

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.)	
)	AFFIDAVIT OF SERVICE
Falkirk Farmers Elevator Co.)	BY REGULAR MAIL
)	
Respondent.)	
_____)	
PSC Case No. GE-12-769)	
)	
_____)	

Geralyn Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and on the 21st day of July 2014, she deposited in the United States Mail, Bismarck, North Dakota, seven envelopes with postage fully prepaid, securely sealed and each containing a photocopy of the following:

1. Joint Request for Continuance.
2. Proposed Scheduling Order.
3. Affidavit of Electronic Service filed on July 18, 2014.
4. Notice of Entry of Order with attached Executed Scheduling Order.
5. Affidavit of Electronic Service filed on July 21, 2014.
6. Affidavit of Service by Regular Mail.

The envelopes were addressed as follows:

Derek Woodward
CNA Surety
PO Box 9322
Minneapolis, MN 55440-9322

Michael Guenthner
Board President
Falkirk Farmers Elevator Co.
3807 3rd Street SW
Underwood, ND 58576

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

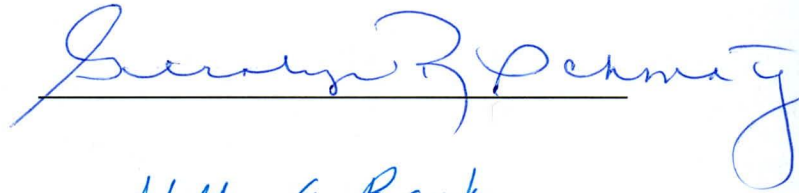
Tina S. Syring
Barnes & Thornburg, LLP
Attorney for St. Hilaire Seed Company, Inc.
225 South Sixth Street, Suite 2800
Minneapolis, MN 55402-4662

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

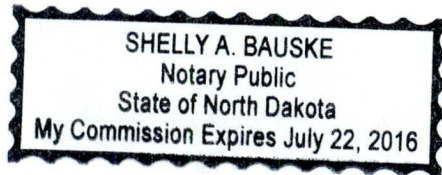
Stu Letcher
ND Grain Dealers Association
1325 23rd St. South – Suite A
Fargo, ND 58103-3723

Steven Hager
Falkirk Farmers Elevator
2896 3rd Street NW
Underwood, ND 58576

Subscribed and sworn to before me
this 21st day of July, 2014.


Notary Public

SEAL



STATE OF NORTH DAKOTA
COUNTY OF MCLEAN

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

_____)	
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.

By: s/Tina A. Syring
Tina A. Syring
ND State Bar ID No. 05201
225 South Sixth Street, Suite 2800
Minneapolis, MN 55402-4662
Telephone (612) 367-8705
Facsimile (612) 333-6798
Email: Tina.syring@btlaw.com

Attorney for St. Hilaire Seed
Company, Inc.

By: Illona A. Jeffcoat Sacco
Illona A. Jeffcoat-Sacco
Special Assistant Attorney General
State Bar ID No. 03315
600 East Boulevard Ave – Dept 408
Bismarck, North Dakota 58505-0480
Telephone (701) 328-2400
Facsimile (701) 328-2410
Email: ijs@nd.gov

Attorney for the Public Service
Commission, as Trustee

By: /s/ Michael L. Gust
Michael L. Gust
State Bar ID No. 06468
Anderson, Bottrell, Sanden & Thompson
4132 30th Avenue South, Suite 100
PO Box 10247
Fargo, ND 58106-0247
Telephone: 701-235-3300
Facsimile: 701-237-3154
Email: mgust@andersonbottrell.com

Attorney for Falkirk Farmers Elevator Co.

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.)	SCHEDULING ORDER
)	
Falkirk Farmers Elevator Co.)	
)	
Respondent.)	
_____)	
PSC Case No. GE-12-769)	
)	
_____)	

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

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:

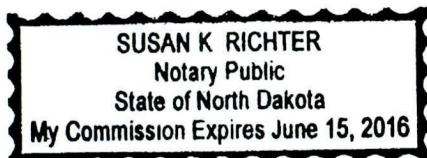
Respondent Falkirk Farmers Elevator Co, through its attorney Michael L. Gust mgust@andersonbottrell.com

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

Public Service Commission

Petitioner,

vs.

Falkirk Farmers Elevator Co.

Respondent.

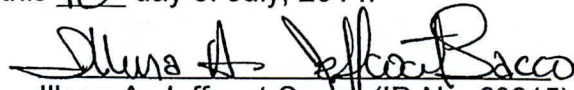
PSC Case No. GE-12-769

CIVIL NO. 28-2012-CV-00176

NOTICE OF ENTRY OF ORDER

TO: RESPONDENT, FALKIRK FARMERS ELEVATOR COMPANY AND ITS ATTORNEY MICHAEL LEONARD GUST, ANDERSON, BOTTRELL, SANDEN AND THOMPSON, 4132 30TH AVE SW, SUITE 100, P.O. BOX 10247, FARGO, NORTH DAKOTA 58106

1. **PLEASE TAKE NOTICE** that a scheduling order was executed by the court on the 18th day July 2014, which was duly entered in the captioned action on the 18th day of July 2014, as Document Number 59.
2. A copy of the Scheduling Order is included with this Notice, for those served other than via the Odyssey Electronic Service and File System.
3. Dated at Bismarck, North Dakota this this 18th day of July, 2014.



Illona A. Jeffcoat-Sacco (ID No. 03315)
Special Assistant Attorney General
State Capitol – 12th Floor
600 East Boulevard Ave – Dept 408
Bismarck, North Dakota 58505-0480
Telephone (701) 328-2400
Facsimile (701) 328-2410
ijs@nd.gov

Attorney for the Public Service Commission, as Trustee

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

Public Service Commission

Petitioner,

vs.

Falkirk Farmers Elevator Co.

Respondent.

PSC Case No. GE-12-769

CIVIL NO. 28-2012-CV-00176

SCHEDULING ORDER



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 16 day of July, 2014.

A handwritten signature in cursive script that reads "Gail Hagerty".

 Gail Hagerty
 District Judge

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 18th day of July, 2014, a copy of the following document:

1. Notice of Entry of Order

was 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 18th day of July, 2014.

Geralyn R Schmaltz
Notary Public

SEAL

