

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

Public Service Commission

Petitioner,

vs.

Falkirk Farmers Elevator Co.

Respondent.

CIVIL NO. _____

EX PARTE ORDER
TO PRESERVE TRUST
ASSETS

PSC Case No. GE-12-769

The North Dakota Public Service Commission (commission) has petitioned the court for appointment as trustee of Falkirk Farmers Elevator Co. under North Dakota Century Code chapter 60-04 and for Ex Parte Order to Preserve Trust Assets under North Dakota Century Code section 60-04-03. Falkirk Farmers Elevator Co. operated licensed grain warehouses at Falkirk until September 6, 2012, and at Hazen, North Dakota, until August 1, 2012.

It appears from the record that Falkirk Farmers Elevator Co. is insolvent under North Dakota Century Code chapter 60-04, and that it is in the best interest of the claimants and the parties to this proceeding that an *ex parte* order be issued by this court to preserve and protect the potential assets of the trust fund and that Falkirk Farmers Elevator Co. be ordered to take any action necessary to preserve the value of the bean inventory until the court issues its order granting or denying the application.

North Dakota Century Code section 60-04-03.1 provides that the trust fund must consist of the following:

1. The grain in the warehouse of the insolvent warehouseman or the proceeds as obtained through the sale of such grain.
2. The proceeds, including accounts receivable, from any grain sold from the time of the filing of the claim that precipitated an insolvency until the commission is appointed trustee must be remitted to the commission and included in the trust fund.
3. The proceeds of insurance policies upon grain destroyed in the elevator.
4. The claims for relief, and proceeds therefrom, for damages upon any bond given by the warehouseman to ensure faithful performance of the duties of a warehouseman.
5. The claims for relief, and proceeds therefrom, for the conversion of any grain stored in the warehouse.
6. Unencumbered accounts receivable for grain sold prior to the filing of the claim that precipitated an insolvency.
7. Unencumbered equity in grain hedging accounts.
8. Unencumbered grain product assets.

ORDER

THEREFORE, the court orders that (1) Falkirk Farmers Elevator Co. is ordered to preserve and protect the trust assets under North Dakota Century Code section 60-04-03.1 and (2) the commission is authorized to immediately take any action deemed necessary to preserve and protect the trust assets under North Dakota Century Code section 60-04-03.1.

_____, North Dakota, this ____ day of _____, 2012.

BY THE COURT

Honorable
Judge of the District Court