

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WELLS

SOUTHEAST JUDICIAL DISTRICT

\_\_\_\_\_ )  
 Public Service Commission )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 Earth Harvest Mills, Inc. )  
 )  
 Respondent. )  
 )  
 \_\_\_\_\_ )  
 PSC Case No. GE-13-193 )  
 \_\_\_\_\_ )

CIVIL NO. 52-2013-CV-00033

AFFIDAVIT OF SERVICE  
BY CERTIFIED AND  
REGULAR MAIL

STATE OF NORTH DAKOTA )  
 )ss  
 COUNTY OF BURLEIGH )

**Geralyn R. Schmaltz** deposes and says that:  
 she is over the age of 18 years and not a party to this action and, on the **10th day of May, 2013**, she deposited in the United States Mail, Bismarck, North Dakota, **2** envelopes with certified postage, return receipt requested, securely sealed and containing a photocopy of:

1. Notice of Entry of Ex Parte Order with attached copy of executed Ex Parte Order to Preserve Trust Assets.
2. Affidavit of Service by Certified and Regular Mail.

The envelopes were addressed as follows:

Grayson Hoberg, CEO	Eric G. Hoberg, Registered Agent
Earth Harvest Mills, Inc.	Earth Harvest Mills, Inc.
500 North Street West	500 North Street West
Harvey, ND 58341-1012	Harvey, ND 58341-1012
<b>Cert. Mail No. 7012 2210 0001 5060 9712</b>	<b>Cert. Mail No. 7012 2210 0001 5060 9705</b>

Geralyn R. Schmaltz further deposes and says that on the **10th day of May, 2013**, she deposited in the United States Mail, Bismarck, North Dakota, **26** envelopes by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

The envelopes were addressed as follows:

Ray L. Miller  
R & S Organic Farm  
1504 W 11<sup>th</sup> Road  
Aurora, NE 68818-3920

Lyle Busch  
14641 514<sup>th</sup> Ave.  
Bristol, SD 57219

Ty O'Connor  
1 O'Connor Road  
Broadus, MT 59317

Robert Porch  
27403 Husle Road  
Wanblee, SD 57577

Murray Foulston  
PO Box 190  
Tugaske, SK CN SOH 4BO

Farmers Union Oil of Velva  
PO Box 35  
Martin, ND 58758

David Hager  
2775 Hwy 3 Northeast  
Harvey, ND 58341

Roy Brewin  
Rowland Seeds, Inc.  
Box 4776  
Taber, Alberta CN T1G 2E1

Brad Hennrich, President  
Hesco, Inc.  
500 19<sup>th</sup> Street SE  
Watertown, SD 57201

Jon & Amy Kvaalen  
PO Box 21  
Lambert, MT 59243

Jason Freeman, General Manager  
Farmers Direct Co-Operative LTD  
1536 Victoria Avenue  
Regina, SK CN S4P 0P5

Lewis Siebold  
1397 51<sup>st</sup> Ave. NE  
Cathay, ND 58422

Ron Gleim  
PO Box 298  
Chaplin, SK CN SOH OVO

Phil Hooyer  
3867 Cherry Ave.  
Hudson, SD 57034

Jewell Mehlhoff  
1821 Josephine Lane  
Tuttle, ND 58488

Delbert Cousins  
Box 38  
Weirdale, SK CN SOJ 2ZO

Curtis Kosowan  
PO Box 141  
Mealth Park, SK CN SOJ 1TO

RW Organic Ltd.  
Box 232  
Mossbank, SK CN S0H 3G0

Wendell Lund  
1539 104<sup>th</sup> Street NE  
Bottineau, ND 58318

Lee Thomas  
12506 20<sup>th</sup> Street North  
Moorhead, MN 56560

Lewis Ag  
6820 30<sup>th</sup> Road  
Thayer, KS 66776

Mosher's Organic Grain  
PO Box 51  
Bushnell, NE 69128

Reed Zimmerman  
6112 45<sup>th</sup> Avenue SE  
Napoleon, ND 58561

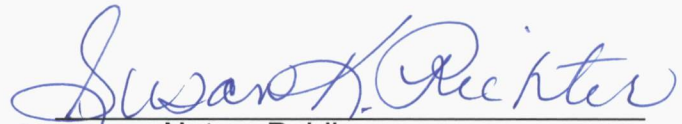
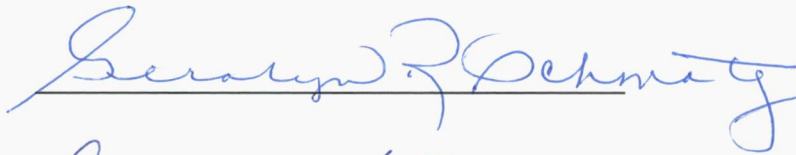
Roger Hasse  
4433 41<sup>st</sup> Avenue SE  
Tappen, ND 58487

Donald Dufner  
1148 169<sup>th</sup> Avenue NE  
Buxton, ND 58218

Washington Insurance Company  
475 North Martingale Road #850  
Schaumburg, IL 60173

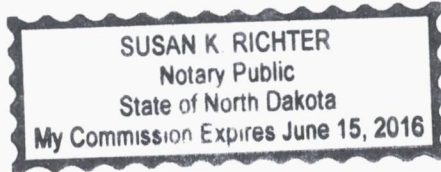
The addresses shown are the respective addressee's last reasonably ascertainable post office addresses.

Subscribed and sworn to before me  
this **10th day of May, 2013**.



Notary Public

SEAL



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WELLS

SOUTHEAST JUDICIAL DISTRICT

_____	)	
<b>Public Service Commission</b>	)	<b>CIVIL NO. 52-2013-CV-00033</b>
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>Earth Harvest Mills, Inc.</b>	)	<b>NOTICE OF ENTRY OF</b>
	)	<b>EX PARTE ORDER</b>
<b>Respondent.</b>	)	
_____	)	
<b>PSC Case No. GE-13-193</b>	)	
_____	)	

1. **PLEASE TAKE NOTICE** that an Ex Parte Order to Preserve Trust Assets, executed by the Court May 2, 2013, was duly entered in the above proceeding on May 2, 2013, ordering that Earth Harvest Mills, Inc., doing business as Dakota Prairie Organic Flour Company, is prohibited from selling, transferring, removing, processing, or otherwise compromising potential assets of the trust fund as provided in North Dakota Century Code Chapter 60-04, until the Court issues its order granting or denying the application for appointment of the Public Service Commission as Trustee of the trust fund in this proceeding.
2. A copy of the Order is attached hereto and by reference made a part hereof.

3. Bismarck, North Dakota, this 10th day of May 2013.

By: 

Illona A. Jeffcoat-Sacco (ID#03315)  
Special Assistant Attorney General  
State Capitol – 12<sup>th</sup> Floor  
600 E 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



STATE OF NORTH DAKOTA  
COUNTY OF WELLS

IN DISTRICT COURT  
SOUTHEAST JUDICIAL DISTRICT

Public Service Commission  
Petitioner,  
vs.  
Earth Harvest Mills, Inc.  
Respondent.  
PSC Case No. GE-13-193

CIVIL NO. 52-2013-CV-00033

EX PARTE ORDER  
TO PRESERVE TRUST  
ASSETS

The Public Service Commission has moved the Court for appointment as trustee of Earth Harvest Mills, Inc. under North Dakota Century Code Chapter 60-04 and for an *Ex Parte* Order to Preserve Trust Assets. Earth Harvest Mills, Inc., doing business as Dakota Prairie Organic Flour Company, 500 North Street West, Harvey, North Dakota 58341, operates as a grain warehouseman in the State of North Dakota.

It appears from the record that Earth Harvest Mills, Inc. 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 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:

13 GE-13-193 Filed: 5/6/2013 Pages: 2  
Executed Ex Parte Order to Preserve Trust Assets

Wells County District Court  
Honorable James D. Hovey

Received & Filed  
This 2<sup>nd</sup> day of May 2013  
Wells County Clerk of District Court

Filed - Clerk of District Court  
5/1/2013 2:05:26 PM  
Wells County, ND

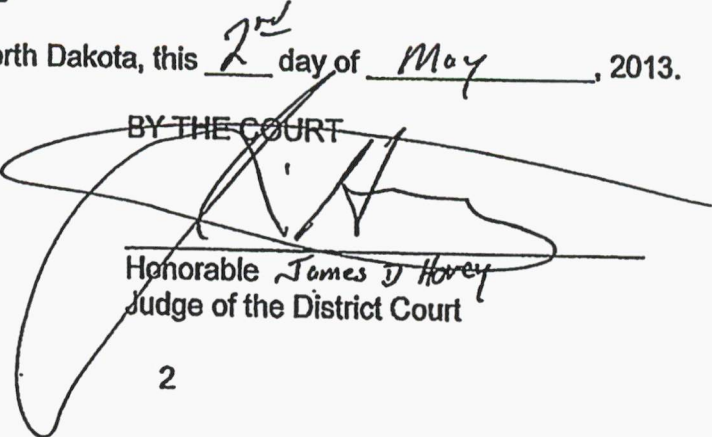
1. Nonwarehouse receipt grain of the insolvent licensee held in storage or the proceeds obtained from the conversion of such grain.
2. The proceeds, including accounts receivable, from any grain sold from the time of the filing of the claim that precipitated an insolvency until the commission is appointed trustee must be remitted to the commission and included in the trust fund.
3. The proceeds of insurance policies on destroyed grain.
4. The claims for relief, and proceeds therefrom, for damages upon bond given by the licensee to ensure faithful performance of the duties of a licensee.
5. The claim 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 Earth Harvest Mills, Inc., doing business as Dakota Prairie Organic Flour Company is prohibited from selling, transferring, removing, processing, or otherwise compromising potential assets of the trust fund as provided in North Dakota Century Code Chapter 60-04, until the court issues its order granting or denying the application for appointment of the Public Service Commission as Trustee of the trust fund in this proceeding.

Wells County, North Dakota, this 2<sup>nd</sup> day of May, 2013.

BY THE COURT

  
Honorable James D Hovey  
Judge of the District Court