

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. GE-10-325

ORDER GRANTING TRADE SECRET PROTECTION

August 4, 2010

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). Oilseed Mills seeks protection for information in response to inquiries given by the Public Service Commission in conjunction with their Grain Warehouse License Application. Oilseed Mills filed the following description of the nature of the information sought to be protected with the July 19, 2010 application:

1. In general, the information consists of:
 - a. The Full Business Plan including identification of potential customers, suppliers, and an analysis of competitive advantages and positions.
 - b. The full Financial Projections, including all assumptions and supporting data used to prepare this analysis.
 - c. The Credit and Security Agreement between NDOM and Sodrugestvo B.V. in its entirety.
2. The information bears the trade secret designation for a variety of reasons. The information is derived from past operational data for the facility that would be not readily available to competitors in the general domain.
3. The information would give competitors a significant financial advantage in knowing and understanding our overhead cost structure, fixed costs, liquidity terms, and other financial information.
4. The information could also give competitors a significant marketing advantage in knowing and understanding our sourcing, pricing and other marketing structures.
5. A general description of persons or entities that could obtain economic value from the disclosure or use of the information includes other crushing facilities in the states of North Dakota, Minnesota or South Dakota or the Provinces of Manitoba, Alberta, or Saskatchewan. Elevators and others competing for

canola sources may find the information useful in their marketing strategies against NDOM.

Under North Dakota Century Code section 47-25.1-01(4):

“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.

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):

“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.

North Dakota Administrative Code section 69-02-09-03 requires that the “commission staff shall 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.” On July 27, 2010, Annette Bendish, Commission’s Staff Counsel (Staff), filed a response to Oilseed Mills’ request for trade secret protection.

Staff believes that Oilseed Mills’ application satisfies the requirements of North Dakota Century Code section 47-25.1-01, which allows the Commission to grant trade secret protection in this proceeding, and recommends that the Commission grant Oilseed Mills’ Application Requesting Trade Secret Protection in this case.



The Commission’s process provides a means for interested parties to review trade secret documents upon signing a nondisclosure agreement.

Order

The Commission Orders:

1. Oilseed Mills' application for trade secret protection is GRANTED.
2. This Order does not constitute precedent for subsequent trade secret decisions by the Commission.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner

Kevin Cramer
Chairman



Brian P. Kalk
Commissioner