



Kristie Fiegen, Chairperson
Gary Hanson, Vice Chairman
Chris Nelson, Commissioner



PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
<https://puc.sd.gov>

(605) 773-3201

Consumer Hotline
1-800-332-1782

Email
puc@state.sd.us

January 12, 2023

Banghart Properties LLC
Jan Banghart & Jeremey Frost
PO Box 93
Gettysburg, SD 57442
jan@banghartproperties.com
jfrost@banghartproperties.com

Jan,

Enclosed please find a data request pursuant to SDCL 49-45-13 and 49-45-26.

Please Submit the following information by close of Business January 20, 2023.

- All accounts payable and unpaid invoices
- All accounts receivable in detail
- Current income statement
- Monthly balance sheets and income statements From July 1, 2022 till December 31, 2022
- All purchase contracts since July 1, 2021
- All sales contracts since July 1, 2021
- All purchases after January 9, 2023

49-45-13. Inspection of buyers' facilities--Examination of books--Subpoena power. The commission shall cause the business facilities of every grain buyer, whether licensed or unlicensed, to be inspected at such times as the commission considers necessary. The inspector shall report in writing to the commission the result of the examination. The inspector may at any time during business hours enter any structure, vehicle, or enclosure in which the books or accounts of any grain buyer are kept, and may examine all the books, accounts, and electronic records relating to the transactions of the grain buyer either within or without the state. The commission may, in all matters arising under this chapter, exercise the power of subpoena and examine witnesses in accordance with chapter 1-26.

49-45-26. Provision of requested records--Penalty--Civil fine.

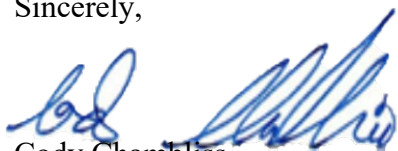
A grain buyer, the owner, manager, or chief executive officer of a grain buyer, or any other person in a managerial position, whether licensed or unlicensed, who or that purchases grain in this state, shall, within five working days of an inspector's request, provide to the inspector, at a licensed location within this state or at the offices of the commission, all books, accounts, and electronic records relating to the transactions of the grain buyer, either within or outside the state.

A willful violation of this section is a Class 1 misdemeanor.

The commission may assess a civil fine in an amount not to exceed one thousand dollars for each day requested materials are withheld, up to a maximum of twenty thousand dollars per licensing period, as set forth in § [49-45-3](#).

Please reach out to me with any questions cody.chambliss@state.sd.us

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cody Chambliss', written in a cursive style.

Cody Chambliss
Grain Warehouse Program Manager

Cc: Robert Konrad



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Ms. Banghart,

RE: Banghart Properties LLC Grain Purchases for Resale in Excess of Five Million Dollars in Licensing Year 2023

Demand to CEASE AND DESIST Operation as a Grain Buyer

On January 9, 2023, PUC Staff conducted a routine inspection of Banghart Properties LLC (Banghart). That inspection found documents showing that since July 1, 2022, Banghart has made purchases of grain for resale in excess of five million dollars. As a result of that inspection, PUC Staff issued a Memorandum of Adjustment.

For licensing year 2023, effective July 1, 2022, through June 30, 2023, Banghart holds a Class B grain buyer license. Under SDCL 49-45-7.1 “no grain buyer with a Class B grain buyer's license may purchase grain in excess of five million dollars for the annual licensed period or enter into voluntary credit sale contracts.”

Since Banghart has made at least five million dollars in grain purchases in the 2023 licensing period, the maximum permitted by its Class B license, any additional purchases made by Banghart are considered operation as an unlicensed grain buyer and may be prosecuted to the full extent of the law.

Under SDCL 49-45-1:

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 5 felony if the person holds himself or herself out to be a grain broker and a Class 1 misdemeanor in all other cases. Each purchase of grain without a license is a separate offense.

A grain buyer transacting business without a license may be enjoined upon complaint of the commission.

The commission may assess a civil fine against an unlicensed grain buyer in the amount of five thousand dollars for each purchase of grain, up to a maximum fine of fifty thousand dollars per licensing period, as set forth in § 49-45-3.

For purposes of this section, the term, purchase of grain, means a transaction evidenced by the issuance of a uniform scale ticket or receipt, as described in § 49-45-10.1.

Additionally, SDCL 49-45-27 provides “The owner, manager, or chief executive officer of a grain buyer, or any other person in a managerial position, who is responsible for any violation of this chapter by a grain buyer is subject to any criminal penalty that applies to a grain buyer under the provisions of this chapter.”

PUC Staff hereby demands Banghart Properties LLC **CEASE AND DESIST** from any further operation as a grain buyer by making any additional grain purchases in South Dakota.

Sincerely,

A handwritten signature in blue ink that reads "Amanda M. Reiss".

Amanda M. Reiss
Staff Attorney

CC: Robert Konrad, Konrad Law, Attorney for Banghart Properties, LLC