

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

<b>IN THE MATTER OF THE GRAIN WAREHOUSE )</b>	<b>SECOND ORDER</b>
<b>AND GRAIN DEALER LICENSES OF UTICA )</b>	<b>REOPENING RECORD AND</b>
<b>GRAIN AND FEED, INC. )</b>	<b>NOTICE OF HEARING</b>
<b>)</b>	<b>GD97-001</b>

The South Dakota Public Utilities Commission (Commission) licensed the above grain dealer and warehouse operator, Utica Grain and Feed, Inc. (Utica), on July 1, 1996, to conduct business as a grain warehouse and a grain dealer pursuant to SDCL Chapters 49-43 and 49-45. On April 4, 1997, Utica agreed to a voluntary relinquishment of its grain dealer license. The Commission performed an audit of Utica's records on April 8-9, 1997, as provided by law and ascertained the quantity and classes of grain. Utica has voluntarily relinquished its grain dealer's license and conducts its grain warehouse business under review of the Commission with the further provision that it no longer accepts grain for storage nor will it issue warehouse receipts.

The Commission on its own motion issued an Order to Show Cause and Notice of Hearing on April 11, 1997, and conducted a hearing on this matter in Yankton, South Dakota, on April 16, 1997. The issue at the hearing was whether Utica had sufficient funds to satisfy all current outstanding grain payables, meet its obligations as a grain warehouse, and that it is otherwise financially and managerially fit to continue operations as a grain warehouse and a grain dealer within South Dakota. During the hearing, Utica presented evidence indicating that it was working on a reorganization plan in conjunction with its primary lender. On April 25, 1997, the Commission received the transcript of the hearing.

Upon motion of staff and concurrence of the attorney for Utica, Mr. Tom Alberts, the Commission found it to be in the best interest of the parties to reopen the record in this docket for the purpose of receiving additional evidence regarding the recapitalization of Utica and to leave the record open for a specific period of time, namely until 5:00 p.m., on Wednesday, May 7, 1997.

On May 14, 1997, at its duly noticed ad hoc Commission meeting, the Commission voted to again reopen the record and to schedule another hearing in this matter. Parties were informed by the Commission that the purpose of the hearing is to further supplement the record by clarifying certain issues raised in the proceeding.

**YOU WILL PLEASE TAKE NOTICE** that the principals of Utica shall appear and show cause why its grain warehouse and grain dealer's licenses should not be suspended or revoked, or that they should be reinstated as the evidence may warrant, on May 16, 1997, at 6:00 o'clock p.m., at the National Guard Armory, 1000 West 31st Street, Yankton, South Dakota. The Commission shall hold this hearing pursuant to its authority under SDCL Chapters 1-26, 49-42, 49-43, and 49-45 and ARSD Chapters 20:10:11 and 20:10:12 and, specifically, ARSD 20:10:01:45.

At the hearing duly noted above, Utica shall have the burden to prove, and the issues shall be, whether it has sufficient funds to satisfy all current outstanding grain payables consistent with SDCL 49-45-10, meet its obligations as a grain warehouse as specified in SDCL chapter 49-43 and that it is otherwise financially and managerially fit to continue operations as a grain warehouse and a grain dealer within South Dakota. Based on the evidence submitted at the above hearing, the Commission shall determine whether Utica's grain warehouse and grain dealer's licenses should be suspended, revoked or reinstated.

The hearing shall be an adversary proceeding. At the hearing Utica may appear in person and be represented by counsel or a legal assistant, if Utica so desires. These and other due process rights will be forfeited if not exercised at the hearing. The decision of the Commission may be appealed to the Circuit Court and the State Supreme Court as provided by law. It is therefore

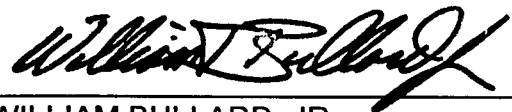
ORDERED, that the record in this docket shall again be reopened. It is further

ORDERED, that Utica shall appear at the above time and place before the Commission to show cause why its grain warehouse and grain dealer's licenses should not be suspended or revoked or that they should be reinstated as the evidence may warrant.

Dated at Pierre, South Dakota, this 14th day of May, 1997.

<b>CERTIFICATE OF SERVICE</b>	
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, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Alaine Kaelo</u>
Date:	<u>5/14/97</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:  
Commissioners Burg, Nelson and  
Schoenfelder



WILLIAM BULLARD, JR.  
Executive Director