

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the	) Application No. GD-2775
Application Red River	)
Commodities, Inc., Fargo,	)
North Dakota, seeking	) GRANTED
authority to operate as a	)
grain dealer pursuant to Neb.	)
Rev. Stat. § 75-903 (Reissue	) Entered: December 14, 2021
2018)	)

BY THE COMMISSION:

By application filed August 11, 2021, with the Nebraska Public Service Commission ("Commission"), Red River Commodities, Inc., ("Red River" or "Applicant"), Fargo, North Dakota, seeks authority to operate as a grain dealer. Red River is a North Dakota corporation, with its headquarters in Fargo, North Dakota. Red River has been authorized by the Secretary of State to operate in Nebraska.

## O P I N I O N   A N D   F I N D I N G S

Red River was granted a grain dealer license on October 13, 2010. On September 30, 2020, their license expired and was not ultimately renewed. Applicant now seeks approval to have license number 2775 reissued to operate as a grain dealer in Nebraska pursuant to the Grain Dealer Act.<sup>1</sup> Under Neb. Rev. Stat. § 75-903, all grain dealers doing business in Nebraska shall be issued a license by the Commission. To procure and maintain a license a grain dealer shall: pay an annual fee; file a security; and file a financial statement.<sup>2</sup> Pursuant to Neb. Rev. Stat. § 75-903.02, if an applicant for a grain dealer's license is not an individual, then the primary party, such as the chief executive officer, president, or general manager shall be subject to a fingerprint-based criminal background check completed by the Nebraska State Patrol. Applicant has paid the required application fee and the Commission has received Applicant's fingerprint-based criminal background check pursuant to the aforementioned requirements. The remaining requirements will be discussed below.

### *Security*

An applicant must file a security for the benefit of any producer who files a valid claim arising from the sale to a grain

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<sup>1</sup> Neb. Rev. Stat. §§ 75-901 - 75-910.

<sup>2</sup> Neb. Rev. Stat. § 75-903.

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dealer.<sup>3</sup> The security may be a bond issued by a corporate surety company and payable to the Commission, an irrevocable letter of credit, or a certificate of deposit. The security shall be in the amount of thirty-five thousand dollars or seven percent of grain purchases or exchanges by the grain dealer in the grain dealer's preceding fiscal year, whichever is greater, not to exceed three hundred thousand dollars.<sup>4</sup> A new applicant that had not purchased any grain purchases in the preceding year may obtain a license based on an estimate of the volume of business the applicant expects to do during the term of the license. If the licensee purchases more grain than estimated, the estimate shall be revised and additional security shall immediately be furnished to cover the additional projected purchases.<sup>5</sup> The liability of a surety bond shall cover purchases made by the grain dealer during the time the bond is in force and the bond shall be in continuous force and effect until canceled by the surety.<sup>6</sup>

Applicant has a continuous surety bond with Old Republic Surety Company payable to the Commission in the amount of \$300,000. This bond has remained in effect during the time in which Red River no longer had an active grain dealer license. Applicant's surety bond fulfills all requirements set out in Nebraska Law.

### *Financial Statement*

An applicant for a grain dealer license must file a reviewed or audited fiscal year-end financial statement prepared by an independent certified public accounting firm as part of its application.<sup>7</sup> Applicant must meet net worth and working capital requirements set out in Commission Rule. An applicant for a grain dealer license must demonstrate a minimum allowable net worth of \$10,000 to obtain a license.<sup>8</sup> Finally, an applicant for a grain dealer license must also demonstrate a working capital ratio of not less than 1 to 1.<sup>9</sup>

On or around December 31, 2020, Red River filed an audited fiscal year-end financial statement for the preceding year. A review of Red River's existing financial statement by Commission

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<sup>3</sup> Neb. Rev. Stat. § 75-903(2).

<sup>4</sup> *Id.*

<sup>5</sup> 291 Neb. Admin Code Chapter 8, § 003.02B.

<sup>6</sup> Neb. Rev. Stat. § 75-903(2).

<sup>7</sup> Neb. Rev. Stat. § 75-903(3).

<sup>8</sup> 291 Neb. Admin Code Chapter 8, § 003.03H.

<sup>9</sup> 291 Neb. Admin Code Chapter 8, § 003.03I.

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staff confirms that Red River meets both the net worth and working capital requirements as prescribed by Commission Rule.

Being fully advised in the premise, the Commission finds Red River Commodities, Inc., Fargo, North Dakota, has met the requirements of Nebraska Law and Commission Rules, and should therefore be issued a grain dealer license.

## O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. GD-2775, be and is hereby, granted, and Red River Commodities, Inc., Fargo, North Dakota, is authorized to operate as a licensed grain dealer in the State of Nebraska.

IT IS FURTHER ORDERED that Red River Commodities, Inc., is hereby issued a grain dealer license that expires September 30, 2022, unless used in a manner inconsistent with Nebraska Statutes and the Rules and Regulations of this Commission

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 14th day of December, 2021

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Rock Johnson*  
*Crystal Broadus*  
*Mary Kidden*  
*Tim Schram*

*Don Watson*  
Chair

ATTEST:

*Sharice Knutson*  
Deputy Director