

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

\_\_\_\_\_ )  
**Public Service Commission** )  
) )  
**Petitioner,** )  
) )  
**vs.** )  
) )  
**Sustainable Systems, LLC** )  
**dba Montola** )  
**Respondent.** )  
\_\_\_\_\_ )  
**PSC Case No. GE-09-112** )  
\_\_\_\_\_ )

CIVIL NO. \_\_\_\_\_

**AFFIDAVIT OF SERVICE  
BY CERTIFIED  
MAIL**

STATE OF NORTH DAKOTA )  
)ss  
COUNTY OF BURLEIGH )

John Hamre deposes and says that:

he is over the age of 18 years and not a party to this action and, on the **5<sup>th</sup> day of May, 2009**, he deposited in the United States Mail, Bismarck, North Dakota, **ten envelopes** with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

1. Application for Appointment as Trustee.
2. Affidavit of Susan K. Richter.
3. Brief in Support of Application for Appointment as Trustee.
4. Notice of Application for Appointment as Trustee Under Rule 3.2.
5. Affidavit of Service by Certified Mail.

The envelopes were addressed as follows:

Kevin Kreisler, Chairman  
GreenShift Corporation/Sustainable Systems, LLC  
One Penn Plaza, Suite 1612  
New York, NY 10119  
**Cert. No. 7008 2810 0000 4606 6873**

National Registered Agents, Inc.  
Registered Agent for Sustainable Systems LLC  
PO Box 1776  
Bismarck, ND 58502  
**Cert. No. 7008 2810 0000 4606 6880**

Paul Miller  
Sustainable Systems, LLC dba Montola  
Hwy 2 East  
Culbertson, MT 59218  
**Cert. No. 7008 2810 0000 4606 6897**

Sherri Cooper, Senior Claim Representative  
Travelers Casualty & Surety Co. of America  
33650 6<sup>th</sup> Avenue S, Suite 200  
Federal Way, WA 98003  
**Cert. No. 7008 2810 0000 4606 6903**

Dustin Johnsrud  
Box 68  
Epping, ND 58843  
Cert. No. 7008 2810 0000 4606 6927

Dennis Johnsrud  
6121 125<sup>th</sup> Avenue NW  
Epping, ND 58843  
Cert. No. 7008 2810 0000 4606 6910

Ernest Schober  
14403 80<sup>th</sup> Street SW  
Bowman, ND 58623  
Cert. No. 7008 2810 0000 4606 6958

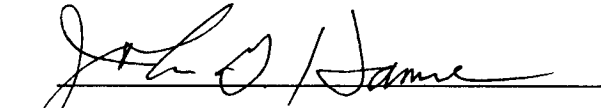
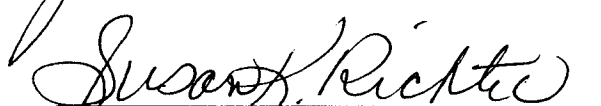
Myron Lee  
15051 58<sup>th</sup> Street Northwest  
Williston, ND 58801  
Cert. No. 7008 2810 0000 4606 6934

Gene Johnson  
6488 Highway 40  
Tioga, ND 58852-9266  
Cert. No. 7008 2810 0000 4606 6941

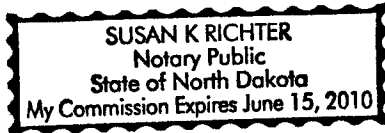
Arlyn Ledahl  
8780 CR 7  
Zahl, ND 58856  
Cert. No. 7008 2810 0000 4606 6965

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this 5<sup>th</sup> day of May, 2009.

  
  
Notary Public

SEAL



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

_____	)	
<b>Public Service Commission</b>	)	<b>CIVIL NO. _____</b>
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>Sustainable Systems, LLC</b>	)	<b>APPLICATION FOR</b>
<b>dba Montola</b>	)	<b>APPOINTMENT AS TRUSTEE</b>
	)	
<b>Respondent.</b>	)	
_____	)	
<b>PSC Case No. GE-09-112</b>	)	
_____	)	

The North Dakota Public Service Commission (Commission) alleges as follows:

1.

Sustainable Systems, LLC doing business as Montola, a Limited Liability Company, authorized to business in North Dakota, operates as a roving grain buyer in North Dakota and is licensed under North Dakota Century Code Chapter 60-02.1.

2.

Sustainable Systems, LLC doing business as Montola operates as a roving grain buyer in North Dakota under license number 3151.

3.

A surety bond is on file with the Commission as required by North Dakota Century Code § 60-02.1-08. The surety bond is for \$130,000 and identified as number

105142048 with Travelers Casualty & Surety Company of America, One Tower Square  
– 3 SHS, Hartford, Connecticut 06183, as surety.

4.

The Commission received letters from Dustin Johnsrud, Box 68, Epping, North Dakota 58843 , Dennis Johnsrud, 6121 125<sup>th</sup> Avenue Northwest, Epping, North Dakota 58843, Myron Lee, 15051 58<sup>th</sup> Street Northwest, Williston, North Dakota 58801, Gene Johnson, 6488 Highway 40, Tioga, North Dakota 58852-9266, and Ernest Schober, 14403 80<sup>th</sup> Street Southwest, Bowman, North Dakota 58623, each setting forth a claim against Sustainable Systems, LLC doing business as Montola for collection of outstanding funds owing to them. Copies of the letters and supporting documentation are attached as Exhibit A.

5.

Sustainable Systems, LLC doing business as Montola operates a crushing facility in Culbertson, Montana that is licensed by the Montana Department of Agriculture and has been receiving safflower from North Dakota producers for crushing into oil.

6.

The Commission was informed and believes that there are outstanding obligations for unpaid claims for grain sold to Sustainable Systems, LLC doing business as Montola as a roving grain buyer under North Dakota Century Code Chapter 60-02.1 for which bond protection is available under the provisions of North Dakota Century Code § 60-02.1-08 and for any credit-sale contracts for which protection is available from the credit-sale contract indemnity fund under North Dakota Century Code §§ 60-10-04 and 60-10-05.

7.

Sustainable Systems, LLC doing business as Montola is insolvent under North Dakota Century Code Chapter 60-02.1, in that it is unable upon proper demand to make payment for grain purchased or marketed or is unable to make redelivery upon proper demand.

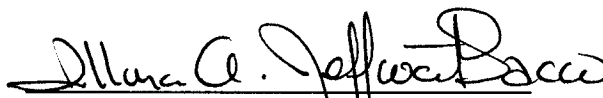
8.

The Commission is legally entitled to be appointed trustee of the trust fund provided under North Dakota Century Code Chapter 60-02.1.

**WHEREFORE** the Public Service Commission respectfully requests:

1. That the Court declare Sustainable Systems, LLC doing business as Montola **INSOLVENT** within the meaning of North Dakota Century Code Chapter 60-02.1
2. That the Court **APPOINT** the Public Service Commission as trustee of the trust fund under North Dakota Century Code § 60-02.1-29.

Bismarck, North Dakota, this **5<sup>th</sup> day of May, 2009.**



Illona A. Jeffcoat-Sacco (ID#03315)  
Annette Bendish (ID#05790)  
Special Assistant Attorneys General  
State Capitol – 12<sup>th</sup> Floor  
600 E Boulevard Ave – Dept 408  
Bismarck, North Dakota 58505-0480  
701-328-2400

Attorneys for the Public Service Commission

Dustin Johnsrud  
Box 68  
Epping ND, 58843  
701-859-6155

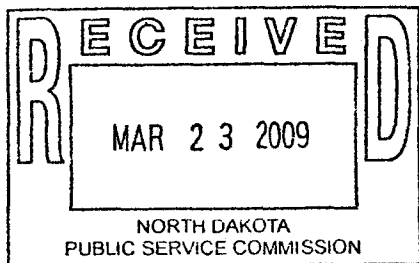
Dennis Johnsrud  
6121 125<sup>th</sup> ave nw  
Epping, ND 58843  
701-859-5155

We would like to put a bond claim against Sustainable Systems, LLC. We delivered 8 loads of Safflower from 10/22/2008 to 10/28/2008. Dustin has not received any of his payment of \$25,206.60. Dennis has not received any of his payment of ~~\$71,701.56~~. Enclosed is the Settlement sheets, and copies of the contracts.

72,309.55

Thank You,

*Dennis Johnsrud*  
*Dustin Johnsrud*



**SUSTAINABLE SYSTEMS, LLC**

P.O. Box 478  
Culbertson, MT 59218

Tel: 406-787-6616  
Fax: 406-787-6362

Toll Free: 1-877-666-8652

**2008 SAFFLOWER PRODUCTION CONTRACT**

Contract 80012

Producer: DUSTIN JOHNSRUD Acres: 130

Address: 6121 125<sup>TH</sup> AVE NW City: EPPING

State: ND Zip: 58843 County: WILLIAMS

[REDACTED] Phone#: 701-859-5155

BUYER (Sustainable Systems, LLC) agrees to purchase PRODUCER'S entire safflower crop production from the contracted acres at a price of \$0.25/lb delivered FOB to Culbertson, MT 59218 basis pure, clean, sound, dry (8% moisture or less) safflower seed grading No 2 Montana or better. Weight settlement shall be delivered basis. The terms and conditions stated herein constitute the entire agreement between BUYER and PRODUCER, and these terms and conditions can only be modified by a written document signed by the BUYER and PRODUCER.

Freight allowance: Field location 100 to 149 miles from plant \$.25/cwt. Field location more than 149 miles from plant \$.50/cwt. Freight will be based on net seed delivered.

Miles from Culbertson, MT:  100-149 miles  More than 149 miles

Name and address of any other person claiming an interest in ownership or security interest in producer's Safflower (see paragraph 4 on reverse side) of \_\_\_\_\_

This contract is binding and constitutes an agreement when accepted and signed by a representative from Sustainable Systems, LLC

Accepted: Date: \_\_\_\_\_

[Signature]  
Producer's Signature

Accepted: Date: 9-8-08

[Signature]  
Sustainable Systems, LLC (Buyer)

**"NOTICE: FINANCIAL RISK STATEMENT:  
IN THE EVENT OF FINANCIAL INSOLVENCY, AMOUNTS OWING AFTER SURETY BOND PAYMENT, MAY RESULT IN AN UNSECURED OBLIGATION. THE SELLER IS HEREBY ADVISED OF THE FINANCIAL RISK INVOLVED WITH THIS TYPE OF CONTRACT."**

**SUSTAINABLE SYSTEMS, LLC**

P.O. Box 478  
Culbertson, MT 59218

Tel: 406-787-6616  
Fax: 406-787-6362

Toll Free: 1-877-666-8652

**2008 SAFFLOWER PRODUCTION CONTRACT**

Contract 80011

Producer : DENNIS JOHNSRUD Acres: 670

Address: 6121 125<sup>TH</sup> AVE NW City: EPPING

State: ND Zip: 58843 County: WILLIAMS

Social Security # or Tax ID [REDACTED] Phone#: 701-859-5155

BUYER (Sustainable Systems, LLC) agrees to purchase PRODUCER'S entire safflower crop production from the contracted acres at a price of ~~\$0.23/lb~~ <sup>28 DR</sup> delivered FOB to Culbertson, MT 59218 basis pure, clean, sound, dry (8% moisture or less) safflower seed grading No 2 Montana or better. Weight settlement shall be delivered basis. The terms and conditions stated herein constitute the entire agreement between BUYER and PRODUCER, and these terms and conditions can only be modified by a written document signed by the BUYER and PRODUCER.

Freight allowance: Field location 100 to 149 miles from plant \$.25/cwt. Field location more than 149 miles from plant \$.50/cwt. Freight will be based on net seed delivered.

Miles from Culbertson, MT:  100-149 miles  More than 149 miles

Name and address of any other person claiming an interest in ownership or security interest in producer's Safflower (see paragraph 4 on reverse side of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This contract is binding and constitutes an agreement when accepted and signed by a representative from Sustainable Systems, LLC

Accepted: Date: \_\_\_\_\_

Accepted: Date: 4-8-08

[Signature]  
\_\_\_\_\_  
Producer's Signature

[Signature]  
\_\_\_\_\_  
Sustainable Systems, LLC (Buyer)

**"NOTICE: FINANCIAL RISK STATEMENT:  
IN THE EVENT OF FINANCIAL INSOLVENCY, AMOUNTS OWING AFTER SURETY BOND PAYMENT, MAY RESULT IN AN UNSECURED OBLIGATION. THE SELLER IS HEREBY ADVISED OF THE FINANCIAL RISK INVOLVED WITH THIS TYPE OF CONTRACT."**

## SAFFLOWER CROP PRODUCTION CONTRACT - TERMS AND CONDITIONS

BUYER and PRODUCER agree that PRODUCER shall plant the safflower planting seed received from the BUYER only on the contracted acres herein and in accordance with BUYER'S specification, shall produce and deliver his entire safflower seed crop to BUYER'S designated delivery point, FOB Culbertson, MT. PRODUCER shall provide continuing security for the safflower planting seed and crop seed and shall not dispose any part of it other than in accordance with this contract.

1. PRODUCER shall deliver his entire production of safflower seed of storable and milling quality produced from the acreage herein indicated. Oil analysis shall be performed by an official grain inspection service. A copy of said analysis shall be furnished to both BUYER and PRODUCER. BUYER will accept safflower seed with up to 8% moisture content and free of insect infestation. A premium of 2% of the contract price shall be made for each 1% (or fraction thereof) of oil content above 37%. Seed testing below 37% oil content shall be subject to the following discount schedule: 36.9% - 34% - will be discounted 2% of contract price for each 1% (or fraction thereof) of oil content below 37%. 33.9% - 30% - will be discounted 3% of contract price for each 1% (or fraction thereof) of oil content below 37%. Oil content below 30% shall be negotiable and subject to rejection. A deduction of 1% of the delivered weight for each 1% (or fraction thereof) of foreign matter shall be made. A deduction of \$1.00/cwt of the contract price shall be made for No. 3 Montana safflower seed. For safflower seed grading less than No. 3 Montana, the following discounts from the contract price shall apply: 2.5% deduction for each 1% (or fraction thereof) heat damage above 0.5%. Sprouted safflower seed is subject to rejection. Any rejected seed shall be removed at producer's expense.
2. PRODUCER shall keep safflower seed identity preserved and variety must not be grown adjacent to, or mixed with, seed of other variety during transportation, planting, harvest, seed storage and handling. BUYER shall have the option to cancel this contract should PRODUCER fail to keep seed identity preserved.
3. PRODUCER shall cause the production of safflower seed to be delivered at the time to be indicated in writing by BUYER. BUYER shall have the option to cancel this contract should PRODUCER fail to deliver seed at the place and time indicated by BUYER. Should BUYER not cancel this contract, PRODUCER shall be responsible for all costs related to seed movement until delivery. If storage is unavailable at the plant at harvest, storage payment of \$1/ton/month (clean seed basis) will be paid starting November 1, 2008.
4. PRODUCER warrants that as of the date of acceptance by the PRODUCER there are no prior claims to future crops except as noted on the front, and PRODUCER shall promptly notify BUYER in writing prior to September 1<sup>st</sup> of crop year, of the name and address of any person or persons who may claim an interest in the crop and agrees to hold BUYER harmless for any act or omission in respect to such interest not known to BUYER.
5. Immediately upon receipt of the safflower seed, the grade, dockage, and moisture content shall be established by a Sustainable Systems, LLC representative, based on unload samples taken at the time of delivery. Sustainable Systems, LLC shall retain an average sample of each delivery for a period of not more than 90 days, and, in the event of a disagreement on grade and/or dockage, shall, at the request and expense of the producer, forward this sample for final analysis to a government/independent laboratory for final analysis, whose decision shall be final and conclusive.
6. Promptly after PRODUCER'S deliveries are completed and after receipt of weight and quality certificates, BUYER shall make 70% settlement with PRODUCER and/or any lienholder of whom PRODUCER has given notice under Section 4, after first deducting any charges and deductions provided for in Sections 1, 3 and 4 above and any indebtedness then owing from PRODUCER to BUYER. Thirty percent payment will be made on March 1, 2009.
7. PRODUCER agrees to provide BUYER with the legal description(s) of the field(s) planted to safflower upon request by BUYER.
8. Governing Law: This contract shall be governed by the laws of the state of Montana and the National Institute of Oilseed Products Trading Rules as in effect on the date of contract.
9. Liquidated Damages: If BUYER determines that the PRODUCER has violated its obligation to deliver PRODUCER'S entire production of seed under this contract, liquidated damages shall be assessed by multiplying the quantity of seed which is in violation of this obligation by twice the highest price quoted by BUYER for the purchase of PRODUCER'S crop.
10. Force Majeure: Delays in, or nonperformance of this contract shall be excused if caused by fire, floods, crop failures, wind, frosts, drought, disasters, acts of any governmental authority or events beyond the control of the parties. In the event of a crop failure for any reason, the PRODUCER shall notify the BUYER immediately in writing in order that a representative may inspect the acreage and/or the produce. The PRODUCER shall not plow down or reseed above said acres or any portion thereof without BUYER'S consent.
11. Assignment: PRODUCER may not assign PRODUCER'S rights or obligations hereunder without prior written consent of BUYER. Subject to the foregoing, this contract shall inure to the benefit of and bind the successors, assigns and personal representatives of the parties.

Montola a division of Sustainable Systems, LLC  
 Box 478  
 Culbertson, MT 59218

Safflower Seed Settlement Sheet

DENNIS JOHNSRUD  
 6121 125TH AVE NW  
 EPPING, ND 58843

Contract# 80011  
 Acres 670

Date	Ticket #	Gross Lb	FM%	FM Lbs	Moisture	Moisture Pounds	Net Lbs	Oil %	(Discount) Premium	2% of 28	Disc/LB	(Discount) Premium
10/22/2008	2781	44680	1	447	7.8	0	44233	37.90	0.90	0.0066	0.00504	222.93
10/22/2008	2784	45520	1	455	7.6	0	45065	38.40	1.40	0.0066	0.00784	353.31
10/23/2008	2785	44400	2	888	6.9	0	43512	37.10	0.10	0.0066	0.00056	24.37
10/24/2008	2787	44540	2	891	6.4	0	43649	37.30	0.30	0.0066	0.00168	73.33
10/24/2008	2791	45900	3	1377	6.4	0	44523	37.20	0.20	0.0066	0.00112	49.87
10/28/2008	2793	36180	3	1085	6.3	0	36095	37.00	0.00	0.0066	0.00000	0.00
		261220		5143		0	256077					723.81

0 256077  
 0.28

256077 Net Pound  
 670 Acres Contracted  
 382 Avg Pounds Per Acre

37.50 Avg oil

71,701.56  
 723.81 Oil (Discount)/Premium  
 (39.00) Lab Charges @ \$6.50 Each

(76.82) ND Check off fee

~~72,500.00~~  
 50,616.68 70% harvest payment  
 21,892.87 March 1st payment

Montola a division of Sustalrable Systems, LLC  
 Box 478  
 Culbertson, MT 59218

Safflower Seed Settlement Sheet

DUSTIN JOHNSRUD  
 6121 125TH AVE NW  
 EPPING, ND 58843

Contract# 80012  
 Acres 130

Date	Ticket #	Gross Lb	FM%	FM Lbs	Moisture	Moisture Pounds	Net Lbs	Oil %	(Discount) Premium	2% of .28	Disc/LB	(Discount) Premium
10/24/2008	2789	45580	2	912	6.3	0	44668	37.20	0.20	0.0056	0.00112	50.03
10/27/2008	2790	46060	2	921	6.1	0	45139	37.20	0.20	0.0056	0.00112	50.56
		91640		1833		0	89807					100.58
							0.28					

89807 Net Pound  
 130 Acres Contracted  
 691 Avg Pounds Per Acre  
 37.20 Avg oil

25,145.96  
 100.58 Oil (Discount)/Premium  
 (13.00) Lab Charges @ \$8.50 Each  
 (26.94) ND Check off fee

---

25,208.80

17,644.62 70% harvest payment  
 7,561.98 March 1st payment

MONTOLA – A Division of...



P.O. Box 478, Hwy 2 E., Culbertson, Montana 59218 [www.sustainablessystemslc.com](http://www.sustainablessystemslc.com); [www.montola.com](http://www.montola.com)  
Ph: 1.406.532.3268 Fax: 1.406.543.2304 [info@sustainablessystemslc.com](mailto:info@sustainablessystemslc.com)

March 12, 2009

TO: Montola Producers

RE: Progress on Line of Credit

Dear Producers,

We are currently performing a field exam by Evergreen Lender Services. Evergreen has been retained by our senior lender in their effort to provide us with the working capital line we need to ensure full payment on the seed that you have delivered. Evergreen is at the plant this week with expected completion by Tuesday of next week, this analysis is required for us to secure our inventory line. As you may know we worked very hard on obtaining a similar loan with ASB, however even with a significant cash reserve escrowed, ASB declined the loan. We are sorry for the continued delay and are putting forth best efforts in these very difficult times.

Again, we do not plan to give up on this effort as we believe that continuing on this path is the best opportunity for you to realize contract value for the delivered crop in this deflationary environment. The alternative is a receivership and liquidation of the inventory into a down market and Montola going out of business. We understand how very important payments are to you and believe that working towards a closing of a line of credit presents the best opportunity for each of you to get paid. We remain focused in obtaining the financial resources we need to succeed. We ask that you please be patient for a little while longer while we work through these issues.

Please call me if you need additional information at 406-546-5263 or at 406-532-3268.

Sincerely,

Paul T. Miller  
Manager

cc. Ed Carroll, Kevin Kreisler

MONTOLA – A Division of...



P.O. Box 478, Hwy 2 E., Culbertson, Montana 59218 [www.sustainable-systems-llc.com](http://www.sustainable-systems-llc.com); [www.montola.com](http://www.montola.com)  
Ph: 1.406.532.3268 Fax: 1.406.543.2304 [info@sustainable-systems-llc.com](mailto:info@sustainable-systems-llc.com)

December 29, 2008

TO: Montola Producers

RE: Payment Update


Dear Producers,

Since resolving the issue with Sheridan Electric, Sustainable Systems have been diligently working with American State Bank on the inventory financing. As you may know the markets have under gone a dramatic deflation and the Company is not immune to this reality. The bank is considering this market environment, the credit environment and the ability to convert inventory to cash and repay them. We are hopeful that we will be able to close the line of credit and issue the 70% payment to each of you and are working hard to make this happen. As of Tuesday December 23, 2008 American State Bank has re-approved the Line of Credit at the Committee level. We understand from American State Bank that the board met today on Monday December 29, 2008 to re-review our line of credit. They have conditionally approved the \$1,800,000 line of credit and we are working with the bank to satisfy the conditions and get the funds released as soon as possible.

I have spoken to a number of you over the past three months. The Company understands the importance of this payment to each of you and will continue to keep you informed as it progresses with the bank. The Company also understands that you may have an operating line with an interest rate. Therefore it intends to pay 10% annualized interest on the value of the crop, that is 30 days after the last load, that you have delivered. For example if your last load was September 30, 2008, the 10% interest on the value of your contracted payment would start October 30, 2008.

Again, you will be kept informed as progress is made on these conditions with the lender. Please call me if you need additional information at 406-546-5263 or at 406-532-3268.

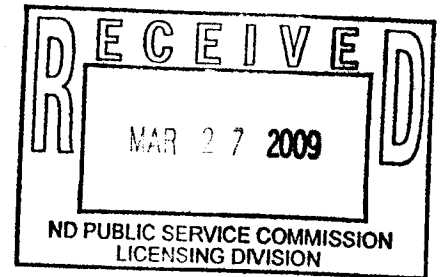
Sincerely,



Paul T. Miller  
Manager

Cc Ed Carroll, Kevin Kreisler

To North Dakota Public Service Commission,



I am writing to you regarding the Montola crushing plant owned by Sustainable Systems in Culbertson, Montana. I delivered my safflower to them last fall and have not received payment for it. I am enclosing a copy of the contract and settlement sheet showing how much they owe. My name is Myron Lee and I farm with my brother, Harvey Lee, and some of the safflower was on shares with my dad, Obert Lee. I also have a sunflower contract with them but have not delivered the sunflower crop to them. I will stand to lose a lot of money on them since I had them contracted for a much higher price than I can get for them now.

What they owe my family for the safflower is \$34,227.65. The shares work out to:

Myron Lee \$13,359.91

Harvey Lee \$13,359.91

Obert Lee \$7,507.83

Our sunflowers were contracted for .295 cents per pound and we have approximately 280,000 pounds which is worth \$82,600. If I have to sell them on the open market today, we would only get \$40,000 and I would have to pay trucking to Enderlin, ND, which is almost 400 miles from my farm rather than the 30 miles I had planned to haul them to Culbertson, MT.

I have received 5 letters in the last 3 months stating they were close to getting a loan and would pay soon. I just talked to Paul Miller, the manager, on the phone and he now says that he will know on Friday March 27<sup>th</sup>. He says if the bank will give them the loan we will get paid and if they are turned down this time they are done. I hope they get their loan and pay us in full, but if not, please do what you can to get our crops paid for.

Thank you for your consideration,

Myron Lee

15051 58<sup>th</sup> st. NW

Williston, ND 58801

Montola a division of Sustainable Systems, LLC  
 Box 478  
 Culbertson, MT 59218

Safflower Seed Settlement Sheet

MYRON & HARVEY LEE  
 15051 58TH ST NW  
 WILLISTON, ND 58801

Contract# 80034  
 Acres 175

Date	Ticket #	Gross Lb	FM%	FM Lbs	Moisture	Moisture Pounds	Net Lbs	Oil %	(Discount) Premium 2% of 28	Disc/LB	(Discount) Premium	Test Weight	
9/26/2008	2723	33240	4	1330	7.0	0	31910	37.10	0.10	0.0056	0.00056	17.87	41
9/26/2008	2724	22620	4	905	6.1	0	21715	37.10	0.10	0.0056	0.00056	12.16	41
9/26/2008	2725	29900	3	897	5.9	0	29003	37.00	0.00	0.0056	0.00000	0.00	41
9/29/2008	2727	19060	3	572	5.7	0	18488	37.20	0.20	0.0056	0.00112	20.71	41
9/29/2008	2728	21760	3	653	5.9	0	21107	37.20	0.20	0.0056	0.00112	23.64	41

126580

4357

0

122223

0.28

74.38

122223 Net Pound  
 175 Acres Contracted  
 698 Avg Pounds Per Acre  
 37.11 Avg oil

34,222.44  
 74.38 Oil (Discount)/Premium  
 (32.50) Lab Charges @ \$6.50 Each  
 (36.67) ND Check Off fee

34,227.65

23,959.35 70% harvest payment

10,268.30 March 1st payment

 SUSTAINABLE SYSTEMS, LLC

P.O. Box 478 Tel: 406-787-6616  
Culbertson, MT 59218 Fax: 406-787-6362  
Toll Free: 1-877-666-8652

**2008 HIGH OLEIC SUNFLOWER PRODUCTION CONTRACT**

Contract S815  
Producer: MYRON & HARVEY LEE Acres: 300  
Address: 15051 58<sup>TH</sup> ST NW City: WILLISTON  
State: ND Zip: 58801 County: WILLIAMS  
Social Security # or Tax ID: [REDACTED] Phone # 701-875-4231

BUYER (Sustainable Systems, LLC) agrees to purchase PRODUCER'S entire high oleic (minimum 80% oleic) sunflower crop production from the contracted acres delivered to Montola's facility at Culbertson, MT 59218 basis pure, clean, sound, dry (10% moisture or less) high oleic sunflower seed meeting specifications outlined in this contract. Weight settlement shall be delivered basis. Pricing is to be established under the terms of pricing explained on the back of this contract. The terms and conditions stated herein constitute the entire agreement between BUYER and PRODUCER, and these terms and conditions can only be modified by a written document signed by the BUYER and PRODUCER. Delivery Period- Delivery will be at Buyers call with anticipation to commence Jan 1, 2009. As storage becomes available, early delivery may be accepted with payment delayed to original delivery times.

Freight allowance: Field location 100 to 149 miles from plant \$.25/cwt. Field location more than 149 miles from plant \$.50/cwt. Freight will be based on net seed delivered.  
Miles from Culbertson, MT:  100-149 miles  More than 149 miles

Name and address of any other person claiming an interest in ownership or security interest in producer's High Oleic Sunflower (see paragraph 4 on reverse side of this agreement)

Obert Lee  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This contract is binding and constitutes an agreement when accepted and signed by a representative from Sustainable Systems, LLC

Accepted: Date: 3-10-08

Accepted: Date: 4-1-08

Myron Lee  
\_\_\_\_\_  
Producer's Signature

[Signature]  
\_\_\_\_\_  
Sustainable Systems LLC (Buyer)

**"NOTICE: FINANCIAL RISK STATEMENT:  
IN THE EVENT OF FINANCIAL INSOLVENCY, AMOUNTS OWING AFTER SURETY BOND PAYMENT, MAY RESULT IN AN UNSECURED OBLIGATION. THE SELLER IS HEREBY ADVISED OF THE FINANCIAL RISK INVOLVED WITH THIS TYPE OF CONTRACT."**

**HIGH OLEIC SUNFLOWER CROP PRODUCTION CONTRACT - TERMS AND  
CONDITIONS**

BUYER and PRODUCER agree that PRODUCER shall plant the High Oleic planting seed received only from the BUYER'S representative on the contracted acres herein and in accordance with BUYER'S specification, shall produce and deliver his entire high oleic (minimum 80% oleic) sunflower seed crop to BUYER'S designated delivery point, FOB Montola at Culbertson, MT. PRODUCER shall provide continuing security for the high oleic sunflower planting seed and crop seed and shall not dispose any part of it other than in accordance with this contract.

1. PRODUCER shall deliver his entire production of high oleic sunflower seed of storable and milling quality produced from the acreage herein indicated. Oil analysis shall be performed by an official grain inspection service. A copy of said analysis shall be furnished to both BUYER and PRODUCER. BUYER will accept high oleic sunflower seed (Minimum 80% Oleic) with up to 10% moisture content and free of insect infestation. A premium or discount of 2% of the contract price shall be made for each 1% (or fraction thereof) of oil content above or below 40% to 38%, 3% deduction from 37.9-33% and 4% deduction below 33%. A deduction of 1% of the delivered weight for each 1% (or fraction thereof) of foreign matter shall be made. Minimum test weight twenty five pounds (25lbs) per bushel - discount 2% of the contract base price for each one pound under twenty five pounds (25lbs). Other discounts to apply: 3% deduction for each 1% (or fraction thereof) heat damage above 0.5% (Max allowed 2%), regular damage excluding heat damage 2% of the contract price for each 1% damage over 5% to a maximum 15% damage. Sprouted sunflower seed is subject to rejection. Any rejected seed shall be removed at producer's expense.
2. PRICING- This contract is a basis priced contract of \$.015/lb. over the new crop (Nov 2008 Delivery) bid quoted by ADM in Enderlin ND. Producer has the option and the responsibility to establish the price of this contract by calling Montola 877-666-8652 during business hours 8am-4pm Mon-Fri excluding holidays and signifying intent to price by March 31, 2008. If pricing has not been established by March 31, 2008 the bid given at close of business that day will be automatically assigned to this contract. A pricing verification will be provided to producer and must be signed and returned to secure pricing.
3. PRODUCER shall keep sunflower seed identity preserved and variety must not be grown adjacent to, or mixed with, seed of other variety during transportation, planting, harvest, seed storage and handling. BUYER shall have the option to cancel this contract should PRODUCER fail to keep seed identity preserved.
4. PRODUCER shall cause the production of sunflower seed to be delivered at the time to be indicated in writing by BUYER. BUYER shall have the option to cancel this contract should PRODUCER fail to deliver seed at the place and time indicated by BUYER. Should BUYER not cancel this contract, PRODUCER shall be responsible for all costs related to seed movement until delivery.
5. PRODUCER warrants that as of the date of acceptance by the PRODUCER there are no prior claims to future crops except as noted on the front, and PRODUCER shall promptly notify BUYER in writing prior to September 1<sup>st</sup> of crop year, of the name and address of any person or persons who may claim an interest in the crop and agrees to hold BUYER harmless for any act or omission in respect to such interest not known to BUYER.
6. Immediately upon receipt of the sunflower seed, the grade, dockage, and moisture content shall be established by a Montola representative, based on unload samples taken at the time of delivery. Montola shall retain an average sample of each delivery for a period of not more than 90 days, and, in the event of a disagreement on grade and/or dockage, shall, at the request and expense of the producer, forward this sample for final analysis to a government/independent laboratory for final analysis, whose decision shall be final and conclusive.
7. Promptly after PRODUCER'S deliveries are completed and after receipt of weight and quality certificates, BUYER shall make 70% settlement with PRODUCER and/or any lienholder of whom PRODUCER has given notice under Section 4, after first deducting any charges and deductions provided for in Sections 1, 3 and 4 above and any indebtedness then owing from PRODUCER to BUYER. Thirty percent payment will be made on March 1, 2009.
8. PRODUCER agrees to provide BUYER with the legal description(s) of the field(s) planted to sunflower upon request by BUYER.
9. Governing Law: This contract shall be governed by the laws of the state of Montana and the National Institute of Oilseed Products Trading Rules as in effect on the date of contract.
10. Liquidated Damages: If BUYER determines that the PRODUCER has violated its obligation to deliver PRODUCER'S entire production of seed under this contract, liquidated damages shall be assessed by multiplying the quantity of seed which is in violation of this obligation by twice the highest price quoted by BUYER for the purchase of PRODUCER'S crop.
11. Force Majeure: Delays in, or nonperformance of this contract shall be excused if caused by fire, floods, crop failures, wind, frosts, drought, disasters, acts of any governmental authority or events beyond the control of the parties. In the event of a crop failure for any reason, the PRODUCER shall notify the BUYER immediately in writing in order that a representative may inspect the acreage and/or the produce. The PRODUCER shall not plow down or reseed above said acres or any portion thereof without BUYER'S consent.
12. Assignment: PRODUCER may not assign PRODUCER'S rights or obligations hereunder without prior written consent of BUYER. Subject to the foregoing, this contract shall inure to the benefit of and bind the successors, assigns and personal representatives of the parties.





**SUSTAINABLE SYSTEMS, LLC**

P.O. Box 478  
Culbertson, MT 59218

Tel: 406-787-6616  
Fax: 406-787-6362

Toll Free: 1-877-666-8652

**2008 SAFFLOWER PRODUCTION CONTRACT**

Contract 80034

Producer : MYRON & HARVEY LEE Acres: 175

Address: 15051 58<sup>TH</sup> ST NW City: WILLISTON

State: ND Zip: 58801 County: WILLIAMS

Social Security # or Tax [REDACTED] Phone#: 701-875-4231

BUYER (Sustainable Systems, LLC) agrees to purchase PRODUCER'S entire safflower crop production from the contracted acres at a price of \$0.28/lb delivered FOB to Culbertson, MT 59218 basis pure, clean, sound, dry (8% moisture or less) safflower seed grading No 2 Montana or better. Weight settlement shall be delivered basis. The terms and conditions stated herein constitute the entire agreement between BUYER and PRODUCER, and these terms and conditions can only be modified by a written document signed by the BUYER and PRODUCER.

Freight allowance: Field location 100 to 149 miles from plant \$.25/cwt. Field location more than 149 miles from plant \$.50/cwt. Freight will be based on net seed delivered.

Miles from Culbertson, MT:  100-149 miles  More than 149 miles

Name and address of any other person claiming an interest in ownership or security interest in producer's Safflower (see paragraph 4 on reverse side) of Robert Lee

This contract is binding and constitutes an agreement when accepted and signed by a representative from Sustainable Systems, LLC

Accepted: Date: 3-22-08

Accepted: Date: 4-1-08

Myron Lee  
Producer's Signature

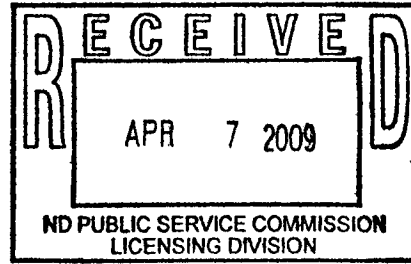
[Signature]  
Sustainable Systems, LLC (Buyer)

**"NOTICE: FINANCIAL RISK STATEMENT:**  
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## SAFFLOWER CROP PRODUCTION CONTRACT - TERMS AND CONDITIONS

BUYER and PRODUCER agree that PRODUCER shall plant the safflower planting seed received from the BUYER only on the contracted acres herein and in accordance with BUYER'S specification, shall produce and deliver his entire safflower seed crop to BUYER'S designated delivery point, FOB Culbertson, MT. PRODUCER shall provide continuing security for the safflower planting seed and crop seed and shall not dispose any part of it other than in accordance with this contract.

1. PRODUCER shall deliver his entire production of safflower seed of storable and milling quality produced from the acreage herein indicated. Oil analysis shall be performed by an official grain inspection service. A copy of said analysis shall be furnished to both BUYER and PRODUCER. BUYER will accept safflower seed with up to 8% moisture content and free of insect infestation. A premium of 2% of the contract price shall be made for each 1% (or fraction thereof) of oil content above 37%. Seed testing below 37% oil content shall be subject to the following discount schedule. 36.9% - 34% - will be discounted 2% of contract price for each 1% (or fraction thereof) of oil content below 37%. 33.9% - 30% - will be discounted 3% of contract price for each 1% (or fraction thereof) of oil content below 37%. Oil content below 30% shall be negotiable and subject to rejection. A deduction of 1% of the delivered weight for each 1% (or fraction thereof) of foreign matter shall be made. A deduction of \$1.00/cwt of the contract price shall be made for No. 3 Montana safflower seed. For safflower seed grading less than No. 3 Montana, the following discounts from the contract price shall apply: 2.5% deduction for each 1% (or fraction thereof) heat damage above 0.5%. Sprouted safflower seed is subject to rejection. Any rejected seed shall be removed at producer's expense.
2. PRODUCER shall keep safflower seed identity preserved and variety must not be grown adjacent to, or mixed with, seed of other variety during transportation, planting, harvest, seed storage and handling. BUYER shall have the option to cancel this contract should PRODUCER fail to keep seed identity preserved.
3. PRODUCER shall cause the production of safflower seed to be delivered at the time to be indicated in writing by BUYER. BUYER shall have the option to cancel this contract should PRODUCER fail to deliver seed at the place and time indicated by BUYER. Should BUYER not cancel this contract, PRODUCER shall be responsible for all costs related to seed movement until delivery. If storage is unavailable at the plant at harvest, storage payment of \$1/ton/month (clean seed basis) will be paid starting November 1, 2008.
4. PRODUCER warrants that as of the date of acceptance by the PRODUCER there are no prior claims to future crops except as noted on the front, and PRODUCER shall promptly notify BUYER in writing prior to September 1<sup>st</sup> of crop year, of the name and address of any person or persons who may claim an interest in the crop and agrees to hold BUYER harmless for any act or omission in respect to such interest not known to BUYER.
5. Immediately upon receipt of the safflower seed, the grade, dockage, and moisture content shall be established by a Sustainable Systems, LLC representative, based on unload samples taken at the time of delivery. Sustainable Systems, LLC shall retain an average sample of each delivery for a period of not more than 90 days, and, in the event of a disagreement on grade and/or dockage, shall, at the request and expense of the producer, forward this sample for final analysis to a government/independent laboratory for final analysis, whose decision shall be final and conclusive.
6. Promptly after PRODUCER'S deliveries are completed and after receipt of weight and quality certificates, BUYER shall make 70% settlement with PRODUCER and/or any lienholder of whom PRODUCER has given notice under Section 4, after first deducting any charges and deductions provided for in Sections 1, 3 and 4 above and any indebtedness then owing from PRODUCER to BUYER. Thirty percent payment will be made on March 1, 2009.
7. PRODUCER agrees to provide BUYER with the legal description(s) of the field(s) planted to safflower upon request by BUYER.
8. Governing Law: This contract shall be governed by the laws of the state of Montana and the National Institute of Oilseed Products Trading Rules as in effect on the date of contract.
9. Liquidated Damages: If BUYER determines that the PRODUCER has violated its obligation to deliver PRODUCER'S entire production of seed under this contract, liquidated damages shall be assessed by multiplying the quantity of seed which is in violation of this obligation by twice the highest price quoted by BUYER for the purchase of PRODUCER'S crop.
10. Force Majeure: Delays in, or nonperformance of this contract shall be excused if caused by fire, floods, crop failures, wind, frosts, drought, disasters, acts of any governmental authority or events beyond the control of the parties. In the event of a crop failure for any reason, the PRODUCER shall notify the BUYER immediately in writing in order that a representative may inspect the acreage and/or the produce. The PRODUCER shall not plow down or reseed above said acres or any portion thereof without BUYER'S consent.
11. Assignment: PRODUCER may not assign PRODUCER'S rights or obligations hereunder without prior written consent of BUYER. Subject to the foregoing, this contract shall inure to the benefit of and bind the successors, assigns and personal representatives of the parties.



April 3, 2009

Gene Johnson  
6488 Hwy. 40  
Tioga, ND 58852-9266

Re: Claim

Dear PSC:

I sold 302,580 net pounds of safflower to Sustainable Systems in Culbertson, MT, in October, 2008. It was delivered to them from 10-7 to 10-10-08. We were to be paid on January 1, 2009. To date we have not received payment, which amounts to \$80,352.44 with dockage.

I did not receive a settlement sheet from Sustainable Systems. Over the phone, they told me what the dock was on each load.

Copies of the contract and tickets are attached.

Thank you,

A handwritten signature in cursive script that reads "Gene Johnson".

Gene Johnson



**SUSTAINABLE SYSTEMS, LLC**

P.O. Box 478  
Culbertson, MT 59218  
Toll Free: 1-877-666-8652

Tel: 406-787-6616  
Fax: 406-787-6362

**2008 SAFFLOWER PRODUCTION CONTRACT**

Contract 80052 *4-14-08*  
 Acres: ~~175~~ *253 PR* *G.J. 4-18-08*  
 Producer: GENE JOHNSON  
 Address: 6488 HWY 40 City: TIOGA  
 State: ND Zip: 58852 County: \_\_\_\_\_  
 Social Security # or Tax \_\_\_\_\_ Phone#: 701-664-3568

BUYER (Sustainable Systems, LLC) agrees to purchase PRODUCER'S entire safflower crop production from the contracted acres at a price of \$0.28/lb delivered FOB to Culbertson, MT 59218 basis pure, clean, sound, dry (8% moisture or less) safflower seed grading No 2 Montana or better. Weight settlement shall be delivered basis. The terms and conditions stated herein constitute the entire agreement between BUYER and PRODUCER, and these terms and conditions can only be modified by a written document signed by the BUYER and PRODUCER.

Freight allowance: Field location 100 to 149 miles from plant \$.25/cwt. Field location more than 149 miles from plant \$.50/cwt. Freight will be based on net seed delivered.

Miles from Culbertson, MT:  100-149 miles  More than 149 miles

Name and address of any other person claiming an interest in ownership or security interest in producer's Safflower (see paragraph 4 on reverse side of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This contract is binding and constitutes an agreement when accepted and signed by a representative from Sustainable Systems, LLC

Accepted: Date: X 4-10-08

Accepted: Date: 4-22-08

X Gene Johnson  
Producer's Signature

Autumn Bull  
Sustainable Systems, LLC (Buyer)

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WEIGHED ON A FAIRBANKS SCALE

DATE 10-7-2008

a division of Sustainable Systems, LLC • Missoula, MT 59812

**MONTOLA**  
Culbertson, MT 59218

1.4 115  
1.4 710 2753

CUSTOMER'S NAME Gene Johnson

CITY Tioga STATE ND

COMMODITY Sugarbeets CONT. NO. 80052

CARRIER Christopherson

2753 ID. NO.  
79800 LB GR  
08:01 AM 10/07/08

2753 ID. NO.  
79900 LB GR RECALLED  
29720 LB TR  
50080 LB HT  
09:08 AM 10/07/08

59

Discounts		
Moist	6.1	%
TW		#
FM		%
HP		%

50,080  
lb GROSS  
lb TARE - DRIVER ON  
lb NET

OFF

*[Signature]*

4%

WEIGHED ON A FAIRBANKS SCALE

DATE 10-7-2008

a division of Sustainable Systems, LLC • Missoula, MT 59812

**MONTOLA**  
Culbertson, MT 59218

1.4 115  
1.4 690 2756

CUSTOMER'S NAME Gene Johnson

CITY Tioga STATE ND

COMMODITY Sugarbeets CONT. NO. 80052

CARRIER Christopherson

2756 ID. NO.  
78660 LB GR  
01:45 PM 10/07/08

2756 ID. NO.  
78660 LB GR RECALLED  
29520 LB TR  
49140 LB HT  
02:43 PM 10/07/08

59

Discounts		
Moist	6.5	%
TW		#
FM		%
HP		%

49,140  
lb GROSS  
lb TARE - DRIVER ON  
lb NET

OFF

*[Signature]*

3%

WEIGHED ON A FAIRBANKS SCALE

IMVINTOLA  
Culbertson, MT 59218  
a division of Sustainable Systems, LLC • Missoula, MT 59812

1,4710 2757

DATE 10-8-08

CUSTOMER'S NAME Gene Johnson

CITY Hoga STATE MD

COMMODITY Softwood CONT. NO. 80052

CARRIER Christensen

LAST LOAD

2757 ID. NO.  
80220 LB GR  
08:02 AM 10/08/08

2757 ID. NO.  
80220 LB GR RECALLED  
29860 LB TR  
50360 LB NT  
09:02 AM 10/08/08

6%

59

Discounts		
Moist.	6.0 %	%
TW	#	%
FM	%	%
HP	%	%

lb GROSS

lb TARE - DRIVER ON

lb NET

50,360

OFF

*Christensen*

WEIGHED ON A FAIRBANKS SCALE

MONTOLA  
Culbertson, MT 59218  
a division of Sustainable Systems, LLC • Missoula, MT 59812

1,4115 2764

DATE 10-9-08

CUSTOMER'S NAME Gene Johnson

CITY Hoga STATE MD

COMMODITY Softwood CONT. NO. 80052

CARRIER Christensen

LAST LOAD

2764 ID. NO.  
79380 LB GR  
09:26 AM 10/09/08  
2764 ID. NO.  
79380 LB GR RECALLED  
29580 LB TR  
49800 LB NT  
10:45 AM 10/09/08

59

Discounts		
Moist.	6.2 %	%
TW	#	%
FM	%	%
HP	%	%

lb GROSS

lb TARE - DRIVER ON

lb NET

49,800

OFF

*Christensen*

10%

WEIGHED ON A FAIRBANKS SCALE

**MONTOLA**  
Culbertson, MT 59218  
a division of Sustainable Systems, LLC • Missoula, MT 59812

1,4100  
1,4693 2766

DATE 10-10-2008

CUSTOMER'S NAME Gene Johnson

CITY Hioga STATE MT

COMMODITY Schiffbauer CONT. NO. 80052

CARRIER Christensen

2766 ID. NO.  
81520 LB GR  
08:00 AM 10/10/08

2766 ID. NO.  
81520 LB GR RECALLED  
29790 LB TR  
51740 LB HT

08:51 AM 10/10/08

4%

59

Discounts		
Moist.	5.3	%
TW		#
FM		%
HP		%

lb TARE - DRIVER ON

lb NET

OFF

*[Signature]*

WEIGHED ON A FAIRBANKS SCALE

**MONTOLA**  
Culbertson, MT 59218  
a division of Sustainable Systems, LLC • Missoula, MT 59812

1,4100  
1,4693 2768

DATE 10-10-2008

CUSTOMER'S NAME Gene Johnson

CITY Hioga STATE MT

COMMODITY Schiffbauer CONT. NO. 80052

CARRIER Christensen

2768 ID. NO.  
81000 LB GR  
01:01 PM 10/10/08

2768 ID. NO.  
81000 LB GR RECALLED  
29540 LB TR  
51460 LB NT

01:51 PM 10/10/08

59

Discounts		
Moist.	6.0	%
TW		#
FM		%
HP		%

4%

lb TARE - DRIVER ON

lb NET

OFF

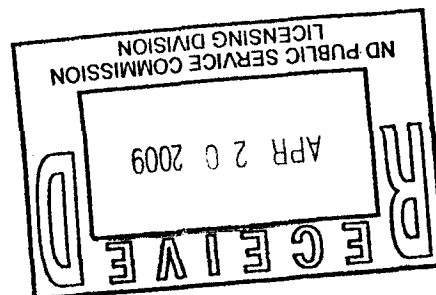
*[Signature]*

51,410

Sue

April 17, 2009

ND Public Service Commissioner  
600 East Boulevard Ave. Dept 408  
Bismarck, ND 58505-0408



RE: Sustainable Systems, LLC

Dear Sue,

I haven't received payment in full from Sustainable Systems, LLC for my 2008 Safflower production delivered to Culbertson, MT. On March 2, 2009 I received a Cashiers check for \$26,000.00 and picked up \$68.00 worth of Safflower oil. On March 19, 2009 I received another Cashiers check for \$24,000.00. The remaining balance due me at this time is \$33,690.78. I would ask that the State of North Dakota Public Service Commissioner would take action against their bond.

Included in this letter is a copy of the Cashiers check for \$26,000, a copy of the Cashiers check for \$24,000, a copy of contract with Sustainable Systems, LLC and the current assembly sheet I received with my last payment.

Thank you,

Sincerely,

Ernest Schober  
14403 80<sup>th</sup> St. SW  
Bowman, ND 58623

Attention:

Date: Wed Mar 11, 2009  
Account No.:

**CASHIER'S CHECK**


5855  
0048

NONOLA DATE March 02, 2009 83-05/829

REMITTER

PAY TO THE ORDER OF ERNEST SCHOBER & DAKOTA WESTERN BANK \$ 26,000.00

PAY EXACTLY **26,000** DOL 00 CTS

 **First Community Bank**  
P.O. Box 678, Culbertson, MT 59016  
Telephone 406-327-0801

*Jerry Anderson*

#005855# 1092900956# 6 88 140

Date: 03/03/2009 Ref: 00176180002 Chk: 0000 Acc: Amt: 26,000.00

**ENDORSE HERE**

**DAKOTA WESTERN BANK**

DO NOT SIGN/WRITE / STAMP BELOW THIS LINE  
FOR FINANCIAL INSTITUTION USE ONLY

*Jerry Anderson*

**Security Features**  
The following security features (and others not listed) exceed industry standards:

- Original watermark not visible when held to light
- Hologram watermark not visible when held to light
- Original watermark not visible when held to light
- Hologram watermark not visible when held to light
- Original watermark not visible when held to light
- Hologram watermark not visible when held to light
- Original watermark not visible when held to light
- Hologram watermark not visible when held to light





**P.O. Box 478** **Tel: 406-787-6616**  
**Culbertson, MT 59218** **Fax: 406-787-6362**  
**Toll Free: 1-877-666-8652**

**2008 SAFFLOWER PRODUCTION CONTRACT**

Contract 80010

Producer : ERNEST SCHOBER Acres: 385

Address: 14403 80<sup>TH</sup> ST SW City: BOWMAN

State: ND Zip: 58623 County: BOWMAN

Social Security # or Tax ID: [REDACTED] Phone#: 701-523-5939

*30.28/lb am*

BUYER (Sustainable Systems, LLC) agrees to purchase PRODUCER'S entire safflower crop production from the contracted acres at a price of \$0.28/lb delivered FOB to Culbertson, MT 59218 basis pure, clean, sound, dry (8% moisture or less) safflower seed grading No 2 Montana or better. Weight settlement shall be delivered basis. The terms and conditions stated herein constitute the entire agreement between BUYER and PRODUCER, and these terms and conditions can only be modified by a written document signed by the BUYER and PRODUCER.

Freight allowance: Field location 100 to 149 miles from plant \$.25/cwt. Field location more than 149 miles from plant \$.50/cwt. Freight will be based on net seed delivered.

Miles from Culbertson, MT:  100-149 miles  More than 149 miles

Name and address of any other person claiming an interest in ownership or security interest in producer's Safflower (see paragraph 4 on reverse side of DAKOTA WESTERN BANK)

This contract is binding and constitutes an agreement when accepted and signed by a representative from Sustainable Systems, LLC

Accepted: Date: 1-28-2008  
Ernest Schober  
 Producer's Signature

Accepted: Date: 3/13/08  
[Signature]  
 Sustainable Systems, LLC (Buyer)

**"NOTICE: FINANCIAL RISK STATEMENT:**  
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## SAFFLOWER CROP PRODUCTION CONTRACT - TERMS AND CONDITIONS

BUYER and PRODUCER agree that PRODUCER shall plant the safflower planting seed received from the BUYER only on the contracted acres herein and in accordance with BUYER'S specification, shall produce and deliver his entire safflower seed crop to BUYER'S designated delivery point, FOB Culbertson, MT. PRODUCER shall provide continuing security for the safflower planting seed and crop seed and shall not dispose of any part of it other than in accordance with this contract.

1. PRODUCER shall deliver his entire production of safflower seed of storable and milling quality produced from the acreage herein indicated. Oil analysis shall be performed by an official grain inspection service. A copy of said analysis shall be furnished to both BUYER and PRODUCER. BUYER will accept safflower seed with up to 8% moisture content and free of insect infestation. A premium of 2% of the contract price shall be made for each 1% (or fraction thereof) of oil content above 37%. Seed testing below 37% oil content shall be subject to the following discount schedule. 36.9% - 34% - will be discounted 2% of contract price for each 1% (or fraction thereof) of oil content below 37%. 33.9% - 30% - will be discounted 3% of contract price for each 1% (or fraction thereof) of oil content below 37%. Oil content below 30% shall be negotiable and subject to rejection. A deduction of 1% of the delivered weight for each 1% (or fraction thereof) of foreign matter shall be made. A deduction of \$1.00/cwt of the contract price shall be made for No. 3 Montana safflower seed. For safflower seed grading less than No. 3 Montana, the following discounts from the contract price shall apply: 2.5% deduction for each 1% (or fraction thereof) heat damage above 0.5%. Sprouted safflower seed is subject to rejection. Any rejected seed shall be removed at producer's expense.
2. PRODUCER shall keep safflower seed identity preserved and variety must not be grown adjacent to, or mixed with, seed of other variety during transportation, planting, harvest, seed storage and handling. BUYER shall have the option to cancel this contract should PRODUCER fail to keep seed identity preserved.
3. PRODUCER shall cause the production of safflower seed to be delivered at the time to be indicated in writing by BUYER. BUYER shall have the option to cancel this contract should PRODUCER fail to deliver seed at the place and time indicated by BUYER. Should BUYER not cancel this contract, PRODUCER shall be responsible for all costs related to seed movement until delivery. If storage is unavailable at the plant at harvest, storage payment of \$1/ton/month (clean seed basis) will be paid starting November 1, 2008.
4. PRODUCER warrants that as of the date of acceptance by the PRODUCER there are no prior claims to future crops except as noted on the front, and PRODUCER shall promptly notify BUYER in writing prior to September 1<sup>st</sup> of crop year, of the name and address of any person or persons who may claim an interest in the crop and agrees to hold BUYER harmless for any act or omission in respect to such interest not known to BUYER.
5. Immediately upon receipt of the safflower seed, the grade, dockage, and moisture content shall be established by a Sustainable Systems, LLC representative, based on unload samples taken at the time of delivery. Sustainable Systems, LLC shall retain an average sample of each delivery for a period of not more than 90 days, and, in the event of a disagreement on grade and/or dockage, shall, at the request and expense of the producer, forward this sample for final analysis to a government/independent laboratory for final analysis, whose decision shall be final and conclusive.
6. Promptly after PRODUCER'S deliveries are completed and after receipt of weight and quality certificates, BUYER shall make 70% settlement with PRODUCER and/or any lienholder of whom PRODUCER has given notice under Section 4, after first deducting any charges and deductions provided for in Sections 1, 3 and 4 above and any indebtedness then owing from PRODUCER to BUYER. Thirty percent payment will be made on March 1, 2009.
7. PRODUCER agrees to provide BUYER with the legal description(s) of the field(s) planted to safflower upon request by BUYER.
8. Governing Law: This contract shall be governed by the laws of the state of Montana and the National Institute of Oilseed Products Trading Rules as in effect on the date of contract.
9. Liquidated Damages: If BUYER determines that the PRODUCER has violated its obligation to deliver PRODUCER'S entire production of seed under this contract, liquidated damages shall be assessed by multiplying the quantity of seed which is in violation of this obligation by twice the highest price quoted by BUYER for the purchase of PRODUCER'S crop.
10. Force Majeure: Delays in, or nonperformance of this contract shall be excused if caused by fire, floods, crop failures, wind, frosts, drought, disasters, acts of any governmental authority or events beyond the control of the parties. In the event of a crop failure for any reason, the PRODUCER shall notify the BUYER immediately in writing in order that a representative may inspect the acreage and/or the produce. The PRODUCER shall not plow down or reseed above said acres or any portion thereof without BUYER'S consent.
11. Assignment: PRODUCER may not assign PRODUCER'S rights or obligations hereunder without prior written consent of BUYER. Subject to the foregoing, this contract shall inure to the benefit of and bind the successors, assigns and personal representatives of the parties.

Montola a division of Sustainable Systems, LLC  
 Box 478  
 Culbertson, MT 59218

Safflower Seed Settlement Sheet

ERNEST SCHOBER  
 14403 80TH ST SW  
 BOWMAN, ND 58623

Contract# 80010  
 Acres 385

Date	Ticket #	Gross Lb	FM%	FM Lbs	Moisture	Moisture Pounds	Net Lbs	Oil %	(Discount) Premium	2% of .28	Discl/B	(Discount) Premium	Test Weight
9/23/2008	2720	49500	4	1980	6.4	0	47520	37.90	0.90	0.0056	0.00504	239.50	40
9/30/2008	2731	51160	3	1535	6.1	0	49625	37.90	0.90	0.0056	0.00504	250.11	40
10/1/2008	2736	50680	4	2027	6.1	0	48653	37.80	0.80	0.0056	0.00448	217.97	39
10/2/2008	2740	48540	4	1942	6.1	0	46598	37.70	0.70	0.0056	0.00392	182.66	39
10/6/2008	2752	52120	3	1564	6.2	0	50556	37.80	0.80	0.0056	0.00448	226.49	41
10/9/2008	2763	50440	7	3531	5.8	0	46909	37.60	0.60	0.0056	0.00336	157.61	41.66667

302440 12579 0 289861 1274.35  
 0.28

289861 Net Pound  
 385 Acres Contracted  
 753 Avg Pounds Per Acre  
 37.79 Avg oil

81,161.08  
 1,274.35 Oil (Discount)/Premium @ \$6.50 Each  
 (39.00) Lab Charges over 149 miles  
 1,449.31 Freight Allowance  
 (86.96) ND Check off fee  
 -----  
 83,758.78  
 58,631.15 70% harvest payment  
 25,127.63 March 1st payment  
 26,000.00 Cashier ck 5855 3/2/2009  
 24,000.00 Cashier ck 3/19/2009  
 68.00 Less oil picked up 3/2/09  
 33,690.78 Balance due Ernest

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

\_\_\_\_\_ )  
**Public Service Commission** )  
) **Petitioner,** )  
) **vs.** )  
) **Sustainable Systems, LLC** )  
) **dba Montola** )  
) **Respondent.** )  
\_\_\_\_\_ )  
**PSC Case No. GE-09-112** )  
\_\_\_\_\_ )

CIVIL NO. \_\_\_\_\_

**AFFIDAVIT OF  
SUSAN K. RICHTER**

**STATE OF NORTH DAKOTA** )  
) **ss**  
**COUNTY OF BURLEIGH** )

Susan K. Richter being duly sworn states as follows:

1. That she is a citizen of the United States of America, of legal age, residing at Bismarck, North Dakota.
2. That she is the Director of the Licensing Division for the Public Service Commission and as such is charged with the duty of enforcing the provisions of North Dakota Century Code Chapter 60-02.1.
3. That affiant is aware that Sustainable Systems, LLC doing business as Montola operates a crushing facility in Culbertson, Montana and had been receiving safflowers from North Dakota producers for crushing into oil.
4. That the Public Service Commission received letters from Dustin Johnsrud, Box 68, Epping, North Dakota 58843, Dennis Johnsrud, 6121 125<sup>th</sup> Avenue NW,

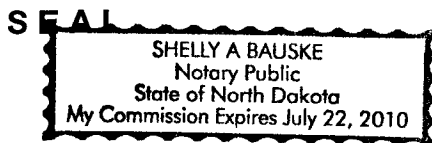
Epping, North Dakota 58843, Myron Lee, 15051 58<sup>th</sup> Street NW, Williston, North Dakota 58801, Gene Johnson, 6488 Highway 40, Tioga, North Dakota 58852-9266, and Ernest Schober, 14403 80<sup>th</sup> Street SW, Bowman, North Dakota 58623, each setting forth a claim against Sustainable Systems, LLC doing business as Montola for collection of outstanding funds owing to them.

5. That affiant was informed and has reason to believe there are additional outstanding obligations for unpaid claims for grain sold to Sustainable Systems, LLC doing business as Montola as a roving grain buyer under North Dakota Century Code Chapter 60-02.1 for which bond protection is available under the provisions of North Dakota Century Code § 60-02.1-08 and for any credit-sale contracts for which protection is available from the credit-sale contract indemnity fund under North Dakota Century Code §§ 60-10-04 and 60-10-05.
6. That affiant believes that it is in the public interest to immediately appoint the Commission as trustee under North Dakota Century Code Chapter 60-02.1.
7. That the affidavit is made for the purpose of securing the appointment of the Commission as trustee of Sustainable Systems, LLC doing business as Montola under North Dakota Century Code Chapter 60-02.1.

Bismarck, North Dakota, this 5<sup>th</sup> day of May, 2009.

Susan A. Richter

Subscribed and sworn to me this 5<sup>th</sup> day of May, 2009.



Shelly A Bauske  
Notary Public

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

_____	)	
<b>Public Service Commission</b>	)	<b>CIVIL NO. _____</b>
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	
	)	<b>BRIEF IN SUPPORT OF</b>
<b>Sustainable Systems, LLC</b>	)	<b>APPLICATION FOR</b>
<b>dba Montola</b>	)	<b>APPOINTMENT AS TRUSTEE</b>
	)	
<b>Respondent.</b>	)	
_____	)	
	)	
<b>PSC Case No. GE-09-112</b>	)	
	)	
_____	)	

The Public Service Commission (Commission) has jurisdiction over roving grain buyers under North Dakota Century Code Chapter 60-02.1, which provides for the appointment of the Commission as trustee of the assets of a roving grain buyer upon the filing of a notice with the Commission that the roving grain buyer has defaulted in the payment for grain purchased by the buyer.

The Commission received claims from Dustin Johnsrud, Box 68, Epping, North Dakota 58843, Dennis Johnsrud, 6121 125<sup>th</sup> Avenue NW, Epping, North Dakota 58843, Myron Lee, 15051 58<sup>th</sup> Street NW, Williston, North Dakota 58801, Gene Johnson, 6488 Highway 40, Tioga, North Dakota 58852-9266, and Ernest Schober, 14403 80<sup>th</sup> Avenue NW, Bowman, ND 58623 against Sustainable Systems LLC doing business as Montola for collection of outstanding funds owed to each claimant for grain sold to Sustainable Systems, LLC doing business as Montola. Sustainable Systems, LLC doing business as Montola is unable, upon proper demand, to pay for grain purchased.

The Commission is informed and has reason to believe that there are outstanding obligations for unpaid claims for grain sold to Sustainable Systems, LLC doing business as Montola as a roving grain buyer under North Dakota Century Code Chapter 60-02.1 for which bond protection is available under the provisions of North Dakota Century Code §60-02.1-08 and for any credit-sale contracts for which protection is available from the credit-sale contract indemnity fund under North Dakota Century Code §§ 60-10-04 and 60-10-05.

Upon the insolvency, the Commission has the authority to make payment to any persons holding receipts for grain sold via cash or credit-sale contract and who was not fully compensated.

It is in the best interest of all claimants that the Commission be appointed Trustee, and be given the powers under North Dakota Century Code Chapters 60-02.1 and 60-10 so that all claimants will be treated fairly.

The Court has jurisdiction under North Dakota Century Code §60-02.1-29, which provides for the filing of this action in the District Court, South Central Judicial District.

Bismarck, North Dakota, this 5<sup>th</sup> day of May, 2009.

Respectfully submitted,



Illona A. Jeffcoat-Sacco (ID#03315)  
Annette Bendish (ID#05790)  
Special Assistant Attorneys General  
Public Service Commission  
State Capitol – 12<sup>th</sup> Floor  
600 E Boulevard Ave – Dept 408  
Bismarck, North Dakota 58505-0480  
701-328-2400

Attorneys for the Public Service Commission

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

\_\_\_\_\_ )  
 Public Service Commission )  
 )  
 Petitioner, )  
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 vs. )  
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 Sustainable Systems, LLC )  
 dba Montola )  
 )  
 Respondent. )  
 \_\_\_\_\_ )  
 )  
 PSC Case No. GE-09-112 )  
 )  
 \_\_\_\_\_ )

CIVIL NO. \_\_\_\_\_

NOTICE OF APPLICATION  
FOR APPOINTMENT AS  
TRUSTEE UNDER RULE 3.2

TO: **Kevin Kreisler, Chairman, Sustainable Systems, LLC dba Montola, One Penn Plaza, Suite 1612, New York, NY 10019**

**Paul Miller, President/Managing Member, Sustainable Systems, LLC dba Montola, PO Box 478, Culbertson, MT 59218**

**National Registered Agents, Inc., Registered Agent for Sustainable Systems, LLC dba Montola, PO Box 1776, Bismarck, ND 58502**

**PLEASE TAKE NOTICE** that the Public Service Commission, Movant in this proceeding, respectfully moves the Court for an order appointing the Public Service Commission Trustee for Sustainable Systems, LLC doing business as Montola. The application, affidavit and brief in support of the application are attached to this notice and by reference made a part hereof.

**YOU ARE HEREWITH NOTIFIED** that the attached Application for Appointment as Trustee has been submitted to the Court pursuant to Rule 3.2 of the North Dakota

Rules of Court. The application will be decided on briefs unless oral argument is timely requested. You have ten (10) days after the service of the Notice to file your response and other supporting papers.

Bismarck, North Dakota, this 5<sup>th</sup> day of May, 2009.



Illona A Jeffcoat-Sacco (ID#03315)  
Annette Bendish (ID#05790)  
Special Assistant Attorneys General  
Public Service Commission  
State Capitol – 12<sup>th</sup> Floor  
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Attorneys for the Public Service Commission