

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**North Dakota Oilseed Mills, LLC
Grain Warehouse – Northwood, ND
Application**

Case No. GE-10-325

**STAFF RESPONSE TO NORTH DAKOTA OILSEED MILLS, LLC'S
APPLICATION FOR TRADE SECRET PROTECTION**

On July 19, 2010, North Dakota Oilseed Mills, LLC (Oilseed Mills) filed an application for a trade secret protective order under North Dakota Administrative Code section 69-02-09-01 for protecting against public disclosure trade secret information as defined by North Dakota Century Code section 47-25.1-01(4).

Staff has reviewed Oilseed Mills's request for trade secret protection. North Dakota Century Code section 47-25.1-01(4) defines the term "trade secret" as follows:

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

- a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

The definition of "trade secret" under North Dakota Century Code section 44-04-18.4(2)(d), which is almost identical to North Dakota Century Code section 47-25.1-01(4), reads:

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, *technical know how*, or process, that:


1. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that can obtain economic value from its disclosure or use; and
2. Is the subject of efforts that are reasonable under the circumstances to maintain *the secrecy of the information*. (Differences italicized).

North Dakota Administrative Code section 69-02-09-04 requires that the "commission staff examine the information and application and make a prima facie recommendation of whether the information is relevant and a trade secret under the definition of trade secret in North Dakota Century Code section 47-25.1-01."

Staff believes that Oilseed Mills' application satisfies the requirements of North Dakota Century Code section 47-25.1-01 that allows the Commission to grant trade secret protection in this proceeding. The information is relevant to this proceeding. The Commission's process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

For reasons set forth above, staff recommends that the Commission grant Oilseed Mills' Application Requesting Trade Secret Protection in this case.

Dated this 27 day of July, 2010.


Annette Bendish
Legal Counsel