

Public Service Commission

608 East Boulevard Avenue Dept. 408

Bismarck, ND 58505-0480

701-328-4097 – phone

701-328-2410 - fax

Memo

To: Yvonne, ND Insurance Department
From: Sue Richter, Director, Licensing Division 
Date: 4/15/2011
Re: Public Service Commission, Petitioner vs.
Mitchell Feeds, Inc. & Western Surety, Respondents

Enclosed are two photocopies of each of the documents listed below for use in providing service of process to Western Surety Company in the captioned action. Please mail the Admission of Service to the Public Service Commission, 600 East Boulevard Avenue – Dept 408, Bismarck, ND 58505-0480.

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

Enclosed is the \$10 process fee.

Thank you and if you have any questions, please call me at 8-4097.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

_____)	
Public Service Commission)	CIVIL NO. _____
)	
Petitioner,)	
)	
vs.)	
)	
Mitchell Feeds, Inc.)	APPLICATION FOR
)	APPOINTMENT AS TRUSTEE
and)	AND MOTION TO
)	JOIN SURETY AS PARTY
Western Surety Company)	
)	
Respondents.)	
_____)	
PSC Case No. GE-11-51)	
)	
_____)	

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

1.

Mitchell Feeds, Inc., a Minnesota business corporation authorized to do 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.

Mitchell Feeds, Inc., PO Box 9112, Fargo, North Dakota 58106, operates as a roving grain buyer in North Dakota under license number 3159.

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 \$70,000 and identified as number

15352088 with Western Surety Company, 101 South Phillips Avenue, Sioux Falls, South Dakota 57104-6703, as surety.

4.

On February 1, 2011, James and Cynthia Burckhard of Towner, North Dakota, filed a letter for collection of outstanding funds owed to them for grain sold to Mitchell Feeds, Inc. Subsequently, David Steeves of Sherwood, North Dakota, Gene W. Allen, attorney representing David Deslauriers of Sherwood, North Dakota, Paul A. Rohde of Halliday, North Dakota, Don Ackerson of Sherwood, North Dakota, Steven Neameyer of Mylo, North Dakota, Lana Anderson/Northland Farms of Sherwood, North Dakota, Greg Busch/Busch Farms, Inc. of Crosby, North Dakota, and Mitch Preskey of Glenburn, North Dakota, each filed letters for collection of outstanding funds owed to them for grain sold to Mitchell Feeds, Inc. Copies of the letters are attached as Exhibit A.

5.

The Commission was informed and believes that there are outstanding obligations for unpaid claims for grain sold to Mitchell Feeds, Inc. 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.

Mitchell Feeds, Inc. 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 make redelivery for grain delivered.

7.

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

8.

Bond proceeds will be needed to redeem outstanding receipts issued by Mitchell Feeds, Inc. North Dakota Century Code § 60-02.1-31 provides:

Each surety on the insolvent licensee's bonds must be joined as a party to the insolvency proceedings. If it is in the best interests of the receipt holders, the court may order a surety to deposit some or all of the penal sum of the bond into the trustee's trust account pending determination of the surety's liability under the bond.

9.

If there are any credit-sale contract claims, proceeds from the credit-sale contract indemnity fund may be needed to meet the licensee's obligations to any holders of credit-sale contracts. North Dakota Century Code § 60-10-05 provides:

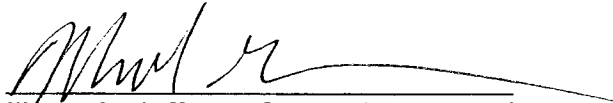
Upon the insolvency of a licensed warehouse or a grain buyer and a declaration that the Public Service Commission serve as the trustee, the Public Service Commission shall make the proceeds of the credit-sale contract indemnity fund available for use in meeting the licensee's obligations with respect to the reimbursement of any person who sold grain to the licensee under a credit-sale contract and who was not fully compensated in accordance with the contract.

WHEREFORE the Public Service Commission respectfully requests:

1. That the Court declare Mitchell Feeds, Inc. **INSOLVENT** within the meaning of North Dakota Century Code Chapter 60-02.1 and establish the date of insolvency as February 1, 2011, the date that the first claim for collection of outstanding funds owed for grain sold was filed.
2. That the Court **APPOINT** the Public Service Commission as trustee of the trust fund under North Dakota Century Code § 60-02.1-29.

3. That the Court **JOIN** Western Surety Company, 101 South Phillips Avenue, Sioux Falls, South Dakota 57104-6703, as surety on the bond for Mitchell Feeds, Inc. as a respondent in this action.

Bismarck, North Dakota, this 14th day of April, 2011.



Illona A. Jeffcoat-Sacco (ID#03315)

Mark Gruman (ID#06019)

Special Assistant Attorneys General
State Capitol – 12th Floor

600 E Boulevard Ave – Dept 408

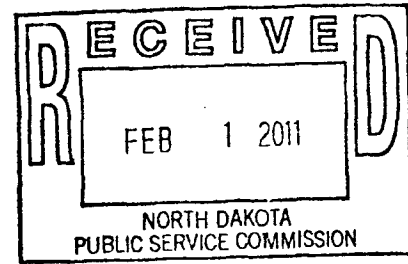
Bismarck, North Dakota 58505-0480

701-328-2400

Attorneys for the Public Service Commission

January 31, 2011

Dear Darrell Nitschke,



I sent a letter to the PSC in December regarding non payment of our sunflower seeds.

I noted in that letter that our final load was hauled out by Mitchell Feeds in May 2009 and we have not received any payment.

I have enclosed our only copy of proof they took our load but do not have the actual amount that was hauled as that was to be determined when they weighed it at the elevator. It was about a half of a semi load.

I have enclosed information regarding this matter and hope you can help us to find resolve.

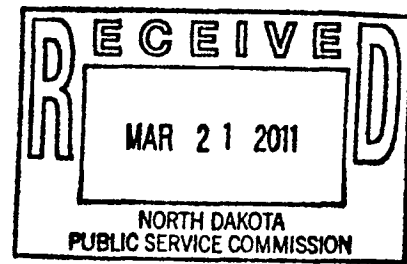
Sincerely,

James Burckhard
5520 18th AVE. NE
Towner, ND 58788

701-776-6773

March 17, 2011

Dear Darrell Nitschke,



On January 31, 2011 we sent you information regarding the nonpayment of a load of sunflower seeds sold to Mitchell Feeds.

We have not heard back from you regarding this matter.

In going over the current PSC website we now see that they have claimed insolvency so where does that leave us at this point?

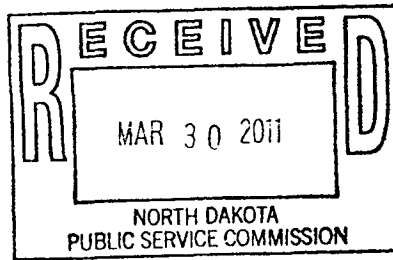
We see they were bonded but how will that help us? Can we file a claim against them to get our money?

Please take the time to answer this letter and let us know where we stand at this point.

Sincerely,

James & Cynthia Burckhard
5520 18th Ave. NE
Towner, ND 58788

3-28-11



David R. Steeves
4690 County Road 2
Sherwood, N.D. 58782
701-459-2815
701-263-7578

Public Service Comm.,

I have hauled several loads of Sunflowers to Robert Mitchell of Mitchell Feeds, Inc. of Fargo and have been paid for some and a partial payment on some and have made several attempts to collect with no success. I hope with your help maybe we can get this settled.

Thank You

David R. Steeves

MC GEE, HANKLA, BACKES & DOBROVOLNY

A PROFESSIONAL CORPORATION

ORLIN W. BACKES
RICHARD H. McGEE II
BRIAN W. HANKLA
COLLIN P. DOBROVOLNY
JON W. BACKES*
PETER B. HANKLA**
JASON R. VENDSEL**
BRYAN L. VAN GRINSVEN**
KATY M. SCHAEFER
SARA E. RULIFFSON

ATTORNEYS AT LAW

WELLS FARGO BANK CENTER
SUITE 305
15 SECOND AVENUE SW
PO BOX 998
MINOT, NORTH DAKOTA
58702-0998

PHONE
701.852.2544

FAX
701.838.4724

WEB
www.mcgeelaw.com

JERRY D. NELSON, CPA
Business Manager

WALFRID B. HANKLA (Retired)
ROBERT A. WHEELER (Retired)
GEORGE A. MCGEE (1878-1953)
RICHARD H. MCGEE (1918-1992)

March 31, 2011



ALSO LICENSED IN:

*Colorado

**Minnesota

Susan K. Richter
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

RE: Request for Assistance in Collecting a Debt
Roving Grain Buyer: Mitchell Feeds, Inc.
Unpaid Balance on Purchase Contract Number MFI037
Our File No: 19403.28977

Dear Ms. Richter:

Thank you for taking time to speak with me this afternoon regarding this matter.

McGee, Hankla, Backes & Dobrovoly, P.C., represents David Deslauriers, who delivered Nusun Sunflowers to Mitchell Feeds, Inc., pursuant to the above-referenced contract dated April 5, 2008, (the "Agreement") a copy of which is included as Attachment A. As of this date, the unpaid balance on sunflowers Mr. Deslauriers delivered to Mitchell Feeds, Inc., is **\$157,346.99**, of which \$150,272.99 is for sunflowers and \$7,074.00 is for freight Mitchell Feeds, Inc., agreed to pay. We understand there is a \$70,000 surety bond for this roving grain dealer and that it may be possible for the North Dakota Public Service Commission to eventually take possession of other assets of Mitchell Feeds, Inc., and/or its affiliates or principals. We hereby request the assistance of the PSC in collecting amounts due and owing Mr. Deslauriers.

In addition to the unpaid balance noted above, Deslauriers suffered an additional \$27,048.00 in damages when he sold the remaining production at a price below that which Mitchell Feeds, Inc., was obligated to buy. If this component of damages is within the scope of the PSC's authority to assist in collection, we hereby include these damages, which would bring the total of Mr. Deslauriers' claim to \$184,394.99. Details of the damage calculation are discussed in the attached letter to Mitchell Feeds, Inc., and outlined in Attachment B.

Also included as Attachment C are copies of scale tickets and associated documents for each of the fourteen loads sold between January 29, 2009 and August 20, 2009. Mr. Deslauriers received payment in full for the first two loads, partial payment for four loads, and no payment for eight loads.

We are aware of the following addresses for Mitchell Feeds, Inc., and possible affiliates, agents and principals:

Mitchell Feeds, Inc.
154 Hwy 75 S
P.O. Box 128
Hendrum, MN 56550

Mitchell Feeds, Inc.
PO Box 9112
Fargo ND 58106

Registered Agent:
Jackie Mitchell
4905 County Road 81 S
Horace, ND 58047-9724

Mitchell Farms, Mitchell Farms, Inc.
4905 County Road 81 S
Horace, ND 58047-9724
Phone: (701) 588-9279

Mr. Deslauriers is willing to cooperate with any investigation or action of the PSC regarding Mitchell Feeds, Inc., or Robert Mitchell. Please contact me if Mr. Deslauriers or I may be of service to you.

Thank you in advance for your cooperation.

Sincerely,
McGEE, HANKLA, BACKES & DOBROVOLNY, P.C.



Gene W. Allen
GWA:tmb:PSC-1
Enclosures
Cc: David Deslauriers

4-2-2011

TO: Public Service Commission,

I have a growers contract with Mitchell Feeds Inc. 154 Hwy 755 P.O. Box 128 Hendrum, Mn 56550. (copy Included) for the 2009 growing season

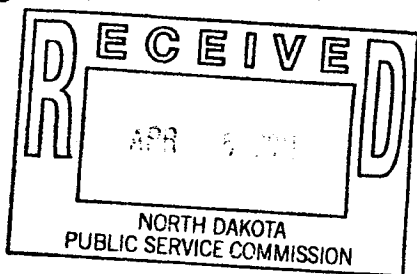
I delivered 456,800 lbs (scale Tickets included) of sunflowers under contract MFI 158 to Mitchell Feeds elevator in Hendrum, Mn. between 02/02/2010 and 04/13/2010.

As of 04-02-2011 I have not recieved and payment for these Sunflowers.

I would like the P.S.C. to look into this matter.

I have tried to contact Bob Mitchell by telephone concerning this matter but he hasn't returned any calls.

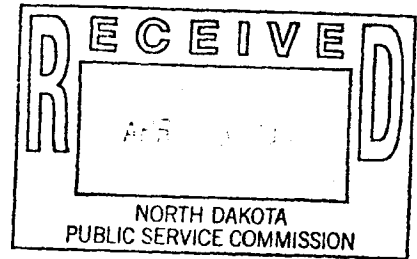
Your help in this matter to either recieve payment for the sunflowers or have them returned, if they are still in their inventories would be greatly appreciated.



Thank you.
Saul A. Rohde

April 4, 2011

ND Public Service Commission
600 E. Blvd Ave
Dept 408
Bismarck, ND 58505-0480



Gentlemen:

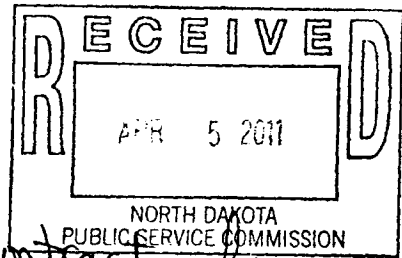
I am writing to file a complaint against Mitchell Feeds Inc. Hendrum, MN. who has failed to pay for 314,777.70 lbs of NuSun sunflower seeds. These 6 loads date back to August 4, 2009. Mr. Mitchell and his bank appear to be going through some reorganization of his financial situation and nothing has been stated as to whether or not I will be paid. Please see what can be done to address this complaint. Contract was for \$0.30/lb.

Sincerely

A handwritten signature in cursive script, appearing to read "Don Ackerson".

Don Ackerson

Public Service Comm.
Attn. Sue



This is the document and contract for Mitchell Feeds - per phone conversation.

The four pink slips I have not received any money from.

The document from West Fargo - Cargill Incorporated was also a part of the contract but I hauled it in when I knew Mitchell Feeds was not going to honor our contract. I had not received payment for the loads they did pick up so decided to bring this in.

This contract was done with Mitchell Feeds in good faith. We have waited over 2 yrs. for payment. We have been more than patient.

Thank you
Steven Neameyer

4921 85th St.
Myl0 ND 58353

701-656-3637-home
701-739-7557-cell

April 7, 2011

To: ND Public Service Commission

RE: Mitchell Feeds Inc. and Bob Mitchell



I visited with Sue Richter on the phone last week about the case with Mitchell Feeds Inc. I am sending this letter and the attachments, because of what we discussed on the phone.

I am sending some information to your office, to be listed on the request for payment from defaulted contract price paid on previous loads and no payment has been made on the tickets that I am sending copies of. I have also sent copies of the contracts.

I have also joined other farmers in legal action with Vogel Law Partners. I hope that something comes from PSC and the law firm working on this issue.

Thanks,

A handwritten signature in cursive script that reads "Lana Anderson".

Lana Anderson/Northland Farms

10845 53rd AVE NW

Sherwood, ND 58782

Cell: 701-263-1467

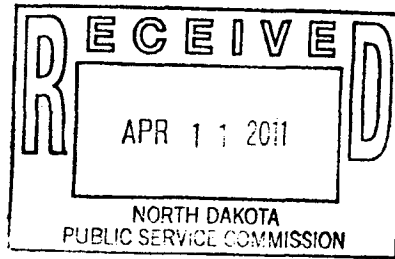
Email: landj@srt.com

April 7, 2011

Public Service Commission

600 E Blvd Ave

Bismarck ND 58505



Busch Farms, Inc.

Greg Busch

PO Box 584

Crosby ND 58730

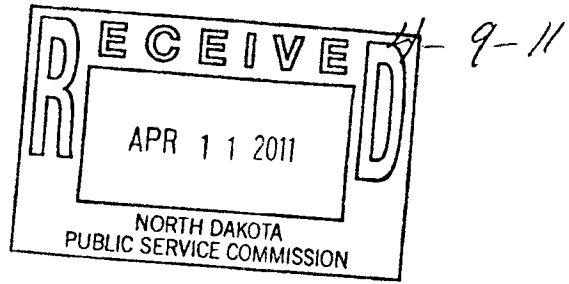
To whom it may concern,

As per my phone conversation with Sue, I am sending you my information regarding the action against Mitchell Feeds, Inc. The bill of lading invoices represents the two remaining unpaid loads of sunflowers. Those two loads amount to 105,476 gross pounds. Please contact me if more information is required. My home phone is 701-965-6600 and my work phone is 701-702-6600.

Sincerely,

Greg Busch

President Busch Farms, Inc.



Sue:

Here are copies of Sunflower Contract and
unpaid Load ticket delivered to Mitchell Seeds Inc.

Load ticket is Gross pounds.

Mitch Preskey

701-720-0752

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

_____)
 Public Service Commission)
)
 Petitioner,)
)
 vs.)
)
 Mitchell Feeds, Inc.)
)
 and)
)
 Western Surety Company)
)
 Respondents.)
)
 _____)
 PSC Case No. GE-11-51)
)
 _____)

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 Mitchell Feeds, Inc., a Minnesota business corporation, which is authorized to do business in North Dakota, operated as a roving grain buyer in North Dakota, and was licensed under North Dakota Century Code Chapter 60-02.1.

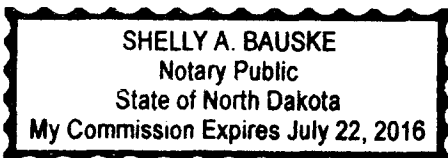
4. That Mitchell Feeds, Inc., PO Box 9122, Fargo, North Dakota 58106, operated as a roving grain buyer in North Dakota under license number 3159.
5. As part of the licensing process, Mitchell Feeds, Inc. filed a bond with the Commission as required by North Dakota Century Code § 60-02.1-08 in the amount of \$70,000 and identified as number 15352088 with Western Surety Company, 101 South Phillips Avenue, Sioux Falls, South Dakota 57104-6703, as surety.
6. On February 1, 2011, James and Cynthia Burckhard of Towner, North Dakota, filed a letter for collection of outstanding funds owed to them for grain sold to Mitchell Feeds, Inc. Subsequently, David Steeves of Sherwood, North Dakota, Gene W. Allen, attorney representing David Deslauriers of Sherwood, North Dakota, Paul A. Rohde of Halliday, North Dakota, Don Ackerson of Sherwood, North Dakota, Steven Neameyer of Mylo, North Dakota, Lana Anderson/Northland Farms of Sherwood, North Dakota, Greg Busch/Busch Farms, Inc. of Crosby, North Dakota, and Mitch Preskey, Glenburn, North Dakota, each filed letters for collection of outstanding funds owed to them for grain sold to Mitchell Feeds, Inc.
7. That affiant was informed and believes there are additional outstanding obligations for unpaid claims for grain sold to Mitchell Feeds, Inc. 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.

8. That Mitchell Feeds, Inc. is insolvent under North Dakota Century Code Chapter 60-02.1, as of February 1, 2011, the date the first claim for collection of outstanding funds owed for grain sold was filed, in that it is unable upon proper demand to make payment for grain purchased or make redelivery for grain delivered.
9. That the Commission is legally entitled to be appointed trustee of the trust fund provided under North Dakota Century Code Chapter 60-02.1.
10. That bond proceeds will be needed to redeem outstanding receipts issued by Mitchell Feeds, Inc.
11. That proceeds from the credit-sale contract indemnity fund may be needed to meet the licensee's obligations to any holders of credit-sale contracts.
12. That affiant believes it is in the public interest to immediately appoint the Commission as trustee under North Dakota Century Code Chapter 60-02.1.
13. That the affidavit is made for the purpose of securing the appointment of the Commission as trustee of Mitchell Feeds, Inc. and preserving any assets of the trust under North Dakota Century Code Chapter 60-02.1.

Dated this 14th day of April, 2011.

By: *Susan K. Richter*
Susan K. Richter

Subscribed and sworn to before me
this 14th day of April, 2011.



Shelly A Bauske
Notary Public

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

_____)
Public Service Commission)
))
Petitioner,)
))
vs.)
))
Mitchell Feeds, Inc.)
))
and)
))
Western Surety Company)
))
Respondents.)
_____)
))
PSC Case No. GE-11-51)
))
_____)

CIVIL NO. _____

BRIEF IN SUPPORT OF
APPLICATION FOR
APPOINTMENT AS
TRUSTEE AND MOTION TO
JOIN SURETY AS PARTY

The North Dakota 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.

On February 1, 2011, James and Cynthia Burckhard of Towner, North Dakota, filed a letter for collection of outstanding funds owed to them for grain sold to Mitchell Feeds, Inc. Subsequently David Steeves of Sherwood, North Dakota, Gene W. Allen, attorney representing David Deslauriers of Sherwood, North Dakota, Paul A. Rohde of Halliday, North Dakota, Don Ackerson of Sherwood, North Dakota, Steven Neameyer of Mylo, North Dakota, Lana Anderson/Northland Farms of Sherwood, North Dakota, Greg Busch/Busch Farms, Inc. of Crosby, North Dakota, and Mitch Preskey of Glenburn,

North Dakota, each filed letters for collection of outstanding funds owed to them for grain sold to Mitchell Feeds, Inc. Mitchell Feeds, Inc. is unable, upon proper demand, to pay for grain purchased or make redelivery for grain delivered.

The Commission is informed and has reason to believe that there are outstanding obligations for unpaid claims for grain sold to Mitchell Feeds, Inc. 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.

It is in the best interest of all claimants that the Court declare Mitchell Feeds, Inc. insolvent and establish the date of insolvency as February 1, 2011, the date the first claim for collection of outstanding funds owed for grain sold was filed, and that the Commission be appointed Trustee, and be given the powers under North Dakota Century Code Chapter 60-02.1 so that all claimants will be treated fairly.

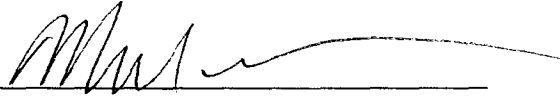
It is also in the best interest of all claimants that the surety be joined as a party as provided for under North Dakota Century Code § 60-02.1-31.

Upon the insolvency, the Commission has the authority under North Dakota Century Code § 60-10-05 to make payment to any person who sold grain to the licensee under a credit-sale contract and who was not fully compensated under the contract.

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 14th day of April, 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Illona A. Jeffcoat-Sacco', with a long horizontal flourish extending to the right.

Illona A. Jeffcoat-Sacco (ID#03315)
Mark Gruman (ID#06019)
Special Assistant Attorneys General
State Capitol – 12th 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)	CIVIL NO. _____
)	
Petitioner,)	
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vs.)	
)	
Mitchell Feeds, Inc.)	NOTICE OF APPLICATION
)	FOR APPOINTMENT AS
and)	TRUSTEE AND NOTICE OF
)	MOTION TO JOIN SURETY
Western Surety Company)	AS PARTY UNDER RULE 3.2
)	
Respondents.)	
)	
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PSC Case No. GE-11-51)	
)	
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TO: **Robert Mitchell, President, Mitchell Feeds, Inc.,** PO Box 9112, Fargo, ND 58106

Jackie Mitchell, Registered Agent for Mitchell Feeds, Inc., 4905 County Highway 81 South, Horace, ND 58047

Sharon Sergeant, Claims Manager, Senior Claims Counsel, Claim Department, Western Surety Company, 101 South Phillips Avenue, Sioux Falls, SD 57104-6703

Adam W. Hamm, Insurance Commissioner, State Capitol – 5th Floor, 600 East Boulevard Avenue, Bismarck, ND 58505-0320

Steven Neameyer, 4921 85th Street, Mylo, ND 58353

Paul A. Rohde, PO Box 251, Halliday, ND 58636

David R. Steeves, 4690 County Road 2, Sherwood, ND 58782

James and Cynthia Burckhard, 5520 18th Avenue NE, Towner, ND 58788

Don Ackerson, 10435 54th Avenue NW, Sherwood, ND 58782

Gene W. Allen, Attorney for David Deslauriers, PO Box 998, Minot, ND 58702-0998

Lana Anderson/Northland Farms, 10845 53rd Avenue NW, Sherwood, ND 58782

Greg Busch/Busch Farms, Inc., PO Box 584, Crosby, ND 58730

Mitch Preskey, 2485 Glenburn Road, Glenburn, ND 58740

PLEASE TAKE NOTICE that the Public Service Commission, Movant in this proceeding, respectfully moves the Court for an order declaring Mitchell Feeds, Inc. insolvent and establishing the date of insolvency as February 1, 2011, the date the first claim for collection of outstanding funds owed for grain sold was filed, and appointing the Public Service Commission Trustee for Mitchell Feeds, Inc., and joining the surety as a party to the action. The application and motion, affidavit and brief in support of the application and motion are attached to this notice and by reference made a part hereof.

YOU ARE HEREWITH NOTIFIED that the Application for Appointment as Trustee and Motion to Join Surety as party has been submitted to the Court pursuant to Rule 3.2 of the North Dakota Rules of Court. The motion will be decided on briefs unless oral argument is timely requested. You have fourteen (14) days after the service of the Notice to file your response and other supporting papers.

Bismarck, North Dakota, this 14th day of April, 2011.



Illona A Jeffcoat-Sacco (ID#03315)
Mark Gruman (ID#06019)
Special Assistant Attorneys General
State Capitol – 12th 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,

vs.

Mitchell Feeds, Inc.

and

Western Surety Company

Respondents.

PSC Case No. GE-11-51

CIVIL NO. _____

AFFIDAVIT OF
SERVICE BY CERTIFIED
MAIL

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH

)
)ss
)

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **14th day of April, 2011**, she deposited in the United States Mail, Bismarck, North Dakota, **thirteen envelopes** with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

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

The envelopes were addressed as follows:

Robert Mitchell
Mitchell Feeds, Inc.
PO Box 9112
 Fargo, ND 58106
Cert. No. 7010 1060 0001 0643 5107

Jackie Mitchell, Registered Agent for
Mitchell Feeds, Inc.
4905 County Highway 81 South
Horace, ND 58047
Cert. No. 7010 1060 0001 0643 5114

Robert Mitchell
Mitchell Feeds, Inc.
4905 County Highway 81 South
Horace, ND 58047
Cert. No. 7010 1060 0001 0643 5121

Sharon Sergeant, Claims Manager
Senior Claims Counsel, Claim Dept.
Western Surety Company
101 South Phillips Avenue
Sioux Falls, SD 57104-6703
Cert. No. 7010 1060 0001 0643 5138

Steven Neameyer
4921 85th Street
Mylo, ND 58353
Cert. No. 7010 1060 0001 0643 5145

Paul A. Rohde
PO Box 251
Halliday, ND 58636
Cert. No. 7010 1060 0001 0643 5152

David R. Steeves
4690 County Road 2
Sherwood, ND 58782
Cert. No. 7010 1060 0001 0643 5169

James and Cynthia Burckhard
5520 18th Avenue NE
Towner, ND 58788
Cert. No. 7010 1060 0001 0643 5176

Don Ackerson
10435 54th Avenue NW
Sherwood, MN 58782
Cert. No. 7010 1060 0001 0643 5183

Gene W. Allen
Attorney for David Deslauriers
PO Box 998
Minot, ND 58702-0998
Cert. No. 7010 1060 0001 0643 5206

Lana Anderson/Northland Farms
10845 53rd Avenue NW
Sherwood, ND 58782
Cert No. 7010 1060 0001 0643 5213

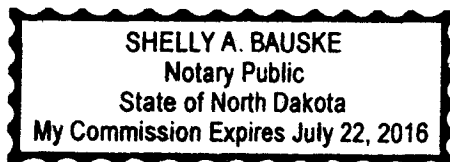
Greg Busch
Busch Farms, Inc.
PO Box 584
Crosby, ND 58730
Cert. No. 7010 1060 0001 0643 5220

Mitch Preskey
2485 Glenburn Road
Glenburn, ND 58740
Cert. No. 7010 1060 0001 0643 5237

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

Subscribed and sworn to before me
this **14th day of April, 2011.**

SEAL



George R. Pehring

Shelly A. Bauske
Notary Public