

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

**IN THE MATTER OF PUC STAFF'S COMPLAINT ) STAFF'S RECOMMENDATION  
AGAINST DALLAS LANGLEY TRUCKING. ) FOR PENALTY  
)  
)  
) **GW21-007****

COMES NOW, Staff of the Public Utilities Commission (Staff), in conjunction with the Stipulation filed in Docket GW21-007, Staff recommends the Public Utilities Commission (Commission) assess a civil fine of \$5,000 against Dallas Langley Trucking (Dallas). SDCL 49-45-1 authorizes the Commission to 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. In the associated Stipulation, it was agreed that Dallas made five purchases of grain between July 1, 2021 and November 30, 2021, so the maximum penalty that could be assessed in this case is \$5,000.

In making this recommendation, Staff conducted a thorough analysis of facts associated with this complaint and determined that in this instance, the maximum \$5,000 civil fine is appropriate and necessary. The PUC is tasked with administering and enforcing South Dakota laws and rules regarding the licensing of grain buyers. These regulations serve to protect South Dakota producers, and Staff works to maintain compliance through education and when necessary, by pursuing complaints.

Dallas knew, or should have known, of South Dakota Licensing laws mandating that until he receives a license in the mail, he is not licensed. Simply submitting an application is not sufficient. Dallas Langley Trucking is not a small, start-up company entering into the grain buyer business. Dallas is a well-established company with financials showing the company engages in yearly transactions of upwards of \$6 million and operates in a number of states. Dallas has held a grain buyer license in South Dakota, almost continuously, since 2005.

Therefore, he is very familiar with our rules and processes.

Each year around renewal time, Staff sends licensing information to licensed grain buyers regarding licensing standards, specifying the end of the licensing period, and indicating licensing renewals must be processed by the PUC office, a process that can take some time. (See Attachments 1 and 2, filed previously). In 2021, Staff sent multiple reminders to Dallas that his license would expire on June 30, 2021. When the PUC finally received his application on July 7, 2021, communications were sent to Dallas indicating that the application was not complete, not in compliance with requirements, and that those issues needed to be rectified before a license could be issued. (See Attachment A, Staff's timeline.) Dallas, as a grain buyer either knew, or should have known, that he was not a licensed grain buyer when he purchased grain for resale between July 1, 2021 and November 30, 2021.

Furthermore, this is not the first instance in which Dallas has purchased grain without a license. Dallas did not renew his license for the period beginning July 1, 2018, but in May of 2019, Staff became aware that Dallas had purchased more than 20 loads of grain for resale between July 1, 2018 and May of 2019, the period in which he was unlicensed. When Staff became aware of the purchases made without a license, Staff issued a warning to Dallas and worked with Dallas to get him licensed. Additionally, Staff provided clarification of South Dakota's grain buyer laws. Staff did not pursue a penalty for this violation at the time because Dallas stopped purchasing, worked with Staff to become licensed, provided financials that were in compliance with licensing requirements, and thus, no producers were injured. Additionally, Dallas had been licensed for a number of years in South Dakota and generally complied with the laws. Staff determined that a warning for a first offense was appropriate along with clarification that a license was required to make such transactions.

Currently, Dallas' financials are not adequate for licensing, which places producers at increased risk for financial loss. In order to be considered adequate for a Class B grain buyer

license, financial statements must simply demonstrate positive net worth and working capital. When financials are not even sufficient to obtain a Class B grain buyer license, there is more risk of company failure and more risk that a producer goes unpaid. Adding to this risk, there is no bond coverage available if an unlicensed grain buyer does not pay a producer because grain buyer bonds include a provision that the bond is only effective with a valid grain buyer license.

Thankfully, Staff is not aware of any financial harm caused due to these five purchases. However, Dallas did not notify the PUC that the company financials were out of compliance. The first time Staff became aware of the non-compliant financials was on July 7, 2021, when Staff received financials via mail. These financials were dated December 31, 2021, and show that Dallas was not in compliance with state financial requirements, but this was not conveyed to Staff until July 7, 2021. Staff has not pursued a separate violation for failure to notify Staff because Dallas no longer held a license and Staff was not aware of any financial harm actually caused by the non-compliant financials. However, Staff believes that the failure to report, as well as Dallas' willingness to engage in grain purchases with non-compliant financials is very concerning.

Staff is concerned that Dallas does not understand South Dakota grain buyer regulations or is willing to disregard regulations at times. Staff has had multiple conversations with Dallas since becoming aware of the grain purchases made without a license. Through these conversations, it seems that Dallas does not recognize that a license is not in place until it is actually issued by the PUC. Dallas believed that he was licensed as soon as he sent in an application, even after Staff explained this is not the case.

Staff's main objective in administering grain buyer licenses is to ensure state regulations are followed by grain buyers so that producers are not at undue risk. While Staff has requested less significant fines in past cases of violations, those cases overwhelmingly involve first time offenders who take responsibility for their conduct, meet financial requirements, and are able to

become licensed, posing less of a financial risk to producers. As explained above, this case is distinguishable as Dallas was previously warned for the same conduct in a prior year and does not meet financials requirements. In addition, Staff is extremely concerned that Dallas either does not fully understand South Dakota regulations, or is willing to disregard them. Based on this analysis, Staff respectfully requests the Commission adopt the Stipulation and assess a civil fine of \$5,000.

### **Conclusion**

Based on the reasons explained above, Staff respectfully requests that the Commission assess a civil penalty of \$5,000 against Dallas Langley Trucking for violations of SDCL 49-45-1, to be paid within thirty days of receipt of the Commission's order.



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Amanda M. Reiss  
Staff Attorney  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501  
Phone: (605) 773-3201  
Amanda.reiss@state.sd.us