



Public Service Commission

State of North Dakota

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August 22, 2012

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Re: Anderson Seed Co. Inc. Insolvency
PSC Case No. GE-12-78

Dear Claimant or Interested Party:

The purpose of this letter is to provide you with an update regarding the status of the Anderson Seed Co., Inc. insolvency. You are receiving this letter because you have filed a claim for yourself or on behalf of a claimant in these proceedings.

Prior to being determined to be insolvent, Anderson Seed Co., Inc. sold a majority of its sunflower seeds to Legumex Walker Sunflower, LLC. North Dakota law provides for a statutory lien which is intended to protect producers from grain being sold by a warehouseman without first insuring that the producers' interests have been satisfied. An exception to the statutory lien is if the warehouseman sells the grain "in the ordinary course of business." Legumex Walker Sunflower, LLC is asserting that it was a purchaser "in the ordinary course of business" and therefore the sunflower seeds purchased from Anderson Seed Co., Inc. were not subject to the statutory liens.

The Public Service Commission has retained an attorney to represent its interests in the insolvency. The PSC has received an opinion from its attorney that Legumex Walker Sunflower, LLC does not qualify as a "buyer in the ordinary course of business." Legumex Walker Sunflower, LLC has agreed that the issue of whether it is a "buyer in the ordinary course of business" requires determination by the court. Legumex Walker Sunflower, LLC has also agreed that in the event it is determined not to be a "buyer in the ordinary course of business" it will provide a payment to the PSC in the amount of approximately \$1.6 million. That payment, if recovered, would be used to satisfy unpaid grain claims.

Anderson Seed Co., Inc. had facilities located in Minnesota, North Dakota, and South Dakota. The existence of facilities in three different states complicates the claim process. Because of the multiple state jurisdictions, some claims may overlap. The respective state agencies are evaluating the various unpaid grain claims. The PSC appreciates your patience while the legal issues between the various states are being sorted out.

The PSC has been gathering documents from Anderson Seed Co., Inc. The process has been slow because the electronically stored records are in the possession of Legumex Walker Sunflower, LLC and have to be retrieved by Legumex Walker Sunflower, LLC. The physical contracts are in the possession of Anderson Seed Co., Inc. Legumex Walker Sunflower, LLC has stated that all of the records requested by the PSC will be turned over before the end of the month. We expect copies of

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the physical contracts will be sent to the PSC by Anderson Seed Co., Inc. on Monday August 20th. A review of the records is a prerequisite to the PSC processing unpaid grain claims.

While the PSC staff reviews the records, the next step in the legal process will be to file a motion with the district court for a determination as to whether or not Legumex Walker Sunflower, LLC was a "buyer in the ordinary course of business." The PSC will continue to keep you updated regarding the status of that determination and the insolvency process.

Thank you again for your patience.

Sincerely,



Susan K. Richter, Director
Licensing Division