

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

IN THE MATTER OF THE PUC)	SETTLEMENT AGREEMENT
STAFF'S COMPLAINT AGAINST)	AND REQUEST FOR
WEST PLAINS, LLC FOR VIOLATIONS)	ADOPTION OF SETTLEMENT
OF SDCL 49-45-1)	AGREEMENT
)	
)	GW21-006

This Settlement Agreement reflects the resolution reached between the Staff of the Public Utilities Commission (Commission) and West Plains, LLC (Respondent).

I. BACKGROUND

On November 29, 2021 Staff, filed a Complaint against Respondent for purchasing grain without a license. Respondent has done business in the state of South Dakota for several years. During that time, Respondent operated as a licensed grain buyer as defined in SDCL 49-15-1.1(3), renewing its license annual until June 30, 2021. Respondent failed to timely renew its license upon expiration on June 30, 2021. Respondent ultimately renewed its grain buyer license on August 27, 2021. However, Respondent purchased approximately 123 loads of grain during the period in which Respondent did not possess a valid license.

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. If, after a hearing, the Commission believed Respondent had made twenty or more purchases during the time it was not licensed, Respondent could be subject to a \$20,000 fine.

Now, having come to an agreement that both Parties believe to be reasonable, Staff and Respondent stipulate as follows:

1. Respondent is currently licensed to act as a grain buyer in the State of South Dakota.

2. Respondent maintained a grain buyer license for many years without incident and in compliance with the laws of this state.
3. Respondent was going through a change in management at the time of the violations that lead to Staff's Complaint.
4. Both Staff and Respondent acknowledge that Respondent is subject to penalties for operating as a grain buyer without a license. Staff and Respondent both believe a civil penalty in the amount of \$12,000 for failure to obtain a grain buyer license should be paid by Respondent for the violations. The grounds for the settlement take into account:
 - a. The large number of loads purchased by Respondent without a license;
 - b. The numerous contacts from Staff reminding Respondent to obtain a license;
 - c. Respondent's cooperation in ultimately obtaining a license; and
 - d. Respondent's long history as a licensed grain buyer without complaint or incident.
5. Respondent agrees that it will make payment of the \$12,000 civil fine within thirty days of receipt of the Commission Order.
6. Staff agrees this Stipulation and Settlement Agreement if approved by the Commission, represents the final disposition of the issues specified herein and will not pursue additional fines or penalties for the infractions outlined in this Agreement.

Dated this 9th day of December 2021.

South Dakota Public Utilities Commission Staff

By: 

Its: Grain Warehouse Manager

West Plains, LLC

By: James S.

Its: Controller