



South Dakota Public Utilities Commission  
Ms. Kristie Fiegen, Chairperson  
500 East Capitol Avenue  
Pierre, SD 57501-5070

Re: In the Matter of Banghart Properties, LLC  
Docket No. GW23-001

Ms. Fiegen:

On behalf of the South Dakota Agri-Business Association (SDABA) and its Grain Elevator Committee, we are submitting the following comments and position statement for the Commission's consideration in its deliberations on the issues raised in the above-referenced proceeding.

As the eyes, ears and voice of the agri-businesses in South Dakota, we have been following the various and ongoing administrative proceedings involving Jeremy Frost and now Banghart Properties, LLC. Over time, Mr. Frost has been involved in administrative proceedings for repeated violations of grain licensing laws in Nebraska and South Dakota. In each case, he was first warned by the regulatory agency but proceeded to buy and sell grain without complying with the applicable laws. Even the resulting fines don't seem to induce compliance. And now he and Banghart Properties LLC seek a Class A Grain Buyer's license while simultaneously arguing that neither the license nor the laws behind it are applicable to his grain brokerage activities.

By the end of the evidentiary hearing in this case, there are a few things that are rather painfully clear. First, although he claims to be the self-ordained champion of honesty and fairness for South Dakota farmers, Frost is actively seeking to skirt and/or violate state laws that were designed and passed to protect those same farmers. The legislation in SDCL 49-45 was enacted to protect our farmers from being subjected to the risk of loss from transactions involving shoddy and financially unstable buyers. Frost now claims that he is not required to comply with those statutes and can subject our producers to the unchecked risks presented by any grain buyer as long as the farmer is contractually obligated to deliver the grain FOB to a point outside of South Dakota. The acceptance of such an argument would constitute an open invitation to virtually all out-of-state grain buyers to solicit and purchase all the grain they want directly from our farmers as long as they force the farmer to deliver the grain outside the state. Such a result is absurd. Our licensing laws apply to any attempt to source grain from South Dakota producers regardless of the contract requirements for delivery.



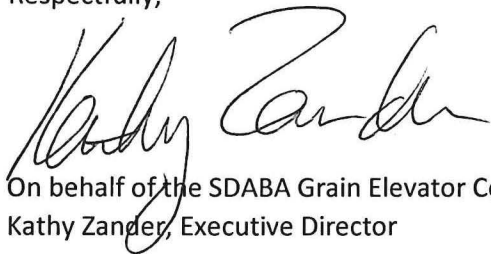
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Second, Mr. Frost arrogantly elevates himself above the law and has actually testified that he will knowingly violate any grain laws if, in his opinion, compliance is not in the best interests of his farmer clients. As Commissioner noted during the hearing, the best interests of our farmers should not be left to the subjective whim of Mr. Frost and is actually a legislative function that has resulted in the enactment of the very laws that Frost continually skirts and/or violates. Amongst other things, providing misleading information in order to obtain a grain buyer's license is not in our farmer's best interests even if Mr. Frost doesn't have a problem with it.

Lastly, Mr. Frost's dealings and issues outlined in his lawsuit with Indigo illustrate some of the risks that he continues to create for our producers. As reflected in the hearing transcript, Mr. Frost will enter into agreements with farmers in order to tie up their grain while he looks for the most advantageous buyer. The selection of that buyer is based solely on how much they will pay and has nothing to do with the actual ability or willingness to pay. In the case of Indigo, that kind of arrangement resulted in a buyer that rejected sales claiming that Frost misrepresented his authority to make an offer on behalf of Indigo as the buyer in the transaction. Whether the allegation is true or not, that result very clearly demonstrates the risks that Mr. Frost continues to impose on our producers by promising to net them more than they can get from the reputable and licensed grain buyers in South Dakota.

In short, neither Mr. Frost nor Banghart Properties, LLC, should be allowed to hold any grain buyer's license in South Dakota and both should be held to answer for their repeated violations of our grain buyer's laws. Mr. Frost's actions, history and statements in this record reflect his complete disdain for the laws of this and our surrounding states and his deceitful and illegal business practices should be permanently enjoined.

Respectfully,

A handwritten signature in black ink, appearing to read "Kathy Zander". The signature is written in a cursive, flowing style.

On behalf of the SDABA Grain Elevator Committee  
Kathy Zander, Executive Director