

_____	)	
Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
	)	
Petitioner,	)	
vs.	)	
	)	AFFIDAVIT OF SERVICE
Falkirk Farmers Elevator Co.	)	BY ELECTRONIC,
	)	CERTIFIED, AND REGULAR
Respondent.	)	MAIL
_____	)	
PSC Case No. GE-12-769	)	
_____	)	

**Susan K. Richter** deposes and says that: she is over the age of 18 years and not a party to this action and, on the **31<sup>st</sup> day of December, 2013**, she electronically served via the Odyssey Electronic Service and File System using the email address provided on the December 20, 2012 Notice of Appearance, namely [mgust@andersonbottrell.com](mailto:mgust@andersonbottrell.com), a copy of:

1. Notice of Motion and Notice of Hearing;
2. Motion to Bifurcate Proceeding, Approve First Report and Recommendation of Trustee, and Approve Credit-Sale Contract Indemnity Fund Payments;
3. Brief in Support of Motion to Bifurcate Proceeding, Approve First Report and Recommendation of Trustee, and Approve Credit-Sale Contract Indemnity Fund Payments;
4. First Report and Recommendation of Trustee with Exhibit A, Exhibit B, Exhibit C, and Exhibit D;
5. Proposed Order to Bifurcate Proceeding, Approve First Report and Recommendation of Trustee, and Approve Credit-Sale Contract Indemnity Fund Payments; and
6. Affidavit of Service by Electronic, Certified, and Regular Mail.

**Susan K. Richter** further deposes and says that on the **31<sup>st</sup> day of December, 2013**, she deposited in the United States Mail, Bismarck, North Dakota, **3 envelopes** by certified mail, with postage fully prepaid, return receipt requested, securely sealed and each containing a photocopy of the same.

The envelopes were addressed as follows:

Mike Gust  
 Attorney for Falkirk Farmers Elevator Co.  
 Anderson, Bottrell, Sanden & Thompson  
 4132 30<sup>th</sup> Avenue South Suite 100  
 PO Box 10247  
 Fargo, ND 58106-0247  
**Cert. No. 7013 2630 0001 2317 0385**

Michael Guenthner  
 Board President  
 Falkirk Farmers Elevator Co.  
 3807 3<sup>rd</sup> Street SW  
 Underwood, ND 58576  
**Cert. No. 7012 1640 0002 4652 2475**

Derek Woodward  
CNA Surety  
5201 Eden Avenue – Suite 300  
Minneapolis, MN 55436  
**Cert. No. 7012 2210 0001 5060 8166**

**Susan K. Richter** further deposes and says that on the **31<sup>st</sup> day of December, 2013**, she deposited in the United States Mail, Bismarck, North Dakota, **16 envelopes** by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

The envelopes were addressed as follows:

Monty Fast  
480 13<sup>th</sup> Ave. NW  
Turtle Lake, ND 58575

Kelly & Kristi Erdmann  
3507 17<sup>th</sup> Street NW  
Garrison, ND 58540

Michael Guenther  
3807 3<sup>rd</sup> Street SW  
Underwood, ND 58576

Gary Knell  
831 45<sup>th</sup> Avenue NW  
Hazen, ND 58545-9361

Lowayne Krush  
PO Box 444  
602 2<sup>nd</sup> Street North  
Wilton, ND 58579

Neal Peterson  
Cowtrail Ranch  
3959 7<sup>th</sup> Street SW  
Washburn, ND 58577

Retterath Ranch Joint Venture  
1291 33<sup>rd</sup> Avenue SW  
Center, ND 58530

St. Hilaire Seed Co., Inc.  
PO Box 85  
St. Hilaire, MN 56754

Jerald Sommer  
218 9<sup>th</sup> Street NW  
Beulah, ND 58523

Marlyn & Kristie Seidler JV  
464 23<sup>rd</sup> Avenue NW  
Underwood, ND 58576-9679

Kjelstrup Farms Partnership  
PO Box 281  
Underwood, ND 58576

Jerry Blotter  
1608 25<sup>th</sup> Avenue NW  
Coleharbor, ND 5831

Emily Grande Stearns,  
Barnes & Thornburg, LLP  
Attorney for St. Hilaire Seed Co., Inc.  
225 South Sixth Street, suite 2800  
Minneapolis, MN 55402-4662

Steve Strege  
ND Grain Dealers Association  
1325 23<sup>rd</sup> St. South – Suite A  
Fargo, ND 58103-3723

Derek Woodward  
CNA Surety  
5201 Eden Avenue – Suite 300  
Minneapolis, MN 55436

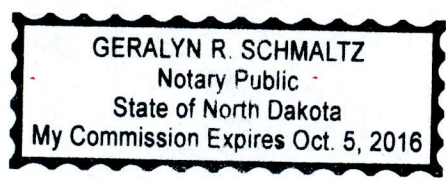
Steven Hager  
Falkirk Farmers Elevator  
2896 3<sup>rd</sup> Street NW  
Underwood, ND 58576

Subscribed and sworn to before me  
this 31<sup>st</sup> day of December, 2013.

Susan K. Richter

Gerald R. Schultz  
Notary Public

SEAL



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

_____	)	
Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
	)	
	)	
	)	
vs.                                      Petitioner,	)	NOTICE OF MOTION AND
	)	NOTICE OF HEARING
Falkirk Farmers Elevator Co.	)	
	)	
	)	
	)	
	)	
	)	
_____	)	
PSC Case No. GE-12-769	)	
	)	
_____	)	

1. **PLEASE TAKE NOTICE** that the North Dakota Public Service Commission (Commission) as Trustee of the trust created by the insolvency of Falkirk Farmers Elevator Co. respectfully moves the court for an order bifurcating the proceeding, approving the First Report and Recommendation of Trustee, and authorizing payments to valid credit-sale claimants and reimbursement to the Commission, as Trustee, from the Credit-Sale Contract Indemnity Fund. The corresponding Motion is being filed with the court contemporaneously with this Notice.
2. **FURTHER PLEASE TAKE NOTICE** that a copy of the Motion to Bifurcate Proceeding, Approve First Report and Recommendation of Trustee, and Approve Credit-Sale Contract Indemnity Fund Payments, as well as a copy of the First Report and Recommendation of Trustee and the Proposed Order Bifurcating Proceeding, Approving First Report and Recommendation of Trustee, and

Approving Credit-Sale Contract Indemnity Fund Payments are herewith served upon you.

3. **FURTHER PLEASE TAKE NOTICE** that the Court has scheduled a hearing on this matter for **March 13, 2014 at 9:30 a.m., CST**, at the Burleigh County Courthouse, 514 East Thayer Avenue, Bismarck, North Dakota 58501.
4. **FURTHER PLEASE TAKE NOTICE** that under North Dakota Century Code section 60-04-09, any aggrieved person having an objection to the Commission's First Report and Recommendation of Trustee shall file the objection with the Court and serve copies on the Commission, the warehouseman, and the surety at least ten (10) days before the hearing. Failure to file and serve objections in the time set is a waiver of the objection.
5. Respectfully submitted at Bismarck, North Dakota, this **31<sup>st</sup> day December, 2013**.



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Attorney for North Dakota Public Service Commission

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

_____	)	
Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
	)	
Petitioner,	)	MOTION TO BIFURCATE
	)	PROCEEDING, APPROVE
vs.	)	FIRST REPORT AND
	)	RECOMMENDATION OF
Falkirk Farmers Elevator Co.	)	TRUSTEE, AND
	)	APPROVE CREDIT-SALE
Respondent.	)	CONTRACT INDEMNITY FUND
_____	)	PAYMENTS
	)	
PSC Case No. GE-12-769	)	
	)	
_____	)	

1. The undersigned respectfully moves the Court for an Order Bifurcating the Proceeding into a Trust Fund portion and a Credit-Sale Contract Indemnity Fund portion, Approving Trustee's First Report and Recommendation regarding credit-sale contract claims, and Approving Payment from the Credit-Sale Contract Indemnity Fund in the above matter.
2. The request to bifurcate the proceeding into a Trust Fund portion and Credit-Sale Contract Indemnity Fund portion is made in order for the Commission to obtain a final adjudication of the Credit-Sale Contract Indemnity Fund claims, and make corresponding payments to credit-sale contract claimants and partial reimbursement of expenses to the Commission, while the claim relating to the Trust Fund remains pending.

3. Respectfully submitted at Bismarck, North Dakota this **31st day of December, 2013.**



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Attorney for North Dakota Public Service Commission \_\_\_\_\_

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

_____	)	
Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
	)	
Petitioner,	)	BRIEF IN SUPPORT OF
	)	MOTION TO BIFURCATE
vs.	)	PROCEEDING, APPROVE
	)	FIRST REPORT AND
Falkirk Farmers Elevator Co.	)	RECOMMENDATION OF
	)	TRUSTEE, AND APPROVE
Respondent.	)	CREDIT-SALE CONTRACT
_____	)	INDEMNITY FUND PAYMENTS
	)	
PSC Case No. GE-12-769	)	
	)	
_____	)	

1. The North Dakota Public Service Commission (Commission), as Trustee of the trust fund provided by North Dakota Century Code section 60-04-03 for the purpose of marshalling all trust assets of Falkirk Farmers Elevator Co., an insolvent grain warehouse, seeks an order bifurcating proceeding, approving the First Report and Recommendation of Trustee and approving payments from the Credit-Sale Contract Indemnity Fund. The Commission has the authority to bring this Motion and the Court has the power to grant the relief requested under North Dakota Century Code sections 60-04-03 and 60-04-07.
2. North Dakota Century Code section 60-02-09 requires that a bond must be filed with the Commission before any license can be issued to any public warehouseman in North Dakota. The bond is for the purpose of protecting the holders of outstanding receipts and for covering the costs incurred by the Commission in the administration of the licensee's insolvency. The insolvent

licensee, Falkirk Farmers Elevator Co., had such a bond, issued by Western Surety Company, P.O. Box 5077, Sioux Falls, South Dakota as surety.

3. This proceeding involves claims under both North Dakota Century Code section 60-04-03.1, payable if valid from the Trust Fund, and North Dakota Century Code section 60-10-05, payable if valid from the Credit-Sale Contract Indemnity Fund. However, the Commission's First Report and Recommendation in this proceeding does not make any recommendation regarding distribution of Trust Fund proceeds. Instead, the Commission is asking the Court to bifurcate the proceeding and approve only payment of Credit-Sale Contract Indemnity Fund claims at this time.
4. There exists pending federal litigation between the insolvent warehouse and the Public Service Commission's only claimant asserting a claim to the assets of the Trust Fund. This federal litigation is in its early stages, and involves substantial factual and legal issues that must be resolved before the Commission can make a recommendation on the claim involving the Trust Fund, the need for bond proceeds, and any resulting distribution of the Trust Fund assets. The pending federal litigation does not affect the claims against the Credit-Sale Contract Indemnity Fund.
5. The Commission is not including any recommendation in this First Report and Recommendation regarding this one claim against the trust assets. Since pending federal litigation will affect this claim, the Commission is requesting that the Court bifurcate the proceeding to allow final disposition of the portion of the proceeding involving the claims against the Credit-Sale Contract Indemnity Fund,

and payment to affected claimants, while the claim against the Trust Fund remains pending.

6. The Commission has reviewed the credit-sale contract claims filed against the warehouseman and a detailed determination regarding the validity of each claim is attached to and summarized in the First Report and Recommendation of Trustee.
7. Under North Dakota Century Code section 60-04-03.1 the “trust fund shall be established for the benefit of noncredit-sale receipt holders of the insolvent warehouseman and to pay the costs incurred by the commission in the administration of this chapter. . . .” The Credit-Sale Contract Indemnity Fund was created for the purpose of providing protection for persons selling grain to a North Dakota licensed warehouse. North Dakota Century Code section 60-10-02. A person is eligible to receive payment from the Credit-Sale Contract Indemnity Fund if the warehouse licensed under North Dakota law to which the person sold grain becomes insolvent and has not fully compensated the person in accordance with the credit-sale contract. North Dakota Century Code section 60-10-04.
8. Proceeds from the Credit-Sale Contract Indemnity Fund will be needed to meet the licensee’s obligations to holders of credit-sale contracts. North Dakota Century Code section 60-10-05 provides:

Upon the insolvency of a licensed warehouse or 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.

9. Under North Dakota Century Code section 60-10-06, the amount payable to any eligible person from the Credit-Sale Contract Indemnity Fund may not exceed the lesser of eighty percent of the amount owed to that eligible person under that person's unsatisfied credit-sale contracts or two hundred eighty thousand dollars.
10. North Dakota Century Code section 60-04-09 provides in part:

Following hearing, the court shall approve or modify the report and issue an order directing payment of the necessary bond proceeds, distribution of the trust fund, and discharge of the commission from its trust.
11. We respectfully request that the Court approve the First Report and Recommendation of Trustee and authorize Credit-Sale Contract Indemnity Fund payments to valid credit-sale claimants.
12. Respectfully submitted at Bismarck, North Dakota, this **31<sup>st</sup> day of December, 2013.**



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Attorney for North Dakota Public Service Commission

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

_____	)	
Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
	)	
Petitioner,	)	
	)	
vs.	)	FIRST
	)	REPORT AND
Falkirk Farmers Elevator Co.	)	RECOMMENDATION
	)	OF TRUSTEE
Respondent.	)	
_____	)	
PSC Case No. GE-12-769	)	
	)	
_____	)	

1. The North Dakota Public Service Commission (Commission) as Trustee, makes the following Report and Recommendation to the Court:
2. Falkirk Farmers Elevator Co., a North Dakota cooperative association, authorized to do business in North Dakota, operated grain warehouses at Falkirk, North Dakota and at Hazen, North Dakota under North Dakota Century Code Chapters 60-02 and 60-04.
3. Falkirk Farmers Elevator Co. operated its grain warehouse at Falkirk, North Dakota under license number 128 and its grain warehouse at Hazen, North Dakota, under license number 1175.
4. As part of the licensing process, Falkirk Farmers Elevator Co. filed a bond with the Commission as required by North Dakota Century Code section 60-02-09, in the amount of \$380,000 and identified as number 141552626, with Western Surety Company, P.O. Box 5077, Sioux Falls, South Dakota, as surety.

5. On October 10, 2012, Monty Fast of Turtle Lake, North Dakota, filed with the Commission a letter for collection of outstanding funds Falkirk Farmers Elevator Co. owed Monty Fast for grain sold to Falkirk Farmers Elevator Co.
6. On October 15, 2012, Timothy Erdmann, Commission grain warehouse inspector, who had reason to believe there were pinto beans at the Falkirk facility, visited the Falkirk facility and confirmed there were approximately 8,000 gross hundredweight of pinto beans in the facility.
7. On October 18, 2012, Michael McNamee, Commission grain warehouse inspector, who had reason to believe there were pinto beans stored in an unlicensed facility in Cummings, North Dakota on behalf of Falkirk Farmers Elevator Co., stopped at the unlicensed facility in Cummings, North Dakota, owned by Cummings Ag of Buxton, North Dakota and confirmed there were approximately 1,700 gross hundredweight of sample grade pinto beans stored in the Cummings facility on behalf of Falkirk Farmers Elevator Co.
8. On November 9, 2012, the Commission received an electronic copy of a letter from Mike Guenthner, President of Falkirk Farmers Elevator Co., advising that Falkirk Farmers Elevator Co. recognized under the provisions of North Dakota Century Code, Falkirk Farmers Elevator Co. may be deemed to be insolvent, in that it was unable to fully pay for grain delivered.
9. On November 30, 2012, the Commission filed an Application for Appointment as Trustee and for Ex Parte Order in District Court, County of McLean, South Central Judicial District.

10. On December 31, 2012, the District Court issued an order requiring Falkirk Farmers Elevator Co. to preserve and protect the trust assets and authorizing the Commission to immediately take any action deemed necessary to preserve and protect the trust assets until the Court issued its order granting or denying the application for appointment of the Commission as Trustee of the trust fund.
11. Also on December 31, 2012, the District Court issued an order appointing the Commission Trustee of the trust fund provided by North Dakota Century Code Chapter 60-04 for the purpose of marshaling all trust assets of the insolvent Falkirk Farmers Elevator Co. and establishing October 10, 2012 as the date of insolvency, the date that the first claim for collection of outstanding funds owed for grain was filed with the Commission.
12. On January 17, 2013, the Commission served Notice of Entry of both orders and Notice of Appointment as Trustee and Notice to File Claims on the parties by certified mail, and also sent the notices by regular mail to 15 potential claimants identified by the Commission. The Notice of Appointment and Notice to File Claims required claims to be filed with the Commission within forty-five days of the second publication of the notice.
13. The Notice of Appointment as Trustee and Notice to File Claims was published as a legal publication in the McLean County Independent and in the Hazen Star on January 24, 2013, and January 31, 2013, as provided in North Dakota Century Code section 60-04-03.3. The McLean County Independent is located in McLean County and is the official county newspaper of the county in which Falkirk Farmers Elevator, Co.'s Falkirk warehouse is located. The Hazen Star is

located in Mercer County and is the official county newspaper of the county in which Falkirk Farmers Elevator Co.'s Hazen warehouse is located.

14. Nine claims totaling \$1,991,562.91 were filed with the Commission, as shown below. Additional detail on the claims is provided in Exhibits A, B, and C, attached to this report.

	<u>Claimant Name</u>	<u>Claim Filed</u>
a.	Jerry Blotter	\$ 6,452.73
b.	Kelly & Kristi Erdmann	\$ 118,836.25
c.	Monty Fast	\$ 38,046.24
d.	Michael Guenther	\$ 5,904.65
e.	Gary Knell	\$ 9,220.07
f.	Lowayne Krush	\$ 6,909.34
g.	Neal Peterson	\$ 5,640.00
h.	Retterath Ranch Joint Venture	\$ 94,964.94
i.	St. Hilaire Seed Company, Inc.	\$1,705,588.69

15. The Commission liquidated all grain assets stored on behalf of Falkirk Farmers Elevator Co. in the unlicensed facility in Cummings, ND, with a value of \$7,000 and all grain assets in Falkirk Farmers Elevator Co.'s Falkirk facility, with a value of \$71,507.10, and deposited the proceeds in the trust fund. The Commission also collected \$2,000 representing an outstanding account receivable from a grain sale and deposited the proceeds in the trust fund. The total deposit in the trust fund is \$80,507.10.
16. The insolvency proceeding involves claims under both North Dakota Century Code section 60-04-03, payable if valid from the Trust fund, and North Dakota Century Code Section 60-10-05, payable if valid from the Credit-Sale Contract Indemnity Fund. Only one party has filed a claim with the Commission against the trust assets. There exists pending federal litigation between the insolvent

warehouse and the Public Service Commission's only claimant asserting a claim to the trust assets. This federal litigation is in its early stages, and involves substantial factual and legal issues that must be resolved before the Commission can make a recommendation on the claim, the need for bond proceeds, and any resulting distribution of the trust assets. The pending federal litigation does not affect the claims against the Credit-Sale Contract Indemnity Fund.

17. The Commission is not including any recommendation in this First Report and Recommendation regarding this one claim against the trust assets. Since pending federal litigation will affect this claim, the Commission is requesting that the Court bifurcate the proceeding to allow final disposition of the portion of the proceeding involving the claims against the Credit Sale Contract Indemnity Fund, and payment to affected claimants, while the claim against the trust fund remains pending.
18. Proceeds from the Credit-Sale Contract Indemnity Fund will be needed to meet the insolvent licensee's obligations to holders of credit-sale contracts. Payments will be made to valid credit-sale claimants with the claimants receiving 80% of the claimants' valid claims under North Dakota Century Code section 60-10-06.
19. The Commission recommends that each credit-sale contract claimant be paid 80% of the claimant's valid credit-sale claim as provided under North Dakota Century Code section 60-10-06. The Commission recommends that payment for each credit-sale claim be made jointly payable to the claimant and relevant valid lien holders at the time checks are issued.

20. The valid credit-sale claim amounts recommended for payment by the Commission total \$278,818.08 and by law each claimant is entitled to 80% of the respective valid credit-sale claim, as shown below and with additional detail in Exhibit B, attached to this report:

	Claimant Name	Claim Filed	Valid Credit-Sale Claim	80% Credit-Sale Amount
a.	Kelly & Kristi Erdmann	\$ 118,836.25	\$ 118,566.15	\$ 94,852.92
b.	Monty Fast	\$ 38,046.24	\$ 37,961.13	\$ 30,368.90
c.	Michael Guenthner	\$ 5,904.65	\$ 5,889.89	\$ 4,711.91
d.	Gary Knell	\$ 9,220.07	\$ 9,199.27	\$ 7,359.42
e.	Lowayne Krush	\$ 6,909.34	\$ 6,892.69	\$ 5,514.15
f.	Neal Peterson	\$ 5,640.00	\$ 5,557.91	\$ 4,446.33
g.	Retterath Ranch Joint Venture	\$ 94,964.94	\$ 94,751.04	\$ 75,800.83

21. The Commission recommends that one credit-sale claim in the total amount of \$6,452.73, shown below, be denied because of an offset of an account payable owed by Mr. Blotter to Falkirk Farmers Elevator Co. Further detail on the claim and the basis for denial is provided in Exhibit C, attached to this report.

Claimant Name	Claim Filed	Invalid Claim
Jerry Blotter	\$ 6,452.73	\$ 6,452.73

22. North Dakota Century Code section 60-10-09 provides that expenses incurred in administering the Credit-Sale Contract Indemnity Fund are reimbursable from the fund. In this First Report and Recommendation, the Commission recommends reimbursement for half of the expenses from the Credit-Sale Contract Indemnity Fund incurred for postage, publication, legal, and miscellaneous expenses. The remaining half of the expenses will be addressed when the Second Report and Recommendation is filed. The total amount incurred to date is \$414.15 and half

is \$207.08 as evidenced in attached Exhibit D. The final amount to be paid will be determined once Court approval is received.

23. Contemporaneously with the filing of this First Report and Recommendation a Motion to Bifurcate Proceeding, Approve First Report and Recommendation of Trustee, and Approve Credit-Sale Contract Indemnity Fund Payments is being filed with the North Dakota District Court located in McLean County North Dakota, to be heard March 13, 2014 at 9:30 a.m. in the Burleigh County District Court. Any interested party may appear at the hearing to show cause why the First Report and Recommendation should not be approved.
24. Wherefore the Commission asks the Court to:
25. Bifurcate the proceeding to allow final adjudication of the credit-sale portion of the insolvency proceeding and consequent payment to credit-sale claimants.
26. Approve the First Report and Recommendation of the Trustee.
27. Authorize the Commission to make payments from the Credit-Sale Contract Indemnity Fund consistent with this First Report and Recommendation to persons with valid credit-sale claims for grain purchased via credit-sale contract by Falkirk Farmers Elevator Co. and relevant valid lien holders at the time checks are issued.
28. Authorize reimbursement to the Commission, as trustee, from the Credit-Sale Contract Indemnity Fund of 50% of the expenses incurred by the Commission in the administration of the insolvency, consistent with this First Report and Recommendation.

29. Respectfully submitted at Bismarck, North Dakota, this 31<sup>st</sup> day of December, 2013.

A handwritten signature in black ink, appearing to read "Illona A. Jeffcoat-Sacco". The signature is written in a cursive style with a horizontal line underneath.

Illona A. Jeffcoat-Sacco  
Special Assistant Attorney General  
State Bar ID No. 03315  
North Dakota Public Service Commission  
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Attorney for the Public Service Commission

**PSC vs FALKIRK FARMERS ELEVATOR CO.**

**EXHIBIT A**

**CIVIL NO. FK-28-2012-CV-000176**

**PSC Case No. GE-12-769**

**Detailed list of claims received**

**12/30/2013**

page 1 of 3

<b>Claimant Name &amp; Address</b>	<b>Purchase Contract #</b>	<b>Credit-sale Contract #</b>	<b>Grain</b>	<b>Bushels or CWT</b>	<b>Claim Amount</b>	<b>Discount</b>	<b>Unpaid Credit-sale Amount</b>
Erdmann, Kelly & Kristi 3507 17th Street NW Garrison, ND 58540	3628 3629&3640	PL16016 PL16748	Pinto bn Pinto bn	908.27 1792.77	\$ 39,237.26 \$ 79,598.99	\$ (90.83) \$ (179.28)	\$ 39,146.44 \$ 79,419.71
Claim difference is the bean promotion fee.							
Fast, Monty 480 13th Avenue NW Turtle Lake, ND 58575	3632 3633 3634	PL16646 PL16769 PL16880	HRS Wheat HRS Wheat HRS Wheat	3896.54 1333.89 444.2	\$ 25,795.09 \$ 9,310.55 \$ 2,940.60	\$ (58.45) \$ (20.01) \$ (6.67)	\$ 25,736.65 \$ 9,290.54 \$ 2,933.94
Claim difference is the wheat promotion fee.							
Guenthner, Michael 3807 3rd Street SW Underwood, ND 58576		BF 48810	Corn	1011.07	\$ 5,904.65	\$ (14.76)	\$ 5,889.89
Claim difference is the corn promotion fee.							
Knell, Gary 831 45th Avenue NW Hazen, ND 58545-9361	3635 3636 3637	PL17041 PL17235 PL29557	HRS Wheat HRS Wheat HRS Wheat	662.95 152.85 570.36	\$ 4,435.14 \$ 1,077.59 \$ 3,707.34	\$ (9.94) \$ (2.29) \$ (8.56)	\$ 4,425.19 \$ 1,075.30 \$ 3,698.78
Claim difference is the wheat promotion fee.							

Claimant Name & Address	Purchase Contract #	Credit-sale Contract #	Grain	Bushels or CWT	Claim Amount	Discount	Unpaid Credit-sale Amount
Krush, Lowayne PO Box 444 602 2nd Street N Wilton, ND 58579 Claim difference is the bean promotion fee.	3642	PL14392	Pinto bn	166.49	\$ 6,909.34	\$ (16.65)	\$ 6,892.69
Peterson, Neal Cowtrail Ranch 3959 7th Street NW Washburn, ND 58577 Claim difference is the wheat promotion and Mr. Peterson's error in the amount of \$70.83 regarding the accounts payable offset taken by Falkirk Farmers Elevator.	3638	PL17381	HRS Wheat	749.55	\$ 5,640.00	\$ (11.25) \$ (70.83)	\$ 5,557.91
Retterath Ranch Joint Venture 1291 33rd Avenue SW Center, ND 58530 Claim difference is the bean promotion fee.	3630 3631&3639	PL17100 PL17115	Pinto bn Pinto bn	68.46 2070.39	\$ 3,039.62 \$ 91,925.32	\$ (6.85) \$ (207.04)	\$ 3,032.77 \$ 91,718.27
Jerry Blotter 1608 25th Avenue NW Coleharbor, ND 58531 The claim is invalid. These pinto beans were settled in full on settlement number 29598 on July 16, 2012. The amount of \$6,452.73 was applied to the Falkirk Farmers Elevator accounts receivable payable by Mr. Blotter. This offset was conducted prior to the Insolvency of Falkirk Farmers Elevator.		PL17297	pinto bean	145.66	\$ 6,452.73		

Claimant Name & Address	Purchase Contract #	Credit-sale Contract #	Grain	Bushels or CWT	Claim Amount	Discount	Unpaid Credit-sale Amount
St. Hilaire Seed Company, Inc. PO Box 85 St. Hilaire, MN 56754			pinto bean	46,000	\$ 1,705,588.69		
<p>The claim is on hold pending the lawsuit litigation. The claim refers to warehouse receipts issued for the amount of 46,000 hundred weight of #1 pinto beans.</p>							

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Totals \$ 1,991,562.91 \$ (703.41) \$ 278,818.08

Invalid claim amount of \$6452.73

Claim amount on hold pending litigation \$1,705,588.69

**PSC vs FALKIRK FARMERS ELEVATOR****EXHIBIT B**

CIVIL NO. FK-28-2012-CV-000176

PSC Case No. GE-12-769

Valid Credit-Sale Claims payable from the Credit-Sale Contract Indemnity Fund

12/30/2013

page 1 of 2

Claimant Name & Address	Purchase Contract #	Credit-sale Contract #	Grain	Bushels or CWT	Claim Amount	Discount	Unpaid Credit-sale Amount	80% of Unpaid Credit-sale Amount
Erdmann, Kelly & Kristi 3507 17th Street NW Garrison, ND 58540 Claim difference is the bean promotion fee.	3628 3629&3640	PL16016 PL16748	Pinto bn Pinto bn	908.27 1792.77	\$ 39,237.26 \$ 79,598.99	\$ (90.83) \$ (179.28)	\$ 39,146.44 \$ 79,419.71	\$ 94,852.92
Fast, Monty 480 13th Avenue NW Turtle Lake, ND 58575 Claim difference is the wheat promotion fee.	3632 3633 3634	PL16646 PL16769 PL16880	HRS Wheat HRS Wheat HRS Wheat	3896.54 1333.89 444.2	\$ 25,795.09 \$ 9,310.55 \$ 2,940.60	\$ (58.45) \$ (20.01) \$ (6.67)	\$ 25,736.65 \$ 9,290.54 \$ 2,933.94	\$ 30,368.90
Guenthner, Michael 3807 3rd Street SW Underwood, ND 58576 Claim difference is the corn promotion fee.		BF 48810	Corn	1011.07	\$ 5,904.65	\$ (14.76)	\$ 5,889.89	\$ 4,711.91
Knell, Gary 831 45th Avenue NW Hazen, ND 58545-9361 Claim difference is the wheat promotion fee.	3635 3636 3637	PL17041 PL17235 PL29557	HRS Wheat HRS Wheat HRS Wheat	662.95 152.85 570.36	\$ 4,435.14 \$ 1,077.59 \$ 3,707.34	\$ (9.94) \$ (2.29) \$ (8.56)	\$ 4,425.19 \$ 1,075.30 \$ 3,698.78	\$ 7,359.42

Claimant Name & Address	Purchase Contract #	Credit-sale Contract #	Grain	Bushels or CWT	Claim Amount	Discount	Unpaid Credit-sale Amount	80% of Unpaid Credit-sale Amount
Krush, Lowayne PO Box 444 602 2nd Street N Wilton, ND 58579 Claim difference is the bean promotion fee.	3642	PL14392	Pinto bn	166.49	\$ 6,909.34	\$ (16.65)	\$ 6,892.69	\$ 5,514.15
Peterson, Neal Cowtrail Ranch 3959 7th Street NW Washburn, ND 58577 Claim difference is the wheat promotion and Mr. Peterson's error in the amount of \$70.83 regarding the accounts payable offset taken by Falkirk Farmers Elevator.	3638	PL17381	HRS Wheat	749.55	\$ 5,640.00	\$ (11.25) \$ (70.83)	\$ 5,557.91	\$ 4,446.33
Retterath Ranch Joint Venture 1291 33rd Avenue SW Center, ND 58530 Claim difference is the bean promotion fee.	3630 3631&3639	PL17100 PL17115	Pinto bn Pinto bn	68.46 2070.39	\$ 3,039.62 \$ 91,925.32	\$ (6.85) \$ (207.04)	\$ 3,032.77 \$ 91,718.27	\$ 75,800.83

Totals	Claim Amount	Discount	Unpaid Credit-sale Amount	80% of Unpaid Credit-sale Amount
Totals	\$ 279,521.49	\$ (703.41)	\$ 278,818.08	\$ 223,054.46

**PSC vs FALKIRK FARMERS ELEVATOR**

**CIVIL NO. FK-28-2012-CV-000176**

**PSC Case No. GE-12-769**

**Invalid Credit-Sale**

12/30/2013

**EXHIBIT C**

<b>Claimant Name &amp; Address</b>	<b>Purchase Contract #</b>	<b>Credit-sale Contract #</b>	<b>Grain</b>	<b>Bushels or CWT</b>	<b>Claim Amount</b>	<b>Invalid Credit-sale Amount</b>
<b>Jerry Blotter 1608 25th Avenue NW Coleharbor, ND 58531</b>		17297	pinto bean	145.66	\$ 6,452.73	\$ 6,452.73

The claim is invalid. These pinto beans were settled in full on settlement number 29598 on July 16, 2012. The amount of \$6,452.73 was applied to the Falkirk Farmers Elevator accounts receivable payable by Mr. Blotter. This offset was conducted prior to the Insolvency of Falkirk Farmers Elevator.

PS4012769

GE-12-769 Falkirk Insolvency

Operating Expenditure

<u>Account</u>	<u>Fund</u>		<u>Current Month</u>	<u>Biennium to Date</u>	<u>Inception to Date</u>
532125	Resource Materials	001 ACT	0.00	19.20	19.20
541015	Postage or P.O. Box Rental	001 ACT	0.00	0.00	92.80
621020	Advertising Services	001 ACT	0.00	0.00	186.30
623110	Legal - Attorney General's Off	001 ACT	0.00	0.00	115.85
<b>Total Operating Expenditure</b>			<b>0.00</b>	<b>19.20</b>	<b>414.15</b>
Total General Fund			0.00	19.20	414.15
Total Federal Fund			0.00	0.00	0.00
Total Special Fund			0.00	0.00	0.00
<b>Total Direct Expenditure</b>			<b>0.00</b>	<b>19.20</b>	<b>414.15</b>
<b>Total Expenditures</b>			<b>0.00</b>	<b>19.20</b>	<b>414.15</b>
<b>Total General Fund</b>			<b>0.00</b>	<b>19.20</b>	<b>414.15</b>
<b>Total Federal Fund</b>			<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Total Special Fund</b>			<b>0.00</b>	<b>0.00</b>	<b>0.00</b>

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

_____	)	
Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
	)	
Petitioner,	)	ORDER TO BIFURCATE
vs.	)	PROCEEDING, APPROVE
	)	FIRST REPORT AND
Falkirk Farmers Elevator Co.	)	RECOMMENDATION OF
	)	TRUSTEE, AND APPROVE
Respondent.	)	CREDIT-SALE CONTRACT
_____	)	INDEMNITY FUND PAYMENTS
	)	
PSC Case No. GE-12-769	)	
	)	
_____	)	

1. This matter came before the Court on the motion of the North Dakota Public Service Commission (Commission) seeking bifurcation of the proceeding, approval of its First Report and Recommendation as Trustee, and authorization for payments from the Credit-Sale Contract Indemnity Fund. This matter was scheduled for hearing before this Court on **March 13, 2014 at 9:30 a.m. CDT** at the Burleigh County Courthouse in Bismarck, North Dakota, with proper notice having been given as evidenced by the affidavit of service on file. The Commission appeared through Illona A. Jeffcoat-Sacco, Special Assistant Attorney General. No other parties or claimants appeared.
2. The Court reviewed the First Report and Recommendation and other documents of record and finds grounds for bifurcating the proceeding, approving the First Report and Recommendation, authorizing payment of credit-sale contract claims

and Commission expenses, as noted in the First Report and Recommendation. There were no objections to the Trustee's recommendation or its first report.

### **ORDER**

**3. IT IS THEREFORE ORDERED:**

4. The proceeding is bifurcated to allow final disposition of the claims related to the Credit-Sale Contract Indemnity Fund.
5. The First Report and Recommendation of Trustee, dated December 31, 2013, requesting authorization to make Credit-Sale Contract Indemnity Fund payments to valid credit-sale claimants and partial reimbursement of Commission expenses is approved.
6. The Commission, as Trustee, is authorized to make payment from the Credit-Sale Contract Indemnity Fund to each valid credit-sale contract claimant for grain sold to Falkirk Farmers Elevator Co., not to exceed the lesser of eighty percent of the amount owed to each claimant or two hundred eighty thousand dollars as specified in the First Report and Recommendation of Trustee. The Commission shall make the payments for each credit-sale contract claim jointly payable to the claimant and relevant valid lien holders at the time checks are issued.
7. The Commission, as Trustee, is authorized to make payment to the Commission from the Credit-Sale Contract Indemnity Fund for 50% of the expenses incurred by the Commission in the administration of the insolvency, as specified in the First Report and Recommendation of Trustee.

8. Bismarck, North Dakota, this \_\_\_\_\_ day of March, 2014.

BY THE COURT

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Honorable Gail Hagerty  
Judge of the District Court