

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

**IN THE MATTER OF PUC STAFF'S )  
COMPLAINT AGAINST YIELD10 )  
BIOSCIENCE, INC. OF WOBURN, MA )  
)**

**FINAL ORDER  
AND NOTICE OF ENTRY**

**GW24-001**

On April 4, 2024, the Public Utilities Commission (Commission) received a Complaint filed by Commission Staff (Staff) against Yield10 Bioscience, Inc. (Yield10 or Respondent) of Woburn, MA. The Complaint alleged that Yield10's financial position was out of compliance with South Dakota law and that Yield10 failed to notify the non-compliance as required by SDCL 49-45-25. The Complaint further alleged that Respondent withheld requested materials from inspectors in violation of SDCL 49-45-26. Staff requested the Commission immediately suspend Respondent's grain buyer license pursuant to SDCL 49-45-16(4) and assess civil penalties of up to \$20,000 for violations of SDCL 49-45-26 and up to \$20,000 for violations of SDCL 49-45-25.

On April 5, 2024, the Commission issued a Notice of Hearing and Answer Deadline, providing notice to all parties of a hearing on Staff's request for suspension of Yield10's grain buyer license, as well as notice that Yield10 must file an answer to the Complaint no later than April 24, 2024. Yield10 thereafter voluntarily surrendered its grain buyer license, and the Commission issued an order accepting the surrender and noting that the remainder of the issues in Staff's Complaint were not withdrawn. Yield10 failed to file an answer in this proceeding.

On July 3, 2024, the Commission served the parties with an Order for and Notice of Evidentiary Hearing. An additional notice was provided as part of the Commission's agenda for its regularly scheduled July 19 Commission Meeting.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-45.

A hearing was held by the Commission on July 19, 2024, during the Commission's regularly scheduled commission meeting. The issues to be addressed at this hearing were whether Yield10 violated SDCL 49-45-25, whether Yield10 violated SDCL 49-45-26, and whether the Commission should assess civil penalties pursuant to SDCL 49-45-25 and SDCL 49-45-26.

Yield10 failed to appear either personally or through counsel. Staff appeared and presented testimony and evidence in this matter. Cody Chambliss testified on behalf of Staff.

Having thoroughly reviewed the filings in the docket and having heard the evidence and made further inquiry, the Commission voted unanimously to find that Yield10 violated SDCL 49-45-25 and 49-45-26 as alleged in the Complaint and that Yield10 was eligible for the maximum penalty of \$20,000 for each of the alleged violations.

**FINDINGS OF FACT**

1. On April 4, 2024, Staff filed a Complaint against Yield10.<sup>1</sup>

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<sup>1</sup> Exhibit T.

2. Yield10 held a Class A grain buyer license in this state at the time the Complaint was filed.
3. On April 5, 2024, the Commission issued a Notice of Hearing and Answer Deadline. The Notice scheduled a Hearing on the portion of the Complaint that sought suspension of Yield10's grain buyer license and also established an answer deadline of April 24, 2024 for Yield10 to file an answer to the allegations of violations of 49-45-25 and 49-45-26.
4. On or about April 10, 2024, Yield10 voluntarily surrendered its grain buyer license by mailing the license back to the Commission. In response to the voluntary surrender, Staff withdrew the portion of the Complaint requesting suspension.
5. On February 1, 2024, Yield10 submitted its quarterly balance sheet as required for all Class A licensees.<sup>2</sup>
  - a. This quarterly balance sheet was for the period ending November 2023.
  - b. This November 2023 balance sheet showed significant negative equity and negative working capital.
6. On or about February 28, 2024, Staff became aware through a review of Yield10's quarterly financials that Yield10 was operating with insufficient working capital and negative equity.<sup>3</sup>
7. Staff sent a data request pursuant to SDCL 49-45-26 to Yield10 on February 28, 2024.<sup>4</sup>
8. Pursuant to SDCL 49-45-26, Yield10 was required to provide the information requested by March 6, 2024. Yield10 failed to provide the requested information in response to the data request within the time prescribed by SDCL 49-45-26.
9. Yield10 was out of compliance for more than twenty days, therefore, Yield10 is subject to a maximum civil penalty of \$20,000 for the violation of SDCL 49-45-26.
10. Yield10 submitted its 10-Q to the Securities and Exchange Commission (SEC) on or about November 14, 2023.<sup>5</sup>
11. The 10-Q submitted to the SEC on November 14, 2023 shows that Yield10 was out of financial compliance at that time. Therefore, the evidence establishes that Yield10 was aware of its noncompliant financial condition on or before November 14, 2023.
12. Yield10 first reported its noncompliant financial condition when it submitted the November 2023 quarterly balance sheet to Staff on February 1, 2024.
13. Yield10 was out of compliance with SDCL 49-45-25 for more than twenty days, therefore, Yield10 is subject to a maximum civil penalty of \$20,000.
14. Yield10 failed to cooperate with Staff throughout this process.
15. Yield10's failure to respond to Staff's data request caused Staff a significant amount of work, adding to the seriousness of the violations.
16. No producers in South Dakota were harmed as a result of the violations, therefore, the Commission finds that the maximum fine is not merited in this docket.
17. To the extent that any Conclusion of Law set forth below is more appropriately a Finding of Fact, that Conclusion of Law is incorporated by reference as a Finding of Fact.

Based on the foregoing Findings of Fact, the Commission hereby makes the following:

### **CONCLUSIONS OF LAW**

1. Yield10 violated SDCL 49-45-25 as alleged by Staff in the Complaint.
2. For the violation of SDCL 49-45-25, Yield 10 is subject to a civil penalty of \$1,000 for each day of the violation, up to a maximum of \$20,000.

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<sup>2</sup> Exhibit T.

<sup>3</sup> Exhibit E.

<sup>4</sup> Exhibit A.

<sup>5</sup> Exhibit B.

3. Yield10 was in violation of SDCL 49-45-25 from November 14, 2023, until February 1, 2024. Therefore, Yield10 may be fined up to the maximum of \$20,000 for the violation of SDCL 49-45-25.
4. Yield10 violated SDCL 49-45-26 as alleged by Staff in the Complaint.
5. For the violation of SDCL 49-45-26, Yield 10 is subject to a civil penalty of \$1,000 for each day of the violation, up to a maximum of \$20,000.
6. Pursuant to SDCL 49-45-26, Yield10 was required to respond to the Staff data request on or before March 6, 2024.
7. By failing to respond to the Staff data request until April 10, 2024, Yield10 was in violation of SDCL 49-45-26 for approximately 35 days.
8. Yield10 may be fined up to the maximum of \$20,000 for the violation of SDCL 49-45-26.
9. A civil penalty of \$7,500 for violation of SDCL 49-45-25 and \$7,500 for violation of SDCL 49-45-26 appropriately balances the lack of direct producer harm with the seriousness of the violations and the lack of cooperation.
10. To the extent that any Finding of Fact set forth herein is more appropriately a Conclusion of Law, that Finding of Fact is incorporated by reference as a Conclusion of Law.

It is therefore

ORDERED, that Yield10 is hereby ordered to pay a civil fine of \$7,500 for its violation of SDCL 49-45-25. It is further

ORDERED, that Yield10 is hereby ordered to pay a civil fine of \$7,500 for its violation of SDCL 49-45-26. It is further

ORDERED, that payment shall be made within thirty days of this Order.

### **NOTICE OF ENTRY AND OF RIGHT TO APPEAL**

PLEASE TAKE NOTICE that this Final Decision and Order was duly issued and entered on the 23<sup>rd</sup> day of July 2024. Pursuant to SDCL 1-26-32, this Final Decision and Order will take effect ten days after the date of receipt or failure to accept delivery of the decision by the parties. Pursuant to ARSD 20:10:01:30.1, an application for a rehearing or reconsideration may be made by filing a written petition with the Commission within thirty days from the date of issuance of this Final Decision and Order; Notice of Entry. Pursuant to SDCL 1-26-31, the parties have the right to appeal this Final Decision and Order to the appropriate Circuit Court by serving notice of appeal of this decision to the circuit court within thirty days after the date of service of this Notice of Decision.

Dated at Pierre, South Dakota, this 23<sup>rd</sup> day of July 2024.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.

By: *Gary Hanson*

Date: 23 July 2024

BY ORDER OF THE COMMISSION:

*Kristie Fiegen*  
KRISTIE FIEGEN, Chairperson

*Gary Hanson*  
GARY HANSON, Commissioner

*Chi Nelson*  
CHRIS NELSON, Commissioner