

- a. Commission Staff requests the receivership be limited to control of the grain elevator and directly related assets, including but not limited to grain inventory.

5. For the following reasons, Commission Staff has determined FCE to be an insolvent company at this time:

- a. On or about June 30, 2021, Commission Staff became aware that FCE was unable to obtain a bond as required by SDCL 49-45-9 and 49-43-5.3 and was therefore ineligible to renew its Grain Buyer and Grain Warehouse licenses which expired on June 30, 2021. See Attachment B, Licenses.
 - b. Pursuant to SDCL 49-45-11, upon non-renewal of license, all voluntary credit sale (VCS) contracts are due within 10 days. Therefore, all VCS contracts came due on or about July 10, 2021. FCE does not have the liquid assets available to satisfy these contracts at this time.
 - c. On or about June 30, 2021, Commission Staff learned Avon Bank, FCE's lender, had called FCE's line of credit, and that loan would need to be paid by November 15, 2021. Commission Staff's inspections show that FCE does not have the cash on hand to meet this obligation.
 - d. In the course of recent inspections, Commission Staff also became aware that FCE was expending a substantial amount of capital each month on operations expenses and is concerned these expenses will interfere with FCE's ability to meet its financial obligations.
6. Pursuant to SDCL 45-49-16.1, Commission Staff now petitions this Court to appoint the Commission Staff as a receiver of the grain business and grain inventory of FCE.

7. Upon being appointed receiver of the grain business and grain inventory of FCE, Commission Staff will conduct an in-depth review of FCE's assets and liabilities and work to either bring FCE into a financially viable position or take other reasonable and necessary steps to the benefit of all creditors of FCE, including liquidation of assets.
8. Commission Staff has worked closely with FCE and FCE's primary bank for the past three years and is in the best position to continue to work with all interested parties. See Attachment A, Letter from Bank.
9. If necessary, Commission Staff will contract with other experts in the field to assist in this process.
10. Commission Staff also moves for an expedited hearing with this Court due to the quickly declining financial position of FCE and the risk for depletion of assets.

WHEREFORE, the Commission prays for a hearing on its Motion for emergency receiver where all parties can be heard regarding Commission Staff being appointed as receiver over FCE.

Respectfully submitted this 20th day of July 2021.



Kristen N. Edwards (#4124)
Amanda M. Reiss
Special Assistant Attorneys General
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501
Phone (605)773-3201
Kristen.edwards@state.sd.us