

**Crockford, Konrad S.**

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**To:** Tiffany Knopik  
**Subject:** Filing Accepted for Case: 08-2018-CV-03299; Public Service Commission vs. Hunter Hanson d/b/a Midwest Grain Trading, et al.; Envelope Number: 3252243

**Filing Accepted**

Envelope Number: 3252243

Case Number: 08-2018-CV-03299

Case Style: Public Service Commission vs. Hunter Hanson d/b/a Midwest Grain Trading, et al.



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Filing Details	
<b>Court</b>	Burleigh County - South Central District
<b>Case Number</b>	08-2018-CV-03299
<b>Case Style</b>	Public Service Commission vs. Hunter Hanson d/b/a Midwest Grain Trading, et al.
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<b>Filing Attorney</b>	Mitchell Armstrong

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# SMITH PORSBORG

Schweigert Armstrong Moldenhauer & Smith

ATTORNEYS AT LAW

December 26, 2018

**VIA ODYSSEY**

Honorable Bruce A. Romanick  
Judge of the District Court  
514 E. Thayer Avenue  
Bismarck ND 58502-1013

In re: Midwest Grain Trading  
Ex Parte Cease & Desist  
Burleigh County Case No. 08-2018-CV-03299

Dear Judge Romanick:

We are in receipt of the Court’s *Order Denying Request for Lack of Jurisdiction* dated December 21, 2018. It appears from the order that it was the Court’s understanding we were requesting the Court to exercise jurisdiction over the facilities Mr. Hanson operates at Tunbridge and Rohrville. However, this is not the case. The case filed in Burleigh County relates only to Mr. Hanson’s (d/b/a Midwest Grain Trading) roving grain buyer license and the associated roving grain buyer’s bond. See License # 3232 (roving grain buyer license) (true and correct copy attached as Exhibit A); Roving Grain Buyer’s Bond documentation (true and correct copy attached as Exhibit B). It was filed in Burleigh County because N.D.C.C. § 60-02.1-29 specifically provides that “upon the insolvency of any roving grain buyer, the commission **shall apply to the district court of Burleigh County** for authority to take all action necessary to act as trustee . . . .”

Further, the Court’s order references and includes the second sentence of N.D.C.C. § 60-02.1-29, which provides “If the facility involves a facility-based grain buyer, application must be to the district court of a county in which the licensee operates.” (emphasis added). A “facility-based grain buyer” is defined as “a grain buyer who operates a facility licensed under the United States Warehouse Act [7 U.S.C. 241-273] where grain is received.” N.D.C.C. § 60-02.1-01(4). Per the PSC’s investigation and application documents, this case does not involve such a federally licensed facility. As a result, the second sentence of the statute does not apply, which leaves Burleigh County as the required court for the PSC’s application.

- Sheldon A. Smith\*
- Scott K. Porsborg\*\*\*
- Suzanne M. Schweigert\*
- Mitchell D. Armstrong\*\*
- Stacy M. Moldenhauer\*\*
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December 26, 2018

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As noted in our application, the Commission is also taking action in Pierce County on Mr. Hanson's other license which he does business as Nodak Grain. The other action is based on N.D.C.C. ch. 60-4, and is filed in Pierce County pursuant to N.D.C.C. § 60-04-03. As can be seen, Mr. Hanson has different types of licenses, and the statutes for both licenses have specific filing requirements for the particular license types.

The license related to the case in Burleigh County is his roving grain buyer license, which the statute requires us to file in Burleigh County except in circumstances that are not present here. We are not asking this Court to take any action on Mr. Hanson's grain storage warehouses located in Tunbridge and Rohrville in this case, only his roving grain buyer license. See, e.g., Doc ID# 2 at ¶¶ 2, 4; Doc ID# 3 at ¶ 1, ¶ 17; Doc ID# 11 (*Proposed Order Appointing Trustee*) at ¶ 1. As reflected in the proposed order filed with the Court (Doc ID# 11), the PSC is only requesting in this action that it be appointed trustee for Hunter Hanson d/b/a Midwest Grain Trading, which the license and bond show is a roving grain buyer. Section 60-02.1-29 requires the PSC to make its application in Burleigh County except in circumstances not applicable to Mr. Hanson's license.

We request the Court revoke its December 21 *Order Denying Request for Lack of Jurisdiction*, and consider the PSC's filings. We have filed with this letter a proposed order for your consideration. Given no party made a motion resulting in the December 21 order, we are hopeful this letter is sufficient to explain the circumstances. Given the nature of the application and the *sua sponte* order from the Court, we believe the Court can act based on this letter rather than a motion.

Thank you for your attention to this matter.

Sincerely,



MITCHELL D. ARMSTRONG  
Special Assistant Attorney General for the  
Public Service Commission

tmk  
enclosures

cc: Hunter Hanson d/b/a Midwest Grain Trading (w/ enc.)  
State Farm Fire and Casualty Company (w/ enc.)

Romanick.1