

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

**IN THE MATTER OF THE STIPULATION AND)
SETTLEMENT AGREEMENT BETWEEN)
MCINTOSH-WATAUGA EQUITY AND PUC)
STAFF)
)
)** **STIPULATION AND
SETTLEMENT AGREEMENT**

GW18-002

This Settlement Agreement is made and entered into between the Grain Warehouse Division of the Public Utilities Commission (Staff) and McIntosh-Watauga Equity (Company).

The current licensing period for grain buyer and grain warehouse facilities in South Dakota began on July 1, 2018. The Company did not renew its license for that period. Therefore, as of July 1, 2018, the Company no longer held a grain buyer license or a grain warehouse license. On numerous occasions, Staff notified the Company of the need to renew its licenses.

Between July 1, 2018, and the date Staff conducted an inspection on August 20, 2018, the Company received approximately sixty loads of grain, acting as a grain buyer or grain warehouse under South Dakota law. Three of the sixty loads were received for the purchase of grain. Fifty-seven loads were for wheat placed on an open storage account. The penalty for operating a grain warehouse without a license are described in SDCL 49-43-4.2, and includes a civil fine of \$1,000 per day, up to a maximum of \$20,000. The penalty for operating as a grain buyer without a license is described in SDCL 49-45-1, which provides for a fine of \$1,000 for each purchase of grain up to a maximum fine of \$20,000. Thus, the maximum fine to which the Company could be subject is \$23,000.

Staff and the Company stipulate to the facts below and agree to resolve this matter as follows:

1. The facility has been operating as a licensed public grain warehouse and a grain buyer in McIntosh, South Dakota for several years.
2. The facility is subject to licensure as required by SDCL 49-43-4.2 and 49-45-1.
3. The Company failed to obtain a license for the period beginning July 1, 2018.
4. The Company received 57 loads of wheat into an open storage account and purchased three loads of grain.
5. The Company renewed its grain buyer and warehouse licenses on August 24, 2018.
6. Both Staff and the Company acknowledge that the facility is subject to the maximum penalties allowed under the law for operating without a license. However, due to the circumstances in this matter, neither feels that the maximum penalty is appropriate. Staff and the Company both believe a penalty of \$1,000 failure to obtain a warehouse license and \$1,000 for failure to obtain a grain buyer license should be paid by the Company for this violation.

7. A memorandum of adjustments was issued by Staff in September of 2016, for operating as a warehouse without a license after failing to timely complete license renewal.
8. The Company was in good financial standing at the time of the most recent inspection.
9. The Company agrees that it will abide by all applicable licensing rules and regulations.
10. The Company agrees that it will make payment of the \$2,000 civil fine within thirty days of receipt of the Commission Order.
11. Staff agrees this Stipulation and Settlement Agreement, if approved by the Commission, represents the final disposition of the issues specified herein.

McIntosh-Watauga Equity

Grain Warehouse Division of the South
Dakota Public Utilities Commission

BY: DeAnn Holzworth

BY: 

DeAnn Holzworth

Cody Chambliss

TITLE: Manager

TITLE: Grain Warehouse Manager

DATE: 9-14-18

DATE: 17 Sep 18

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