

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.

Falkirk Farmers Elevator Co.

AFFIDAVIT OF ELECTRONIC SERVICE

Respondent.

PSC Case No. GE-12-769

Shelly A. Bauske deposes and says that she is over the age of 18 years and not a party to this action and, on the **15th day of July, 2014**, a copy of the following documents:

1. Joint Request for Continuance
2. Proposed Scheduling Order

were served, via the Odyssey Electronic Service and File System using the email address provided on the Odyssey Electronic Service and File System, upon the following:

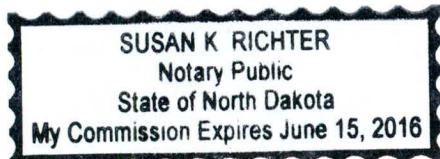
Respondent Falkirk Farmers Elevator Co, through its attorney
Michael L. Gust mgust@andersonbottrell.com

Shelly A Bauske

Subscribed and sworn to before me
this **16th day of July, 2014**.

Susan K Richter
Notary Public

SEAL



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

| | | |
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| Public Service Commission |) | CIVIL NO. 28-2012-CV-00176 |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | |
| |) | JOINT REQUEST |
| Falkirk Farmers Elevator Co. |) | FOR CONTINUANCE |
| |) | |
| Respondent. |) | |
| _____ |) | |
| PSC Case No. GE-12-769 |) | |
| |) | |
| _____ |) | |

1. The Public Service Commission as Trustee in this warehouse insolvency, Falkirk Farmers Elevator, Inc., and St. Hilaire Seed Company, Inc., the sole non-credit-sale (cash) claimant, respectfully jointly request a continuance to September 1, 2014 for filing the Trustee's Second Report and Recommendation in the captioned proceedings.
2. This insolvency proceeding originally involved 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.
3. The proceeding was bifurcated by order of the court entered March 14, 2014 to allow final disposition of the Credit-Sale Contract Indemnity Fund portion of the proceeding. The Credit-Sale Indemnity Fund portion of the proceeding is now

final and all payments have been made to valid Credit-Sale Indemnity Fund claimants.

4. Prior to final order on the credit-sale portion, on December 27, 2013, the Court executed a scheduling order, requiring the Trustee to file its Second Report and Recommendation (dealing with the noncredit-sale claim portion of the case) together with a motion and supporting documents by July 1, 2014 or as soon thereafter as possible.
5. There continues to exist pending federal litigation between the insolvent warehouse and St Hilaire Seed Company, Inc. (St. Hilaire), the only claimant asserting a claim to the assets of the Trust Fund. This federal litigation involves substantial factual and legal issues that may relate to the Trustee's recommendation on the claim involving the Trust Fund, the need for bond proceeds, and any resulting distribution of the Trust Fund assets.
6. On July 10, 2014 St Hilaire filed supplemental information in support of its claim to Trust Fund assets. The Trustee has not yet had an opportunity to review and analyze the supplemental information, but will do so without delay. Further, it is our understanding that the federal proceeding is now in its late stages and may be resolved in the near future. Consequently, the parties request a short continuance to allow resolution of the litigation and review of the supplemental claim information before a Second Report and Recommendation is filed.
7. A Second Report and Recommendation resolving the Trust Fund noncredit-sale (cash) portion of the insolvency, along with a Motion and Notice of Motion and Notice of Hearing, with supporting documents, will be filed with District Court as

soon as possible after review of the supplemental claim information and resolution of the federal litigation.

8. Respectfully submitted at Bismarck, North Dakota, this 15th day of July 2014.

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Attorney for the Public Service
Commission, as Trustee

By: /s/ Michael L. Gust
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Attorney for Falkirk Farmers Elevator Co.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

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| _____ |) | |
| Public Service Commission |) | CIVIL NO. 28-2012-CV-00176 |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | SCHEDULING ORDER |
| |) | |
| Falkirk Farmers Elevator Co. |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |
| PSC Case No. GE-12-769 |) | |
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| _____ |) | |

1. The Public Service Commission shall file its Second Report and Recommendation of Trustee, together with a Motion and a Notice of Motion and Notice of Hearing, and supporting documents, requesting court approval of the Second Report and Recommendation and final adjudication of the non-credit sale contract portion of the proceeding, including corresponding payments to valid non-credit sale contract claimants, and discharge of the trustee, by September 1, 2014, or as soon thereafter as possible.
2. Dated this _____ day of July, 2014.

Gail Hagerty
District Judge