



May 8, 2023

Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501-5070

RE: Docket GW23-001

Dear Commissioners Fiegen, Hanson, and Nelson:

I am writing this letter to express my concerns regarding the testimony of Jeremy Frost during the April 23, 2023 PUC evidentiary hearing regarding the National Grain and Feed Association (NGFA).

The South Dakota Agri-Business Association (formally the South Dakota Grain & Feed Association) is an active member of NGFA. Please see that enclosed letter from NGFA that states that Fearless Grain Marketing, Banghart Properties and/or Jeremy Frost are NOT members of NGFA.

In addition, I have enclosed an article from the April 7, 2023 NGFA newsletter. This article addresses non-NGFA member companies that use clauses in their contracts that refer to NGFA Arbitration despite the companies not being members of NGFA. The article notes that at least one party must be a member of NGFA to have access to NGFA Arbitration. Since Fearless Grain Marketing, Banghart Properties and/or Jeremy Frost are not NGFA members, the only time they would be able access NGFA Arbitration is if the other party is a member. There are currently 19 South Dakota companies that are members of NGFA, of which none of them are farmers.

Thank you for the opportunity to submit comments.

Sincerely,

Kathy Zander
Executive Director

Enc: Letter from NGFA
NGFA newsletter article



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National Grain and Feed Association
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May 8, 2023

Ms. Kathy Zander
Executive Director
South Dakota Grain and Feed Association
320 E. Capitol Avenue
Pierre, SD 57501-2519

Dear Ms. Zander:

This letter is in response to your inquiry regarding the membership status in the National Grain and Feed Association (NGFA) of Fearless Grain Marketing; Banghart Properties; and Jeremy Frost.

The membership records of NGFA show that none of the aforementioned entities/individuals are current members of NGFA. Further, NGFA membership records do not indicate that any of the entities/individuals have ever been members of NGFA.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd E. Kemp".

Todd E. Kemp
Executive Director,
Member Services and Outreach

NGFA Arbitration Advisory: Non-NGFA member companies using NGFA Arbitration contract clauses

By Charlie Delacruz, Senior Vice President, General Counsel and Secretary

NGFA is receiving inquiries about companies using clauses in their contracts that refer to NGFA Arbitration despite the companies not being members of NGFA.

Please be reminded: In all cases, at least one party must be a member of NGFA to have access to NGFA Arbitration. Even if a company's contracts reference NGFA Arbitration or Trade Rules, without an active NGFA membership, they do not have access to arbitration (unless the other party is a member). Also note the member-party must have been a member at the time the arbitration complaint is filed, and at the time the underlying contract or transaction was agreed upon or formed. Companies must also have their own independent NGFA membership unless they are 100 percent owned by a single NGFA member. Thus, for example, a company that is a joint venture must have its own NGFA membership for access to NGFA Arbitration.

To verify the status of your company's or your counterparty's membership with NGFA, please contact [NGFA](#).

Around the Industry

By Todd Kemp, Executive Director, Member Services and Outreach

Sharon Clark, senior vice president for regulatory affairs and compliance, has announced her retirement from NGFA-member **Perdue Agribusiness LLC** at the culmination of a 39-year career in agriculture. Prior to her 26-year tenure with Perdue, Clark was employed by NGFA-member firms **The Andersons Inc.** and **Cargill Inc.** Honored at the NGFA's recent 127th annual convention with the Distinguished Service Award, Clark served multiple terms on the NGFA Board of Directors and Executive Committee and several other committees. Over the years, few industry volunteers have contributed more to the Association. Congratulations and best wishes to Sharon!

In the meantime, **Tim Andriesen** is leaving NGFA-member **CME Group** after 14 years serving there as a key contact for NGFA and, in particular, for issues managed in NGFA's Risk Management Committee. Andriesen is joining NGFA-member **MAREX/TMG** as managing director of agricultural sales. Andriesen has enjoyed a 40-year career in agriculture, with stints at NGFA-members **Rabobank** and **CGB Enterprises** along the way. Congratulations to Tim!

NGFA-member **Kanza Cooperative Association** has announced that **Alan Woodard** has been selected as its next CEO. His selection follows the retirement announcement of **Bruce Krehbiel**, who served the cooperative for over 36 years. Woodard has been the CEO of NGFA-member **CoMark Equity Alliance** since 2017. Prior to that he had a long and successful career in banking and finance leadership, most recently with NGFA-member **CoBank**. Woodard has served on the NGFA Board of Directors and Executive Committee. Best wishes to Alan in his new role at Kanza Co-op!

NGFA-member **Ceres Global Ag Corp.** has announced that **Tom Coyle** has stepped down as an independent director of the board of directors to enlarge his role as a consultant to Ceres. Moving forward, Coyle will bring his 43 years of experience to provide commercial, regulatory, and compliance support for the corporation's management team in the areas of operations, trading, business