

July 11, 2012
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Marc A. Al
Stoel Rives LLP
33 S 6th St., Suite 4200
Minneapolis, MN 55402

PUBLIC SERVICE COMMISSION

Re: Anderson Seed Company Receivership;
Sunflower Seed Status and Handling Agreement;
Our File No.: 11369.001

Dear Mr. Al:

Enclosed with this letter is a revised copy of the Sunflower Seed Status and Handling Agreement which you previously forwarded to the Public Service Commission. Our modifications are explained in the following paragraphs.

On the first page of the agreement we have made several minor changes. We have eliminated the specific facility from which the delivery of sunflowers to Legumex Walker originated. The Public Service Commission is still in the process of confirming whether or not the sunflower seeds originated exclusively from the Durbin, ND facility. We have also clarified that the Public Service Commission has now been appointed as trustee for Anderson Seed Company.

We have made a significant change to paragraph 2 on page 2 of the agreement. First, we have modified the language to indicate that either the Public Service Commission or a claimant could initiate an action. The Public Service Commission may conclude that it will not take additional action but individual claimants may still feel that individual action is warranted. We do not want the agreement to preclude individual claimants from pursuing claims. Additionally, we have clarified that Legumex Walker is waiving any defenses based upon the assertion that the seed is no longer in its possession.

The remainder of the changes are stylistic and do not change the substance of your proposed agreement. Please provide us with your comments regarding the changes. If the agreement is acceptable please execute the agreement and return it to my office.

As a courtesy, I would appreciate if you would send copies of any correspondence both to my office as well

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Letter to Marc Al re seed status and handling agreement

Jon J. Jensen, Pearson Christensen & Clapp, PLLP

as to Illona Jeffcoat-Sacco, the Special Assistant Attorney General assigned to provide representation to the Public Service Commission.

Sincerely,

PEARSON CHRISTENSEN & CLAPP, PLLP



Jon J. Jensen

JJJ/maa

Encl.

cc: Illona Jeffcoat-Sacco

SUNFLOWER SEED STATUS AND HANDLING AGREEMENT

This Agreement is entered into by and between the North Dakota Public Service Commission ("ND PSC") and Legumex Walker, Inc. ("LWI") and is effective as of July __, 2012.

WHEREAS LWI purchased sunflower seed from Anderson Seed Company, Inc., on January 13, 2012, pursuant to a Purchase Order and Security Agreement dated that day, a true copy of which is attached hereto (the "January 13 Agreement"); and

WHEREAS LWI has been advised post-purchase that seed delivered to LWI by Anderson Seed Company, Inc. pursuant to the January 13 Agreement originated from grain storage facilities in North Dakota; and

WHEREAS Anderson Seed Company, Inc. is insolvent and the ND PSC has been appointed as trustee by the Cass County District Court, Case No.: 09-2012-CV-00693; and

WHEREAS claims have been lodged with the ND PSC by farmers that they delivered sunflower seed to Anderson Seed Company, Inc. but have not yet been paid by Anderson Seed Company; and

WHEREAS some or all of the grain purchased by LWI may be subject to a producer's statutory lien(s) pursuant to N.D.C.C. § 60-02-25 and N.D.C.C. § 60-02-25.1; and

WHEREAS LWI claims the status of a buyer in the ordinary course of business pursuant to N.D.C.C. § 60-02-25.1, and asserts that its ownership of the seed supersedes any liens under North Dakota law as set forth in N.D.C.C. § 60-02-25 and N.D.C.C. § 60-02-25.1; and

WHEREAS the doctrine of extra-territoriality is asserted by LWI as a further bar against any lien claims against seed once it leaves the State of North Dakota; and

WHEREAS the seed is a perishable commodity and temperatures and humidity levels

have been unseasonably high; and

WHEREAS the parties hereto desire to avoid any potential allegations of misconduct by LWI or laches by the ND PSC and desire to maintain the *status quo ante* without causing a potential material or total loss in the value of the seed,

IT IS HEREBY AGREED that:

1. As between LWI and the ND PSC, in ND PSC's capacity as trustee, LWI shall be entitled to process all seed it purchased from Anderson Seed Company pursuant to the January 13 Agreement.
2. In the event that the ND PSC or any claimant takes the position that LWI was not a buyer in the ordinary course and that any and all other and further defenses which may be asserted by LWI, including, but not limited to the extraterritoriality defense, should not apply, ND PSC or the claimant shall be entitled to commence all proceedings necessary to recover the value and percentage of the seed associated with such claim. LWI waives any defense based upon the assertion that the seed is no longer in its possession.
3. The value of the seed is hereby stipulated to be \$1,593,400.00, based on the market value of such seed as of February 15, 2012 (the "Seed Value"), determined by multiplying 62,000 cwt by \$25.70 per cwt.
4. To the extent necessary, the parties agree that the seed shall be assumed to remain in existence notwithstanding its processing, but that any final, non-appealable, or other order to turn over the seed to the ND PSC shall be effected by turning over instead the relevant percentage of the Seed Value, by payment to the ND PSC of the relevant percentage of the sum of \$ 1,593,400.00, in a check or by wire.
5. Other than as set forth herein, all parties maintain all claims and defenses they may

otherwise possess.

LEGUMEX WALKER, INC.

NORTH DAKOTA PUBLIC
SERVICE COMMISSION

By _____
Its _____

By _____
Its _____