

STATE OF NORTH DAKOTA
COUNTY OF RICHLAND

IN DISTRICT COURT
SOUTHEAST JUDICIAL DISTRICT

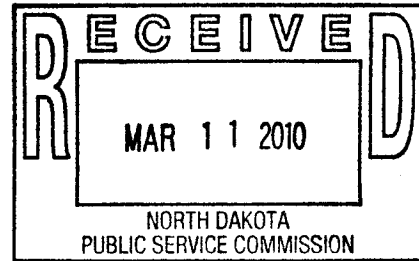
Public Service Commission)
)
Petitioner,)
)
vs.)
)
VeraSun Hankinson, LLC)
)
Respondent.)

PSC Case No. GE-09-104)
_____)

CIVIL NO. 39-9-C-462-1

AFFIDAVIT OF JAMES WIRTZ
IN SUPPORT OF
NONPAYMENT OF GRAIN
CLAIM OF JAMES WIRTZ

STATE OF NORTH DAKOTA)
)
COUNTY OF Richland)ss
)



James Wirtz states under oath as follows:

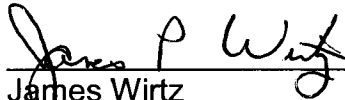
1. I swear and affirm, upon penalty of perjury, that the statements made in this affidavit are true and correct.
2. On September 9, 2008, my brother Jerry Wirtz delivered a load of corn to Wheaton-Dumont Coop Elevator at Hankinson and received scale ticket number 43677H issued to VeraSun and Jerry & Jim Wirtz. Exhibit JW-1
3. I received a copy of the Wheaton-Dumont Coop Elevator Assembly Sheet with Scale Tickets Assembly 8989, that was issued to VeraSun Hankinson, LLC with a note in the upper left corner stating "Jerry & Jim Wirtz." Exhibit JW-2

4. On September 11, 2008, Jerry Wirtz delivered nine loads of corn to VeraSun Hankinson, LLC at Hankinson. Scale ticket numbers 4655, 4662, 4671, 4675, 4685, 4693, 4698, 4705, and 4714 were issued to Vendor Jerry Wirtz each with a footnote to "Split 50/50 with James." Exhibit JW-3.
5. VeraSun Hankinson, LLC issued Assembly Sheet VHN3000704 printed on September 15, 2008, to me. The Assembly Sheet represented a total of 4,000 bushels of corn delivered against Contract No. VHN1000532. Exhibit JW-4.
6. VeraSun Hankinson, LLC issued Assembly Sheet VHN3000714 printed on September 15, 2008, to me. The Assembly Sheet represented a total of 1,242.85 bushels of corn delivered in addition to the contracted amount. Exhibit JW-5.
7. I received US Bio Hankinson, LLC check number 6841 dated September 22, 2008, for the amount of \$26,934.70 issued to me and Bank of the West. Exhibit JW-6.
8. I received Settlement Sheet VHN4000180 printed on September 23, 2008, from VeraSun Hankinson, LLC which lists Assembly Number VHN3000704, settle quantity of 4,000 bushels of corn totaling a net amount of \$20,708.10 and Assembly Number VHN3000714, settle quantity of 1,242.85 bushels of corn totaling a net amount of \$6,226.60 totaling a net check amount of \$26,934.70 with check number 006841 and check date September 22, 2008 listed on the Settlement Sheet. Exhibit JW-7.
9. I misplaced check number 6841. I called Jon Anderson at VeraSun Hankinson, LLC approximately three or four weeks after I received the check and asked that

they issue a new one. He did not do that and finally I found the check in December of 2008.

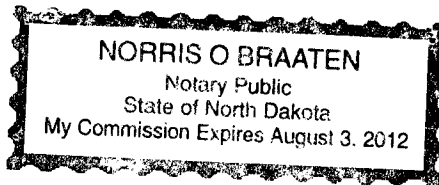
10. I deposited check number 6841 with Bank of the West. I received a statement from Bank of the West dated December 9, 2008, along with a copy of the check marked RETURN REASON – C, STOP PAYMENT, Do Not Re-deposit. Exhibit JW-8.

Dated this 10th day of March, 2010.

By: 
James Wirtz

Subscribed and sworn to before
me this 10th day of March, 2010.


Notary Public



VICTOR Redi-Set FORM • Phone: 1-800-346-4870

COPY - NOT-NEGOTIABLE
 UNITED STATES WAREHOUSE ACT - Grain Inspection and Weight Certificate
 (Inspection Not Valid for Purposes of the United States Grain Standards Act)

Wheaton - Dumont Co-op Elevator

Hankinson, North Dakota OFF

DATE 7/9/08 DRIVER: ON

NAME George V. ...

ADDRESS ...

58560

	BUSHELS			
GROSS	1	0	4	57
DOCKAGE				
NET				

COMMODITY	U.S. GRADE	TEST WT.	DOCK.	MOIST.	
<u>Corn</u>		<u>58</u>		<u>13.7</u>	
DAM. %	PROTEIN	BIN NO.	F.M.	Assembly No.	CK NO.
			<u>18</u>		

Is grain received for storage or on contract and/or sold? Yes

State price per bushel if sold, write "Price Later" if price not determined.

IN OUT

43677 H

CERTIFICATION:
 This certificate is issued by an inspector/weighter licensed under the United States Warehouse Act and Regulations thereunder.
 For the WHEATON-DUMONT CO-OP ELEVATORS, Wheaton, Minnesota

[Signature]
 Signature of Licensed Inspector and/or Weigher

33-102 • Victor Lundeen Co., Printers • Fergus Falls, MN • 1-800-346-4870

split 50/50

Wheaton-Dumont Coop Elevator Assembly Sheet with Scale Tickets

Ordered By first name on assembly only
Open And Settled Assembly Sheets
Base Price

Loc	Assembly	Commodity Code	Description	Last Delivery Date	Contract	Base Price	Assembly Date	Units	Customer Ref	Name	Assembly
H-10	8989	9	CORN	09/09/2008		0.0000	09/10/2008				
Jerry&Jim Wirtz											
								Open Storage	1,045.71	2107HM	VeraSun - Hankinson.LLC 8989

Ticket Number	Date	Gross Units	Dockage Shrink	Net Units	Base Price	Premium/Discounts								Unit Price
						TW	MST	DMG	FM	Bugs	Musty	Sour	AN FILTH	
43677H	09/09/08	1,045.71	0.00	1,045.71	0.0000	58.00	13.90	0.00	1.80	0.00	0.00	0.00	0.00	0.0000
						0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	
						0.00	0.00							
						0.0000	0.0000							
Jerry&Jim Wirtz														
		1,045.71	0.00	1,045.71		58.00	13.90	0.00	1.80	0.00	0.00	0.00	0.00	0.0000
						0.00	0.00							

Drying Charge Deduction: 0.00

Overall Assembly Grade Factor Recap

AN FILTH	0.00	Bugs	0.00	COFO	0.00	DMG	0.00
FM	1.80	MST	13.90	Musty	0.00	OTHER	0.00
Sour	0.00	TW	58.00				

Open Storage	Assembly Sheet	Commodity Codes	Units
9	H-10	CORN	1,045.71

*** REPRINT ***

VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson, ND 58041
 Phone: (701) 242-9400

DRIVER SIGNATURE	PRINTED AGENT NAME	DEALER
UNLOAD 09/11/2008		TICKET NO. : 4655
VENDOR: 1034 WIRTZ, JERRY 322 3RD AVE SW HANKINSON, ND, 58041	PRODUCER: CARRIER: BLK TRK JERRY WIRTZ	DELIVERY NO. : BOL : INBOUND DRIVER: JERRY ON SCALE TRUCK ID 3236333237

GROSS WT	82,100 LBS	09:06 AM	YELLOW CORN	U.S. No. 2
TARE WT	25,960 LBS	09:16 AM	M	14.0
NET WT	56,140 LBS	1,002.50 BU	TW	56.9
			BCFM	1.0
			DKT	0.4 OTHER
			HT	

NOTES: Split 50/50 with James Wirtz.

VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson, ND 58041
 Phone: (701) 242-9400

DRIVER SIGNATURE		PRINTED AGENT NAME		DEALER	
UNLOAD	09/11/2008			TICKET NO. :	4671
				DELIVERY NO. :	
VENDOR:		PRODUCER:		BOL:	
1034	WIRTZ, JERRY				
322 3RD AVE SW		CARRIER:		INBOUND	
HANKINSON, ND, 58041		BLK TRK	JERRY WIRTZ	DRIVER: JERRY	ON
				SCALE	
				TRUCK ID	3236333237
GROSS WT	87,620 LBS	11:19 AM	YELLOW CORN	U.S. No. 1	
TARE WT	26,000 LBS	11:26 AM	M	13.9	
NET WT	61,620 LBS	1,100.36 BU	TW	56.9	
			BCFM	1.1	
			DKT	0.2 OTHER	
			HT		

NOTES: Split 50/50 with James.

VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson, ND 58041
 Phone: (701) 242-9400

DRIVER SIGNATURE		PRINTED AGENT NAME		DEALER	
UNLOAD	09/11/2008			TICKET NO. :	4662
				DELIVERY NO. :	
VENDOR:		PRODUCER:		BOL:	
1034	WIRTZ, JERRY				
322 3RD AVE SW		CARRIER:		INBOUND	
HANKINSON, ND, 58041		BLK TRK	JERRY WIRTZ	DRIVER: JERRY	ON
				SCALE	
				TRUCK ID	3236333237
GROSS WT	56,120 LBS	10:14 AM	YELLOW CORN	U.S. No. 1	
TARE WT	25,940 LBS	10:22 AM	M	14.8	
NET WT	60,180 LBS	1,074.64 BU	TW	57.8	
			BCFM	1.3	
			DKT	0.2 OTHER	
			HT		

NOTES: Split 50/50 with James.

VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson, ND 58041
 Phone: (701) 242-9400

DRIVER SIGNATURE	PRINTED AGENT NAME	DEALER
UNLOAD 09/11/2008		TICKET NO.: 4685
VENDOR: 1034 WIRTZ, JERRY 322 3RD AVE SW HANKINSON, ND, 58041	PRODUCER: CARRIER: BLK TRK JERRY WIRTZ	DELIVERY NO.: BOL: INBOUND DRIVER: JERRY ON SCALE TRUCK ID 3236333237
GROSS WT 84,960 LBS	01:07 PM	YELLOW CORN U.S. No. 1
TARE WT 25,880 LBS	01:14 PM	M 14.2
NET WT 59,080 LBS	1,055.00 BU	TW 57.1
		BCFM 1.1
		DKT 0.2 OTHER
		HT

NOTES: Split 50/50 with James.

VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson, ND 58041
 Phone: (701) 242-9400

DRIVER SIGNATURE	PRINTED AGENT NAME	DEALER
UNLOAD 09/11/2008		TICKET NO.: 4675
VENDOR: 1034 WIRTZ, JERRY 322 3RD AVE SW HANKINSON, ND, 58041	PRODUCER: CARRIER: BLK TRK JERRY WIRTZ	DELIVERY NO.: BOL: INBOUND DRIVER: JERRY ON SCALE TRUCK ID 3236333237
GROSS WT 85,060 LBS	12:07 PM	YELLOW CORN U.S. No. 1
TARE WT 26,000 LBS	12:15 PM	M 14.3
NET WT 59,060 LBS	1,054.64 BU	TW 57.1
		BCFM 1.2
		DKT 0.2 OTHER
		HT

NOTES: Split 50/50 with James.

VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson, ND 58041
 Phone: (701) 242-9400

DRIVER SIGNATURE	PRINTED AGENT NAME	DEALER
UNLOAD 09/11/2008		TICKET NO. : 4698 DELIVERY NO. : BOL :
VENDOR: 1034 WIRTZ, JERRY 322 3RD AVE SW HANKINSON, ND, 58041	PRODUCER: CARRIER: BLK TRK JERRY WIRTZ	INBOUND DRIVER: JERRY ON SCALE TRUCK ID 3236333237
GROSS WT 83,620 LBS TARE WT 25,940 LBS NET WT 57,680 LBS	02:47 PM 02:54 PM 1,030.00 BU	YELLOW CORN U.S. No. 1 M 14.2 TW 56.5 BCFM 1.5 DKT 0.4 OTHER HT

NOTES: Split 50/50 with James.

VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson, ND 58041
 Phone: (701) 242-9400

DRIVER SIGNATURE	PRINTED AGENT NAME	DEALER
UNLOAD 09/11/2008		TICKET NO. : 4693 DELIVERY NO. : BOL :
VENDOR: 1034 WIRTZ, JERRY 322 3RD AVE SW HANKINSON, ND, 58041	PRODUCER: CARRIER: BLK TRK JERRY WIRTZ	INBOUND DRIVER: JERRY ON SCALE TRUCK ID 3236333237
GROSS WT 85,300 LBS TARE WT 25,980 LBS NET WT 59,320 LBS	01:56 PM 02:04 PM 1,059.29 BU	YELLOW CORN U.S. No. 2 M 13.3 TW 55.5 BCFM 1.2 DKT 0.3 OTHER HT

NOTES: Split 50/50 with James.

VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson, ND 58041
 Phone: (701) 242-9400

DRIVER SIGNATURE		PRINTED AGENT NAME		DEALER	
UNLOAD	09/11/2008			TICKET NO. :	4714
VENDOR:		PRODUCER:		DELIVERY NO. :	
1034	WIRTZ, JERRY			BOL :	
322 3RD AVE SW		CARRIER:		INBOUND	
HANKINSON, ND, 58041		BLK TRK	JERRY WIRTZ	DRIVER: JERRY	ON
				SCALE	
				TRUCK ID	3236333237
GROSS WT	85,120 LBS	04:21 PM	YELLOW CORN	U.S. No. 1	
TARE WT	25,860 LBS	04:28 PM	M	14.2	
NET WT	59,260 LBS	1,058.21 BU	TW	56.7	
			BCFM	1.5	
			DKT	0.2	OTHER
			HT		

NOTES: Split 50/50 with James.



VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson, ND 58041
 Phone: (701) 242-9400

DRIVER SIGNATURE		PRINTED AGENT NAME		DEALER	
UNLOAD	09/11/2008			TICKET NO. :	4705
VENDOR:		PRODUCER:		DELIVERY NO. :	
1034	WIRTZ, JERRY			BOL :	
322 3RD AVE SW		CARRIER:		INBOUND	
HANKINSON, ND, 58041		BLK TRK	JERRY WIRTZ	DRIVER: JERRY	ON
				SCALE	
				TRUCK ID	3236333237
GROSS WT	82,160 LBS	03:34 PM	YELLOW CORN	U.S. No. 1	
TARE WT	25,860 LBS	03:41 PM	M	14.3	
NET WT	56,300 LBS	1,005.36 BU	TW	57.2	
			BCFM	1.3	
			DKT	0.3	OTHER
			HT		

NOTES: Split 50/50 with James.



Assembly Sheet

1102

VeraSun Hankinson, LLC
9230 County Road 1
Hankinson ND 58041

Printed 9/15/2008 2:49:45 PM

Wirtz, James
17275 95th St SE
Fairmount ND 58030

Purchase Disposition

Grain: CORN

Contract No.:

Total 4,000.00 4,000.00 \$20,760.00 \$0.00

Grades, Premiums and Discount Totals

Grd Factor	M	TW	BCFM	DKT	HT	MUST	INF
Averages	14.06907	57.00165	1.26265	0.22736			
Disc Amt							
Adj Qty							

[Empty rectangular box]

Total Net Amt	\$20,760.00
Programs Amt	(\$51.90)
Net Amt	\$20,708.10

Assembly Status: Closed Settlement:

Program Charges

Program	ND CORN CHECKOFF
Percent	0.025%
Rate	
Amount	(\$51.90)

Assembly Sheet

VHN3000714

9/15/2008

Printed 9/15/2008 2:47:57 PM

Purchase Disposition

1102

VeraSun Hankinson, LLC
 9230 County Road 1
 Hankinson ND 58041

Wirtz, James
 17275 95th St SE
 Fairmount ND 58030

Grain: CORN

Contract No.: VHN1400540

Ticket No.	Unit No. or Carrier	Bill of Lading	Ticket Date	% Share	Ticket Qty	Net Qty	Ave Price	Gross Amt	Discounts	Net Amount
VHN00004698	3236333237		9/11/2008	20.49%	1,030.00	211.06	5.0225	\$1,060.05	\$0.00	\$1,060.05
<i>Grades</i>	<i>M</i>	<i>TW</i>	<i>BCFM</i>	<i>DKT</i>	<i>HT</i>	<i>MUST</i>				
	14.20000	56.50000	1.50000	0.40000	0.00000					
<i>Discount</i>										
<i>Shrink</i>										
Producer										
VHN00004705	3236333237		9/11/2008	50.00%	1,005.36	502.68	5.0225	\$2,524.71	\$0.00	\$2,524.71
<i>Grades</i>	<i>M</i>	<i>TW</i>	<i>BCFM</i>	<i>DKT</i>	<i>HT</i>	<i>MUST</i>				
	14.30000	57.20000	1.30000	0.30000	0.00000					
<i>Discount</i>										
<i>Shrink</i>										
Producer										
VHN00004714	3236333237		9/11/2008	50.00%	1,058.21	529.11	5.0225	\$2,657.45	\$0.00	\$2,657.45
<i>Grades</i>	<i>M</i>	<i>TW</i>	<i>BCFM</i>	<i>DKT</i>	<i>HT</i>	<i>MUST</i>				
	14.20000	56.70000	1.50000	0.20000	0.00000					
<i>Discount</i>										
<i>Shrink</i>										
Producer										

Total 1,242.85 1,242.85 \$6,242.21 \$0.00

Grades, Premiums and Discount Totals

Grd Factor	M	TW	BCFM	DKT	HT	MUST	INF
Averages	14.24045	56.86826	1.41911	0.27441			
Disc Amt							
Adj Qty							

Total Net Amt \$6,242.21
 Programs Amt (\$15.61)
 Net Amt \$6,226.60

Assembly Status: Closed Settlement:

Program Charges

Program	ND CORN CHECKOFF
Percent	0.025%
Rate	
Amount	(\$15.61)

US BIO HANKINSON, LLC

6841

Vendor ID	Name	Payment Number	Check Date	Document Number	
1102	James Wirtz	00000000000000867	9/22/2008	006841	
Our Voucher Number	Date	Amount	Amount Paid	Discount	Net Amount Paid
VHN4000180	9/15/2008	\$26,934.70	\$26,934.70	\$0.00	\$26,934.70

\$26,934.70 \$26,934.70 \$0.00 \$26,934.70

6841

US BIO HANKINSON, LLC
 5500 CENEX DRIVE, MS 175
 INVER GROVE HEIGHTS, MN 55077
 (651) 554-5000

WELLS FARGO BANK, N.A.
 11-24-1210

9/22/2008 \$26,934.70

Twenty Six Thousand Nine Hundred Thirty Four Dollars and 70 Cents

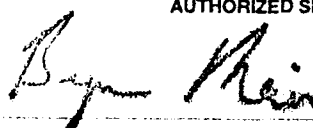
DATE AMOUNT

PAY
 TO THE
 ORDER
 OF

James Wirtz & BANK OF THE WEST

17275 95th St SE
 Fairmount ND 58030

AUTHORIZED SIGNATURE



⑈006841⑈ ⑆121000248⑆4121455703⑈

Security Features Included. Details on back.

Settlement Sheet

VHN4000180

9/15/2008

Printed 9/23/2008 1:44:51 PM

1102

Wirtz, James
17275 95th St SE
Fairmount ND 58030

VeraSun Hankinson, LLC
9230 County Road 1
Hankinson ND 58041

Assembly #	Assembly Date	Gross Qty	Net Qty	Settle Qty	Gross Amt	Discounts	Program Chgs	Net Amount Before Checkoff
VHN3000704	9/11/2008	4,000.00	4,000.00	4,000.00	\$20,760.00	\$0.00	(\$51.90)	\$20,708.10

Program Charges	
Program	ND CORN CHECKOFF
Percent	0.25%
Rate	
Amount	(\$51.90)

VHN3000714	9/15/2008	1,242.85	1,242.85	1,242.85	\$6,242.21	\$0.00	(\$15.61)	\$6,226.60
------------	-----------	----------	----------	----------	------------	--------	-----------	------------

Program Charges	
Program	ND CORN CHECKOFF
Percent	0.25%
Rate	
Amount	(\$15.61)

Check Number: 006841
Check Date: 9/22/2008
James Wirtz

\$27,002.21	\$0.00	(\$67.51)	\$26,934.70
Check Off:			\$0.00
Less: Advances			0.00
Net Check Amount			\$26,934.70



BANK OF THE WEST

800-488-2265

Date: Dec 9, 2008 Advice D-941994

Exhibit JW-8

Acct: 002/931036511

In accordance with Federal Regulations, this letter is to notify you that your account has been charged for the following item(s) returned unpaid by the drawee bank.

REASON
Stop Payment

SEQ # ITEM AMOUNT
026373 26,934.70

JAMES WIRTZ
17275 95 R ST SE
FAIRMOUNT ND 58030

1 Item charged totaling \$26,934.70

1 Item charged a fee totaling \$4.00

Advice Total \$26,938.70 (D)

⑆402333198⑆ 000000931036511⑆ ⑆0000941994⑆

321270742
12/04/2008
000008876067857

This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

RETURN REASON-C
STOP PAYMENT

⑆121100782⑆ 12/03/2008
00000610080595

US BIO HANKINSON LLC
500 CONY AVE STE 175
HVER BROOKFIELD WIS 53077
Do NOT re-deposit

WELLS FARGO BANK, N.A.
11-24-1210

9/22/2008 \$26,934.70

DATE AMOUNT

PAY TO THE ORDER OF

James Wirtz & BANK OF THE WEST

17275 95th St SE
Fairmount ND 58030

AUTHORIZED SIGNATURE

⑆006841⑆ ⑆121000248⑆ ⑆121455703⑆

⑆0002693470⑆

⑆006841⑆

⑆121000248⑆

⑆121455703⑆

⑆0002693470⑆

