified income and expenses to more accurately conform to GAAP and a revised quarter-ending balance sheet. However, after reviewing this correspondence and the balance sheet, it became apparent to Staff that Midwest Grain was not in compliance with the financial licensure requirements in ARSD 20:10:12:15 and was not taking the necessary steps to come into compliance and had not heeded the advice of Staff over the past months.
10. The revised balance sheet showed that Midwest Grain still had deficiencies in working capital and was not in compliance with the financial requirements for a grain buyer. The revised balance sheet also showed that a significant amount of assets/liabilities had been added to or removed from the balance sheet without an explanation. Additionally, the balance sheets showed a significant amount of expenditures that appeared to be out of line with Midwest Grain's ordinary course of business.
11. On August 20, 2018, Staff conducted a detailed on-site inspection of Midwest Grain's books and facilities to determine if the risk to producers warranted an immediate suspension. The inspection showed that as of today's date, the company has negative working capital with the inability to pay accounts payable if the producers were to

demand payment.

12. Staff considers the facts stated in paragraph 5 through 10, inclusive to constitute an act of insolvency and a refusal to cooperate with the lawful requests of a commission inspector for which immediate suspension of Midwest Grain is justified and necessary under SDCL 49-45-16(3) and (4).

WHEREFORE, the Staff of the South Dakota Public Utilities Commission requests the Commission take immediate action to suspend Midwest Grain's grain buyer license pursuant to SDCL 49-45-16. We are specifically aware of acts of insolvency and stress an immediate suspension of the license at each of the four location is the only way to prevent further potential damage to South Dakota producers. All four facilities are operated as the same entity, therefore, the financial condition effects the license at each location.

Staff further requests an ad hoc meeting for the Commission to hear this matter. Cody Chambliss, the Public Utilities Grain Warehouse Division Manager, and Justin Blais, a Public Utilities Grain Warehouse Inspector, will both be available to testify.

Dated this 20th day of August 2018.

Amanda M. Reiss

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