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

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## IN THE MATTER OF THE GRAIN BUYER LICENSE OF UTICA GRAIN, INC. DBA UPPER UTICA GRAIN ELEVATOR

ORDER DEFERRING SUSPENSION OF GRAIN BUYER LICENSE; ORDER REQUIRING COMPLIANCE PLAN BE FOLLOWED; ORDER REQUIRING AN UPDATED FINANCIAL STATEMENT BE FILED

## GW18-001

On August 20, 2018, the South Dakota Public Utilities Commission (Commission) received a Petition to Immediately Suspend Grain Buyer License Pursuant to SDCL 49-45-16 (Petition) filed by the staff of the Grain Warehouse Division (Staff). As a part of the Petition, Staff alleged it was aware of specific acts of insolvency and a refusal to cooperate with the lawful requests of Staff on the part of Utica Grain, Inc. dba Upper Utica Grain Elevator (Utica Grain) and that such acts required immediate suspension. Utica Grain has locations in Meckling, Tabor, Irene, and Utica, South Dakota. Utica Grain holds a Class A Grain Buyer License issued by the Commission. On August 20, 2018, Staff served the Petition on Utica Grain.

On August 23, 2018, the Commission electronically transmitted notice of the Agenda of Ad Hoc Commission Meeting to Utica Grain as well as interested individuals and entities on the Commission's PUC Weekly Filings listserv.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-45, specifically 49-45-1, 49-45-3, 49-45-6, 49-45-7, 49-45-10, 49-45-13, 49-45-14, 49-45-16, 49-45-17, 49-45-18, 49-45-19, 49-45-25, 49-45-26, 49-45-27, 49-45-28, and ARSD 20:10:12.

On August 24, 2018, at an ad hoc meeting, the Commission considered this matter. The Commission heard from Staff as to specific acts of insolvency and a refusal to cooperate with the lawful requests of Staff. Utica Grain also testified as to a Compliance and Operational Plan (Plan) for rectifying Staff's complaints. The Commission voted unanimously to defer the decision regarding the suspension of the grain buyer's license of Utica Grain until September 4, 2018. The Commission further voted unanimously to require Utica Grain to follow the Plan it filed in this matter and, by August 31, 2018, to file an accurate financial statement signed under oath by Ralph Marquardt. The Commission further ordered Staff to respond to Utica Grain's Plan and add any additional items as needed by August 31, 2018. It is therefore

ORDERED, that action on the request for suspension of the grain buyer license of Utica Grain is hereby deferred until September 4, 2018. It is further

ORDERED, that Utica Grain shall immediately begin to follow the Plan it filed in this matter. It is further

ORDERED, that by August 31, 2018, Utica Grain shall file an accurate financial statement signed under oath by Ralph Marquardt. It is further

ORDERED that Staff shall respond to Utica Grain's Plan and add any additional items as needed by August 31, 2018.

Dated at Pierre, South Dakota, this 2019 day of August 2018.

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: Adam de Hueck
Date: 8/28/18
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

**KRISTIE** irperson Hanson GARY I Commissioner

CHRIS NELSON, Commissioner