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 ELECTRONIC SERVICE AND SERVICE BY CERTIFIED MAIL, REGULAR MAIL, AND HAND DELIVERY

STATE OF NORTH DAKOTA)
)ss
COUNTY OF BURLEIGH)

Shelly A. Bauske being duly sworn, deposes and says that she is over the age of 18 years and not a party to this action and that on the **7th day of March 2014** a copy of the following documents:

1. Notice of Motion
2. Motion to Join Surety
3. Brief in Support of Motion to Join Surety
4. Proposed Order to Allow Joinder

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:

Tim Lervick tlervick@crowleyfleck.com

Shelly A. Bauske further deposes and says that on the **13th day of March 2014** 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:

Grayson Hoberg, CEO
Earth Harvest Mills, Inc.
500 North Street West
Harvey, ND 58341-1012
Certified Mail No. 7013 2630 0001 2317 1566

Eric G. Hoberg, Registered Agent
Earth Harvest Mills, Inc.
500 North Street West
Harvey, ND 58341-1012
Certified Mail No. 7013 2630 0001 2317 1573

Washington International Insurance Co
475 North Martingale Road #850
Schaumburg, IL 60173
Certified Mail No. 7013 2630 0001 2317 1122

Shelly A. Bauske further deposes and says that on the **13th day of March 2014** she deposited in the United States Mail, Bismarck, North Dakota, 27 envelopes by regular mail, with postage fully prepaid, securely sealed, and each containing a photocopy of the same.

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

Lyle Busch
14641 514th 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 19th 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 51st 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 104th Street NE
Bottineau, ND 58318

Lee Thomas
12506 20th Street North
Moorhead, MN 56560

Lewis Ag
6820 30th Road
Thayer, KS 66776

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

Reed Zimmerman
6112 45th Avenue SE
Napoleon, ND 58561

Roger Hasse
4433 41st Avenue SE
Tappen, ND 58487

Donald Dufner
1148 169th Avenue NE
Buxton, ND 58218

Reva Held, Director of Revenue Recovery
American Med Systems, Inc.
1519 Boettler Road, Suite A
Green, OH 44685

Emily Kaufman
Emport, LLC
4327 Butler Street - Floor no. 2
Pittsburg, PA 15201

Shelly A. Bauske further deposes and says that on the **13th day of March 2014** she hand delivered 1 envelope securely sealed, containing 2 photocopies of the same.

The envelope was addressed as follows:

Adam W. Hamm, Commissioner
North Dakota Insurance Commission
600 E Boulevard Ave – 5th Floor
Bismarck ND 58505

Each address shown is each respective addressee's last reasonable ascertainable address.

Shelly A Bauske

Subscribed and sworn to before me
this **13th day of March, 2014**.

Geralyn R Schmaltz
Notary Public

SEAL

GERALYN R. SCHMALTZ
Notary Public
State of North Dakota
My Commission Expires Oct. 5, 2016

STATE OF NORTH DAKOTA | IN DISTRICT COURT

COUNTY OF WELLS | SOUTHEAST JUDICIAL DISTRICT

Public Service Commission Petitioner, vs. Earth Harvest Mills, Inc. Respondent.	CIVIL NO. 52-2013-CV-00033 NOTICE OF MOTION
PSC Case No. GE-13-193	

TO: WASHINGTON INTERNATIONAL INSURANCE COMPANY, 475 NORTH MARTINGALE ROAD, SUITE 850, SCHAUMBURG, IL 60173
AND
RESPONDENT, EARTH HARVEST MILLS, INC., 500 NORTH STREET WEST, HARVEY, ND 58341-1012

1. **PLEASE TAKE NOTICE** that the Public Service Commission (Commission) as Trustee of the trust created by the insolvency of Earth Harvest Mills, Inc., has moved the Court for an order approving the joinder of the surety, Washington International Insurance Company. The motion has been filed with the above-named Court, the Honorable James D. Hovey, Judge of the District Court, Wells County, North Dakota, seeking joinder of Washington International Insurance Company as respondent, under North Dakota Century Code section 60-04-03.3.

2. This motion is brought under Rule 3.2 of the North Dakota Rules of Court and will be decided on the briefs provided to the Court unless a request for oral argument

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is made not later than seven (7) days after expiration of the time for filing an answering brief.

3. This motion is made on the brief of the Petitioner, all of the files, records and proceedings herein and on the statutes of the state of North Dakota.

4. Dated this 7th day of March, 2014.

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Attorney for the Public Service Commission

STATE OF NORTH DAKOTA | IN DISTRICT COURT

COUNTY OF WELLS | SOUTHEAST JUDICIAL DISTRICT

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

1. The undersigned respectfully moves the Court to join Washington International Insurance Company as a respondent in this action, under North Dakota Century Code section 60-04-03.3.

2. This motion is brought pursuant to Rule 3.2 of the North Dakota Rules of Court, and will be decided on the briefs unless a request for oral argument is made not later than seven (7) days after expiration of the time for filing the answering brief.

3. This motion is made on the attached brief of the Petitioner, all of the files, records and proceedings herein, and on the statutes of the state of North Dakota.

4. Respectfully submitted at Bismarck, North Dakota this 7th day of March, 2014.

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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 BRIEF IN SUPPORT OF MOTION TO JOIN SURETY

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.

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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, Schaumberg, 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.

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Attorney for the Public Service Commission

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 ORDER TO ALLOW JOINDER

1. The Court has reviewed the motion, briefs, and supporting documents, to join Washington International Insurance Company in the above-captioned action. Based upon the foregoing, **IT IS HEREBY ORDERED** that Washington International Insurance Company be joined as a Respondent in the pending proceedings.

2. **SO ORDERED** this ____ day of _____, 2014.

BY THE COURT:

_____
Honorable James D. Hovey

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