

Richter, Susan K.

From: no-reply@tylerhost.net
Sent: Friday, March 07, 2014 2:12 PM
To: Richter, Susan K.
Subject: Courtesy Notification of filing for Case No. 52-2013-CV-00033 (North Dakota Public Service Commission vs. Earth Harvest Mills Inc).

This is a courtesy notification of Filing for Case 52-2013-CV-00033 (North Dakota Public Service Commission vs. Earth Harvest Mills Inc),

Date Submitted: 3/7/2014 2:03:59 PM
Filed By: sbauske@nd.gov
Filing Type: EFileAndServe
Filing Code: Brief
Filing Description: Brief in Support of Motion to Join Surety

Copy this URL into your browser's address bar to view the document:

<http://northdakota.tylerhost.net/DownloadResource.ashx?RID=de2998af-d616-4063-a8e9-1b0cbfcef6d5>

This link will remain active for 30 days.

This message was automatically generated using Odyssey File & Serve; do not reply to this email.

For assistance, contact the North Dakota Court's Information Technology Department at 701.328.4218. Support is available 8 a.m. to 5 p.m. CT, Monday through Friday.

78 **GE-13-193** Filed: 3/7/2014 Pages: 4
**Court filing - Brief in Support of Motion to Join
Surety**

Public Service Commission

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WELLS

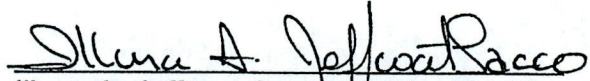
SOUTHEAST JUDICIAL DISTRICT

_____)	
Public Service Commission)	CIVIL NO. 52-2013-CV-00033
)	
Petitioner,)	
)	
vs.)	
)	BRIEF IN SUPPORT OF
Earth Harvest Mills, Inc.)	MOTION TO JOIN SURETY
)	
Respondent.)	
_____)	
PSC Case No. GE-13-193)	
_____)	

1. The Public Service Commission, Court-appointed Trustee in this matter, by and through its undersigned counsel, submits the following brief in support of its Motion to Join Surety.
2. Earth Harvest Mills, Inc. operated a licensed grain warehouse at Harvey, North Dakota. On 26 April 2013 the Public Service Commission received a letter from a grain producer indicating that the producer had not been paid for organic wheat the producer delivered to Earth Harvest Mills, Inc.
3. On 1 May 2013 the Commission requested appointment as Trustee under North Dakota Century Code Chapters 60-04 and 60-10 for the purpose of marshaling all trust assets of Earth Harvest Mills, Inc. The request to appoint the Commission Trustee to administer the insolvency was granted by Order entered 14 June 2013.

4. An additional 25 claims for amounts due from Earth Harvest Mills, Inc. were received by the Public Service Commission between 3 May 2013, and 23 September 2013.
5. 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, Earth Harvest Mills, Inc., had such a bond, issued by Washington International Insurance Company, 475 North Martingale Rd, Suite 850, Schaumburg, IL 60173, as surety.
6. The Commission has reviewed claims filed against the warehouseman and a detailed determination regarding the validity of each claim will be attached to and summarized in the forthcoming Report and Recommendation of Trustee. From its review of the claims, the Commission believes the proceeds from the bond will be needed to redeem outstanding receipts issued by Earth Harvest Mills, Inc.
7. North Dakota Century Code section 60-04-03.3 provides that the surety for an insolvent licensed grain warehouse within the state of North Dakota must be joined as a party to the insolvency proceedings upon motion by the Public Service Commission.
8. The Public Service Commission respectfully requests that the Court order Washington International Insurance Company joined as an additional Respondent.

9. Respectfully submitted at Bismarck North Dakota this 7th day of March, 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