

**Crockford, Konrad S.**

---

**From:** efilmingmail@tylerhost.net  
**Sent:** Friday, November 01, 2019 09:58  
**To:** Tiffany Knopik  
**Subject:** Filing Accepted for Case: 35-2018-CV-00088; Public Service Commission vs. Hunter Hanson d/b/a NoDak Grain, et al.; Envelope Number: 3608004



**North Dakota  
Court System**

## Filing Accepted

Envelope Number: 3608004  
Case Number: 35-2018-CV-00088  
Case Style: Public Service Commission vs.  
Hunter Hanson d/b/a NoDak Grain, et al.

The filing below was reviewed and has been accepted by the clerk's office. You may access the file stamped copy of the document filed by clicking on the below link.

Filing Details	
<b>Court</b>	Pierce County - Northeast District
<b>Case Number</b>	35-2018-CV-00088
<b>Case Style</b>	Public Service Commission vs. Hunter Hanson d/b/a NoDak Grain, et al.
<b>Date/Time Submitted</b>	11/1/2019 9:03 AM CST
<b>Date/Time Accepted</b>	11/1/2019 9:55 AM CST
<b>Accepted Comments</b>	
<b>Filing Type</b>	Exhibit
<b>Filing Description</b>	26 - Leon Schmaltz
<b>Activity Requested</b>	EFileAndServe
<b>Filed By</b>	Mitchell Armstrong
<b>Filing Attorney</b>	Mitchell Armstrong

Document Details	
<b>Lead Document</b>	Exhibit 26 to Aff of AJS.pdf
<b>Lead Document Page Count</b>	6
<b>File Stamped Copy</b>	<a href="https://northdakota.tylerhost.net/ViewDocuments.aspx?FID=5693fec2-b68c-4fb4-a5d4-bd06eb1c08c6">View Stamped Document</a>
This link is active for 30 days. If the link above is not accessible, copy this URL into your browser's address bar to view the document: <a href="https://northdakota.tylerhost.net/ViewDocuments.aspx?FID=5693fec2-b68c-4fb4-a5d4-bd06eb1c08c6">https://northdakota.tylerhost.net/ViewDocuments.aspx?FID=5693fec2-b68c-4fb4-a5d4-bd06eb1c08c6</a>	

For technical assistance, contact your service provider or  
North Dakota Court's Information Technology Department 701-328-4218  
Please do not reply to this email. It was automatically generated.

Claimant Name & Address  
 Leon Schmalz (multiple addtl.)  
 2493 39th St NE  
 Harvey, ND 58341  
 Ph: 701-693-6692  
 Legal representation:  
 Attorney: Erich M. Grant  
 Ph: 701-852-2544  
 egrant@mcgeelaw.com

Date Claim Filed March 29, 2019  
 Date Payment Demand Made None

PSC Calculated value total \$ 187,827.26  
 Less other payments

\$ 187,827.26 **Total cash claim**

Settlement #	Date	date	date	Date
225	10/4/2018		na	9/5/2018
ECGM Trade Confirmation #	21388	6/11/2018	21319	5/24/2018
Seller Contract #	NA		na	na
Midwest Basis Contract	NA		na	na
Claim applied against:				
Commodity	Cash		Cash	Cash
	Yellow Peas		Spring Wheat	Spring Wheat
Contracted Price Per Bushel	\$ 7.15		\$ 5.31	\$ 5.30
Contracted Bushels	9,000.00		5,000.00	5,000.00
Delivered bushels*	8,351.29	-	5,000.00	5,000.00
Gross Amount Due*	\$ 59,711.74	-	\$ 28,214.35	\$ 26,131.28
Less Total Fees & assessments*	\$ 597.12	-	\$ 75.00	\$ 75.00
PSC calculated value*	\$ 59,114.62	-	\$ 28,139.35	\$ 26,056.28
<b>Estimated Value per midwest</b>	\$ 56,699.89			
<b>Claimant calculated claim</b>	\$ 56,699.89			

Settlement #	date	Date	date	Date
na		na	na	
ECGM Trade Confirmation #	21615	7/18/2018	21638	7/25/2018
Seller Contract #	na		na	10/5/2018
Midwest Basis Contract	na		na	

Claim applied against:				
Commodity	Cash		Cash	Cash
	Spring Wheat		Spring Wheat	Spring Wheat
Contracted Price Per Bushel	\$ 5.30	\$ 5.30	\$ 5.22	
Contracted Bushels	5,000.00	~2,200.00 (bin contents)		
Delivered bushels*	5,000.00	3,942.61		
Gross Amount Due*	\$ 27,410.45	\$ 20,649.67		
Less Total Fees & assessments*	\$ 75.00	\$ 59.14		
PSC calculated value*	\$ 27,335.45	\$ 20,590.53		
<b>Estimated Value per Midwest</b>				
<b>Claimant calculated claim</b>				



**Comments:**

1. Summary:
    - a. Claim was received by the PSC on March 29, 2019
      - i. Claim included the PSC’s claim form, Midwest Estimates and corresponding scale tickets, and a table showing the calculated claim.
    - b. Claim included two additional interested parties:
      - i. Daniel and Margaret Hager who were lessors of the claimant.
        1. Claim documents indicate that they had an interest in two scale tickets
        2. Split as follows: 70% Leon Schmaltz, 30% Daniel Hager
          - a. Scale tickets 175832 and 175703
      - ii. Normon Yale Estate that was a lessor to the claimant.
        1. Claim documents indicate that they had an interest in two scale tickets
        2. Split as follows: 70% Leon Schmaltz, 30% Normon Yale Estate
          - a. Scale tickets 175858 and 175893
    - iii. From the files that were copied on 11-15-18 there was also a note on the Midwest Estimate (225) for yellow peas that indicated that the settlement may need to be split among the claimant and his lessors.
  - c. Claimant also submitted a table showing the calculated claim amounts.
    - i. It matches the amounts on the five Midwest Estimates included in the claim documents.
2. How the base prices per bushel for the spring wheat delivered were calculated:

Pricing of the East Central Grain Marketing Spring Wheat Trade Confirmations										
Trade Confirmation information				How base price per bushel was established						
#	dated	bushels	start delivery	Original SEP2018 basis	+	Cost to roll	=	New DEC2018 basis	DEC Futures set on 11-8-18	Cash price per bushel
21319	5/24/2018	5,000	8/1/2018	-0.38		-0.16		-0.54	\$ 5.85	= \$ 5.31
21440	6/19/2018	5,000	8/1/2018	-0.39		-0.16		-0.55	\$ 5.85	= \$ 5.30
21615	7/18/2018	5,000	8/1/2018	-0.39		-0.16		-0.55	\$ 5.85	= \$ 5.30
21638	7/25/2018	5,000	8/1/2018	-0.39		-0.16		-0.55	\$ 5.85	= \$ 5.30
21902	10/5/2018	~2,200	10/5/2018	na		na		-0.63	\$ 5.85	= \$ 5.22

- i. Note – ECGM #21902 shows an estimated bushel amount as there was a “contents of bin” statement accompanying the listed bushel amount.

3. Differences in claim calculations for all the spring wheat bushels:
  - a. Claimant used the same calculations as the Midwest Estimates.
  - b. Midwest had miscellaneous discounts listed on their Estimates. PSC staff could not identify the reason the discount was taken and therefore did not include them in their calculations.
  - c. Midwest did not appropriately account for the commodity checkoff fees that would be deducted prior to final settlement per standard industry practice.
  - d. For Midwest Estimate 184/ECGM 21319
    - i. Midwest used the incorrect base price per bushel (\$5.30)
    - ii. PSC calculations reflect using the correct base price per bushel (\$5.31) per the trade confirmation.
  - e. Midwest did not apply the grain delivered to the contracts in any discernable order or for any apparent reason.
    - i. PSC applied bushels using the standard industry practice of applying the earliest delivered loads to the oldest contract by delivery date and applying the overflow to the next oldest contract.
4. Differences in claim calculations for the yellow peas delivered (ECGM 21388)
  - a. Claimant based their claim calculations off of Midwest Estimate #225.
  - b. Midwest Estimate #225 lists eight scale tickets for a total of 7941.91 bushels, priced at \$7.15 per bushel.
    - i. Dakota Dry Bean scale ticket #CRA001001810 had the hundred weight (CWT) not the bushels (bu) listed on the Estimate.
    - ii. Estimate lists discounts for each scale ticket, PSC staff could not identify the reason for the discount and therefore disregarded them in the PSC's calculations.
    - iii. Midwest did not account for the commodity checkoff fees that would typically be deducted prior to final settlement in a normal business transaction.
    - iv. Midwest did not properly account for dockage deductions and the payment of splits in full, per the terms of the agreement.
    - v. PSC calculations reflect using the net bushels according to the agreed upon terms and were calculated in the following manner:
      - vi. For all loads delivered to AGT – Minot:
        1. The AGT – Minot scale tickets have two separate forms of dockage identified in the “Dockage %” portion of the scale ticket.
          - a. Per the phone conversation Mike McNamee had with AGT staff the they are broken down as follows:
            - i. “dk” is actual dockage material.
            - ii. “fd” is what AGT calls feed grain.

- b. Based on the conversation Mike had with AGT the grain identified as “fd” would be considered splits for the purposes of calculating the NET bushels delivered by the claimant based on the trade confirmation.
- 2. PSC staff used the Gross pounds (unload weight on the scale ticket), multiplied that by the dockage percent for actual dockage (“dk” on scale ticket) and subtracted that amount from the gross pounds to get the NET pounds of grain delivered. The NET pounds of grain delivered was then divided by 60 (Yellow Pea standard test weight (TW) = 60lbs per bushel) to arrive at the NET bushels delivered.
  - a.  $\text{NET lbs.} = (\text{Gross lbs.}) - ((\text{Gross lbs.}) * (\text{dockage “dk” percentage}))$
  - b.  $\text{NET bu.} = (\text{NET lbs.}) / 60$
- vii. For the loads delivered to Dakota Dry Bean:
  - 1. Scale ticket uses hundred weight (CWT) as the unit of measure instead of bushels (bu).
    - a. For hundred weight (CWT) it is 100 pounds (lbs.) per one CWT.
    - b. For yellow peas it is a standard 60 pounds (lbs.) per bushel.
      - i. Yellow Pea standard test weight is 60 lbs.
  - 2. Dakota Dry Bean scale tickets show the amount of splits in CWT deducted from the gross CWT.
  - 3. PSC calculated net bushels from the destination scale ticket information in the follow manner:
    - a.  $\text{Net bu.} = (100 * ((\text{destination net CWT}) + (\text{destination splits CWT}))) / 60$ 
      - i.  $\text{Net bu.} = ((\text{NET CWT}) + (\text{Splits CWT})) / 0.6$  is the shortened equation.
    - b. The NET bushel calculation was rounded to two decimal places.
- viii. For the load delivered to Crookston Bean:
  - 1. The assembly report, which had been requested by the PSC for additional information previously, shows the dockage percent and the weights of the truck that was dumped. The second (right most) “Net” column on the Crookston Bean assembly sheet is the Net pounds of grain less the dockage pounds.
  - 2. Yellow pea standard test weight is 60 pounds per bushel.
  - 3. PSC calculated net bushels as follows:
    - a.  $(\text{net pounds less dockage pounds}) / (60 \text{ pounds per bushel})$  equals net bushels.
      - i.  $(\text{NET lbs.}) / 60 = \text{Net Bushels}$
    - b. Net bushels calculation was rounded to the nearest hundredth.

Summary table of how value of each load of spring wheat calculated:

Destination Information - inbound				Pricing					Scale ticket Grade Factors				Contracts				
Elevator	Scale Ticket #	Delivery Date	Net Bu	Base Price per-Bushel	Prem. & Disc. per bu	Net Price per Bu	Gross Amount Due	Checkoff	NET Amount Due	TW	MST	Protein	FM/Dock	Estimate #	ECGM Trade	Seller Contract	Midwest Contract
Osnabrock FCE - Nekoma	175389	8/28/2018	1,102.35	\$ 5.31	\$ 0.20	\$ 5.51	\$ 6,073.95	\$ 16.54	\$ 6,057.41	63.9	11.4	14.5	1.4	na	21319	na	na
Osnabrock FCE - Nekoma	175396	8/28/2018	1,186.47	\$ 5.31	\$ 0.10	\$ 5.41	\$ 6,418.80	\$ 17.80	\$ 6,401.00	64.1	12.0	14.3	1.1	na	21319	na	na
Osnabrock FCE - Nekoma	175399	8/29/2018	1,178.27	\$ 5.31	\$ 0.40	\$ 5.71	\$ 6,727.92	\$ 17.67	\$ 6,710.25	63.8	11.5	14.8	1.4	na	21319	na	na
Osnabrock FCE - Nekoma	175409	8/29/2018	1,094.79	\$ 5.31	\$ 0.80	\$ 6.11	\$ 6,689.17	\$ 16.42	\$ 6,672.75	62.7	10.9	15.6	1.4	na	21319	na	na
Osnabrock FCE - Nekoma	175415	8/30/2018	438.12	\$ 5.31	\$ (0.05)	\$ 5.26	\$ 2,304.51	\$ 6.57	\$ 2,297.94	63.9	12.8	13.9	0.9	na	21319	na	na
Osnabrock FCE - Nekoma	175415	8/30/2018	624.23	\$ 5.30	\$ (0.05)	\$ 5.25	\$ 3,277.21	\$ 9.36	\$ 3,267.85	63.9	12.8	13.9	0.9	na	21440	na	na
Osnabrock FCE - Nekoma	175435	8/30/2018	1,074.05	\$ 5.30	\$ (0.05)	\$ 5.25	\$ 5,638.76	\$ 16.11	\$ 5,622.65	63.7	13.1	13.8	1.1	na	21440	na	na
Osnabrock FCE - Nekoma	175463	8/30/2018	1,149.72	\$ 5.30	\$ (0.15)	\$ 5.15	\$ 5,921.06	\$ 17.25	\$ 5,903.81	64.0	12.9	13.5	1.0	na	21440	na	na
Osnabrock FCE - Nekoma	175537	9/1/2018	1,038.45	\$ 5.30	\$ -	\$ 5.30	\$ 5,503.79	\$ 15.58	\$ 5,488.21	60.7	12.6	14.1	1.1	na	21440	na	na
Osnabrock FCE - Nekoma	175550	9/1/2018	1,113.55	\$ 5.30	\$ (0.10)	\$ 5.20	\$ 5,790.46	\$ 16.70	\$ 5,773.76	61.7	12.2	13.7	1.0	na	21440	na	na
Osnabrock FCE - Nekoma	175550	9/1/2018	231.20	\$ 5.30	\$ (0.10)	\$ 5.20	\$ 1,202.24	\$ 3.47	\$ 1,198.77	61.7	12.2	13.7	1.0	na	21615	na	na
Osnabrock FCE - Nekoma	175703	9/4/2018	1,150.72	\$ 5.30	\$ 0.60	\$ 5.90	\$ 6,789.25	\$ 17.26	\$ 6,771.99	61.8	11.9	15.2	4.0	na	21615	na	na
Osnabrock FCE - Nekoma	175726	9/4/2018	1,186.68	\$ 5.30	\$ -	\$ 5.30	\$ 6,289.40	\$ 17.80	\$ 6,271.60	61.7	12.7	14.1	1.0	na	21615	na	na
Osnabrock FCE - Nekoma	175769	9/4/2018	1,195.48	\$ 5.30	\$ 0.10	\$ 5.40	\$ 6,455.59	\$ 17.93	\$ 6,437.66	61.0	12.9	14.2	1.2	na	21615	na	na
Osnabrock FCE - Nekoma	175786	9/5/2018	1,235.92	\$ 5.30	\$ 0.10	\$ 5.40	\$ 6,673.97	\$ 18.54	\$ 6,655.43	61.6	13.3	14.3	1.0	na	21615	na	na
Osnabrock FCE - Nekoma	175786	9/5/2018	11.81	\$ 5.30	\$ 0.10	\$ 5.40	\$ 63.77	\$ 0.18	\$ 63.59	61.6	13.3	14.3	1.0	na	21638	na	na
Osnabrock FCE - Nekoma	175819	9/5/2018	1,138.50	\$ 5.30	\$ (0.10)	\$ 5.20	\$ 5,920.20	\$ 17.08	\$ 5,903.12	62.0	13.0	13.7	1.0	na	21638	na	na
Osnabrock FCE - Nekoma	175832	9/5/2018	1,113.19	\$ 5.30	\$ 0.10	\$ 5.40	\$ 6,011.23	\$ 16.70	\$ 5,994.53	61.8	12.2	14.2	1.4	na	21638	na	na
Osnabrock FCE - Nekoma	175858	9/5/2018	1,013.89	\$ 5.30	\$ 0.10	\$ 5.40	\$ 5,475.01	\$ 15.21	\$ 5,459.80	62.0	12.0	14.2	1.5	na	21638	na	na
Osnabrock FCE - Nekoma	175865	9/5/2018	1,114.14	\$ 5.30	\$ (0.05)	\$ 5.25	\$ 5,849.24	\$ 16.71	\$ 5,832.53	61.8	12.0	13.9	1.2	na	21638	na	na
ADM - Hensler	154974	9/6/2018	608.47	\$ 5.30	\$ 0.20	\$ 5.50	\$ 3,346.59	\$ 9.13	\$ 3,337.46	60.9	12.2	14.4	0.2	na	21638	na	na
ADM - Hensler	154974	9/6/2018	488.66	\$ 5.22	\$ 0.08	\$ 5.30	\$ 2,589.90	\$ 7.33	\$ 2,582.57	60.9	12.2	14.4	0.2	na	21902	na	na
Osnabrock FCE - Nekoma	175893	9/6/2018	1,060.36	\$ 5.22	\$ -	\$ 5.22	\$ 5,535.08	\$ 15.91	\$ 5,519.17	61.3	12.8	14.0	1.3	na	21902	na	na
Osnabrock FCE - Nekoma	175263	9/17/2018	1,147.58	\$ 5.22	\$ 0.20	\$ 5.42	\$ 6,219.88	\$ 17.21	\$ 6,202.67	60.9	12.5	15.2	2.0	na	21902	na	na
Osnabrock FCE - Nekoma	176282	9/17/2018	1,246.01	\$ 5.22	\$ (0.16)	\$ 5.06	\$ 6,304.81	\$ 18.69	\$ 6,286.12	62.6	13.1	13.3	0.9	na	21902	na	na

Summary table of how value of each load of yellow peas calculated:

BOL Information			Destination Information - inbound				Pricing				Contracts			
BOL Date	BOL #	Bushels	Elevator	Scale Ticket #	Delivery Date	Net Bu	Net Price per Bu	Gross Amount Due	Checkoff	NET Amount Due	Estimate #	ECGM Trade	Seller Contract	Midwest Contract
9/27/2018	1201	1,110.67	Dakota Dry Bean - Crary	CRA001001614	9/27/2018	1,098.90	\$ 7.15	\$ 7,857.14	\$ 78.57	\$ 7,778.57	225	21388	na	na
10/3/2018	1204	1,100.00	AGT - Minot	18643	10/3/2018	1,085.70	\$ 7.15	\$ 7,762.76	\$ 77.63	\$ 7,685.13	225	21388	na	na
9/20/2018	1203	1,000.00	Dakota Dry Bean - Crary	CRA001001635	9/28/2018	1,103.18	\$ 7.15	\$ 7,887.74	\$ 78.88	\$ 7,808.86	225	21388	na	na
10/3/2018	1202	1,114.00	Dakota Dry Bean - Crary	CRA001001601	9/26/2018	1,098.18	\$ 7.15	\$ 7,851.99	\$ 78.52	\$ 7,773.47	225	21388	na	na
10/16/2018	1225	1,107.70	AGT - Minot	18645	10/3/2018	1,095.48	\$ 7.15	\$ 7,832.68	\$ 78.33	\$ 7,754.35	225	21388	na	na
10/17/2018	1220	973.00	Crookston Bean	515	10/16/2018	963.27	\$ 7.15	\$ 6,887.38	\$ 68.87	\$ 6,818.51	225	21388	na	na
			Dakota Dry Bean - Crary	CRA001001810	10/17/2018	1,080.48	\$ 7.15	\$ 7,725.43	\$ 77.25	\$ 7,648.18	225	21388	na	na
			Dakota Dry Bean - Lakeview	LAK001000963	10/20/2018	826.10	\$ 7.15	\$ 5,906.62	\$ 59.07	\$ 5,847.55	225	21388	na	na

Summary table of how net bushels for loads delivered to Dakota Dry Bean calculated:

Destination Information - inbound				Calculations for DDB CWT to Bu				Scale ticket Grade Factors				Contracts		
Elevator	Scale Ticket #	Delivery Date	Net Bu	PSC Net CWT	Destination Net CWT	Destination splits CWT	MST	Damage	Splits	FM/Dock	Estimate #	ECGM Trade	Seller Contract	Midwest Contract
Dakota Dry Bean - Crary	CRA001001614	9/27/2018	1,098.90	659.34	656.14	3.20	11.6	0.98	0.96	0.08	225	21388	na	na
Dakota Dry Bean - Crary	CRA001001635	9/28/2018	1,103.18	661.91	659.17	2.74	11.6	0.56	0.82	0.47	225	21388	na	na
Dakota Dry Bean - Crary	CRA001001601	9/26/2018	1,098.18	658.91	655.97	2.94	11.7	0.94	0.88	0.48	225	21388	na	na
Dakota Dry Bean - Crary	CRA001001810	10/17/2018	1,080.48	648.29	644.81	3.48	11.9	1.85	1.05	0.31	225	21388	na	na
Dakota Dry Bean - Lakeview	LAK001000963	10/20/2018	826.10	495.66	492.84	2.82	11.6	0.534	1.13	0.07	225	21388	na	na

Summary table of how net bushels for loads delivered to AGT Foods - Minot calculated:

Destination Information - inbound				How NET Bu of Y. Peas Calculated(AGT)				Scale ticket Grade Factors				Contracts		
Elevator	Scale Ticket #	Delivery Date	Net Bu	Net Lbs (peas + splits)	FM lbs (FM% * G.lbs.)	Gross Lbs (unload weight)	MST	Splits	FM/Dock	Estimate #	ECGM Trade	Seller Contract	Midwest Contract	
AGT - Minot	18643	10/3/2018	1,085.70	65,142.00	858.00	66,000	11.9	1.50	1.30	225	21388	na	na	
AGT - Minot	18645	10/3/2018	1,095.48	65,728.94	731.06	66,460	11.9	1.90	1.10	225	21388	na	na	