

**Richter, Susan K.**

---

**From:** efiltingmail@tylerhost.net  
**Sent:** Tuesday, April 05, 2016 1:10 PM  
**To:** Richter, Susan K.  
**Subject:** Notification of Service for Case No. 18-2015-CV-00240 ( Public Service Commission, et al. vs. Grand Forks Bean Company, Inc. )

This is a service filing for Case No. 18-2015-CV-00240, Public Service Commission, et al. vs. Grand Forks Bean Company, Inc..

Date Submitted: 4/5/2016 1:08:31 PM CDT

Filing Code: Brief

Filing Desc: Reply Brief of the Claimants Curtis Amundson and Beth Nelson, as Assignee of the Estate of Brad Nelson

[Download Document](#)

The following are service contacts on this filing:

Public Service Commission:

Mitchell Armstrong (marmstrong@smithbakke.com)

Sara Forsberg (sforsberg@smithbakke.com)

Tiffany Knopik (tknopik@smithbakke.com)

Anna Heinen (aheinen@smithbakke.com)

Brian Schmidt (bschmidt@smithbakke.com)

Illona Jeffcoat-Sacco (ijs@nd.gov)

Casey Furey (cfurey@nd.gov)

Auto-Owners Insurance Company:

Michael Morley (mmorley@morleylawfirm.com)

Toni Nicolson (tnicolson@morleylawfirm.com)

Other Service Contacts not associated with a party on the case:

Sue Schaumburg (sschaumburg@camrudlaw.com)

Scott Knudsvig (sknudsvig@pringlend.com)

**315 GE-15-36** Filed: 4/5/2016 Pages: 6  
**Notification of Service – Reply Brief**

Curtis Amundson and Beth Nelson, as Assignee of the Estate of  
Brad Nelson  
Jon Brakke, Vogel Law Firm

John Schroeder (jschroeder@northdakotalaw.net)

Daniel Gaustad (dan@grandforkslaw.com)

Russ Melland (rmelland@camrudlaw.com)

Tracy Kennedy (tracykennedy@northdakotalaw.net)

Susan Richter (srichter@nd.gov)

Jon Brakke (jbrakke@vogellaw.com)

Daniel Gaustad (dan@grandforkslaw.com)

Joel Arneson (jfamoose@gra.midco.net)

[Download Document](#)

If the link above is not accessible, copy this URL into your browser's address bar to view the document:  
<http://northdakota.tylerhost.net/ViewServiceDocuments.aspx?ADMIN=0&SID=96cfd36d-12c7-4e42-9af6-b4ed9c0e6756>

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.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF GRAND FORKS

NORTHEAST CENTRAL JUDICIAL DISTRICT

Public Service Commission,

Petitioner,

v.

Grand Forks Bean Company, Inc.,

and

Auto-Owners Insurance Company,

Respondents,

Civil No. 18-2015-CV-00240

\_\_\_\_\_  
PSC Case No. GE-15-36

**REPLY BRIEF OF THE CLAIMANTS CURTIS AMUNDSON AND BETH  
NELSON, AS ASSIGNEE OF THE ESTATE OF BRAD NELSON**

The reply briefs filed by Brent Baldwin, Baldwin Farms, Duane Altendorf, Ronald Adams, Nicholas Adams, Chuck Nelson, and WJS Nelson address the majority of the issues that Curtis Amundson (“Amundson”) and Beth Nelson (“Nelson”) had intended to discuss in their reply brief. No purpose would be served by restating the arguments made in those reply briefs and Amundson and Nelson adopt the same.

On the question of whether Amundson and Nelson are receipt holders, the critical issue is - were Amundson and Nelson parties to contracts that complied with the requirements of N.D.C.C. § 60-02-19.1. The evidence is clear that the price later marketing agreement form Grand Forks Bean utilized in 2013 and 2014 did not satisfy the mandates of

that statute. An entirely separate problem for Bremer Bank is that neither Amundson or Nelson agreed to market their beans on a price later basis.

In its initial post-hearing brief, Bremer Bank makes the curious argument that all of the claimants' scale tickets, etc. are supposedly related to credit sale agreements existing between the claimants and Grand Forks Bean. There is simply no evidence to support such a contention. It is undisputed the claimants received scale tickets upon delivery of their beans to Grand Forks Bean ("Grand Forks Bean"). The scale tickets had nothing to do with whether credit sale contracts existed between any of the claimants and GFB. Regardless of whether the claimants intended to store their beans or sell them, they would have been issued sale tickets by GFB. Consistent with this fact, the price later marketing agreement form utilized by GFB required growers to make an election, separate and apart from execution of the agreement, as to what, if any, beans would be sold on a price later basis. Aside from the unsupported inferences Bremer Bank urges this Court to draw, no testimony or exhibits established that Amundson, Nelson or any of the other claimants advised GFB that the beans in question were to be sold on a price later basis.

The date of the insolvency of GFB must be determined by application of the facts to the test laid out in N.D.C.C. § 60-04-02. Contrary to the bonding company's assertion, the definition of insolvency for purposes of valuing claims against the statutory trust fund has nothing to do with the pricing provisions of N.D.C.C. § 60-02-41. N.D.C.C. § 60-02-41 addresses the situation where a warehouseman voluntarily ceases business as a consequence either of destruction of the warehouse or insolvency. Additionally, that statute deals only with claims related to unconverted scale tickets and warehouse receipts. In this case the evidence proves there were no unconverted scale tickets or warehouse receipts held by

Amundson, Nelson or the other claimants. All claimants negotiated cash sale agreements with GFB.

The bonding company argues that no claimants made demands for payment on GFB in 2013. Rather, the bonding company asserts that in 2013 the claimants only requested that GFB sell their beans if GFB was able to find a market for the same. Any statement made by employees of GFB about finding a market was simply an excuse as to why GFB could not pay for the claimants' beans. The fact that a market price existed for pinto beans at the end of 2013 shows a market existed. **Exhibit PSC - 29**. There was no testimony that any claimant accepted this excuse and agreed to relieve GFB of the obligation to pay for the beans it had purchased.

If, apart from the testimony of the claimants, written confirmation of the insolvency of Grand Forks Bean in 2013 is necessary, this Court need only look to **Exhibits PSC - 20(a) and 21(b)**. Those Dry Bean Contracts required payment for certain of the beans involved in this case by the end of December 2013. There is no assertion the terms of those contracts were amended to extend the date for payment.

Subject to their right to review the costs for which the Public Service Commission seeks reimbursement, Amundson and Nelson acknowledge that under N.D.C.C. § 60-04-03.1(1)(b), monies in the trust fund may be used to pay the costs incurred by the Public Service Commission. However, the claims of receipt holders have priority over the right of the Petitioner to recover its costs.

### **SUMMARY**

Curtis Amundson, Beth Nelson, as Assignee of the Estate of Brad Nelson, Brent Baldwin, Baldwin Farms, Duane Altendorf, Ron Adams, Nicholas Adams, Chuck Nelson,

and WJS Nelson should be considered receipt holders in this proceeding. Their claims should be valued based on a price of \$38 per cwt. with interest. Those claims should be paid from the proceeds resulting from sale of the grain held by GFB, the amount of GFB's bond and interest accruing on the bond.

Dated: April 5, 2016.



---

Jon R. Brakke (#03554)

jbrakke@vogellaw.com

**VOGEL LAW FIRM**

218 NP Avenue

PO Box 1389

Fargo, ND 58107-1389

Telephone: 701.237.6983

ATTORNEYS FOR CURT AMUNDSON AND

BETH NELSON, AS ASSIGNEE OF THE

ESTATE OF BRAD NELSON

2517634.1