



Chris Nelson, Chair
Kristie Fiegen, Vice Chair
Gary Hanson, Commissioner

South Dakota

PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.puc.sd.gov

Capitol Office
(605) 773-3201
1-866-757-6031 fax

Grain Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

October 9, 2012

James M. Fischer
33520 108th Street
Eureka, SD 57437

Re: **Proof of Claim for Cash Grain**

Dear Mr. Fischer,

The South Dakota Public Utilities Commission regulates grain buyers in this state. As you know, we are working through issues connected to Anderson Seed in Redfield, SD. Specifically, due to Anderson Seed's failure to pay for grain, its bond has been surrendered and now must be distributed. We understand from the information you sent, you believe you are entitled to some of the bond proceeds.

The Commission's Grain Warehouse Staff has evaluated your claim of \$165,679.12 and determined that \$131,287.66 is subject to the terms of a voluntary credit sale contract; pursuant to South Dakota Codified Law 49-45-9 (see attached) this portion of your claim is not eligible for participation in the bond proceeds. That would leave a valid bond claim amount of \$34,391.46. If it is your wish to challenge Staff's findings at hearing please respond in writing by November 16, 2012 that you do not agree with staff's findings and request a hearing before the Commission. If you have questions about the process or would like to discuss your claim please call our office at 605-773-5278.

Sincerely,

James Mehlhaff
Grain Warehouse Director

James M. Fischer

Amount Claimed: **\$165,679.12**
Staff Finding: **\$34,391.46**

Claimant entered a claim of \$165,679.12 this claim included a Voluntary Credit Sale (VCS) Contract with a value of \$131,435.73. Delivery on this contract was in November and early December, the contract was written on December 28th and was signed by the producer on January 3rd.

Staff recommends that bond proceeds not be issued on the Voluntary Credit Sale contract. Staff does recommend the bond proceeds be paid on the finding of \$34,391.46.

This claimant has indicated Great Plains Bank of Eureka as a lien holder.

49-45-9. Bond requirements--Violation as misdemeanor--Amount. Before any grain buyer license is issued by the commission, the applicant shall file with the commission a bond conditioned to secure the faithful performance of the applicant's obligations as a grain buyer and full and unreserved compliance with the laws of this state and the rules of the commission, relating to the purchase of grain by the grain buyer. The bond is for the specific purpose of protecting persons selling grain to the grain buyer. However, the bond may not benefit any person entering into a voluntary credit sale with a grain buyer. Any person who does business as a grain buyer without a bond is guilty of a Class 1 misdemeanor. Each day a person conducts the business of a grain buyer without a bond is a separate offense.

The amount of the bond for a Class A or Class B grain buyer's license shall be based on a rolling average of the dollar amount of grain purchased by the applicant in South Dakota during the last three calendar years. For a new grain buyer, the first year's bond shall be based on projected purchases. For a grain buyer with less than three years experience as a grain buyer, the bond shall be based on the average actual purchases made by the grain buyer in all of its previous years as a grain buyer. The bond applies to all grain purchases for all of the grain buyer's business locations.

The amount of the bond for a Class A grain buyer's license is:

Dollar Amount of Grain Purchased	Bond Requirement
Less than \$2,000,001	\$50,000
\$2,000,001--\$10,000,000	\$100,000
\$10,000,001--\$25,000,000	\$200,000
\$25,000,001--\$60,000,000	\$350,000
\$60,000,001--\$100,000,000	\$500,000

Bond requirements are increased twenty-five thousand dollars for each additional ten million dollars in purchases above one hundred million dollars.

The amount of the bond for a Class B grain buyer's license is:

Dollar Amount of Grain Purchased	Bond Requirement
Less than \$2,000,001	\$50,000
\$2,000,001--\$10,000,000	\$100,000

The grain buyer may stipulate to a higher bond amount requested by the commission or may post additional security in another form.