

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

**IN THE MATTER OF THE PUC STAFF'S)
COMPLAINT AGAINST WEST PLAINS,)
LLC FOR VIOLATIONS OF SDCL 49-45-1)**

**COMPLAINT

GW21-006**

COMES NOW, the Staff of the South Dakota Public Utilities Commission (Staff), pursuant to SDCL 49-45-1, and hereby requests the Commission issue an Order finding West Plains, LLC (Respondent) to have violated SDCL 49-45-1, and issue a fine for the violations. In support of its Petition, Staff asserts as follows:

1. Respondent is a grain buyer located in Batesland, South Dakota, with its principal office located in Omaha, Nebraska.
2. Documents filed with the South Dakota Secretary of State list Respondent in good standing.
3. Respondent held a valid Grain Buyer license for over a decade, renewed annually, expiring June 30, 2021.
4. Respondent failed to timely renew its license for the 2022 licensing year, commencing July 1, 2021.
5. Reminders to obtain a license were sent to all licensees who had not renewed on the following dates:
 - a. March 16, 2021
 - b. May 6, 2021
 - c. June 21, 2021
 - d. June 29, 2021
6. In addition, contacts were made specifically to Respondent on the following dates:
 - a. March 26, 2021
 - b. April 12, 2021
 - c. June 30, 2021
 - d. July 7, 2021
 - e. July 16, 2021
 - f. August 24, 2021
 - g. August 26, 2021
7. Due to its long history of being a licensed grain buyer in the State of South Dakota, Respondent knew or should have known the licensing requirements.

8. Respondent ultimately received its renewed license on or about August 27, 2021.
9. During a remote inspection on November 16, 2021, Staff became aware that Respondent purchased approximately 123 loads of grain between the time its license expired and the date upon which a new license was issued.

Legal Authority and Analysis

SDCL 49-45-1 provides:

Before transacting the business of a grain buyer in this state, a person shall obtain a grain buyer license from the commission. A violation of this section is a Class 1 misdemeanor. Each purchase of grain without a license is a separate offense.

Operation as a grain buyer without a license may be enjoined upon complaint of the commission. In addition, the commission may assess a civil fine against an unlicensed grain buyer in the amount of one thousand dollars for each purchase of grain up to a maximum fine of twenty thousand dollars.


SDCL 49-45-1.1(3) defines a grain buyer as “any person who purchases grain for the purpose of reselling the unprocessed grain or who purchased three hundred thousand dollars’ worth or more of grain directly from producers in a calendar year.

Staff requests the maximum fine of \$20,000 be levied. If not for the statutory maximum, Respondent would be facing a fine as high as \$123,000 due to the 123 purchases made without a license.

Conclusion

WHEREFORE, the Staff respectfully requests the Commission find West Plains, LLC to have committed a violation of SDCL 49-45-1 for each instance Respondent purchased grain in South Dakota without a license and issue the maximum permitted fine of \$20,000.

Dated this 29th day of November 2021.



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