

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE GRAIN DEALER'S)	ORDER GRANTING
AND PUBLIC WAREHOUSE LICENSES OF)	MOTIONS TO REOPEN
FREEMAN FERTILIZER CO., INC. DBA)	RECORD
MCCOOK FEED & FERTILIZER)	GD01-001
)	(Civ. 01-023)

On February 13, 2001, Jeff Mulder, on behalf of Freeman Fertilizer Co. Inc. d/b/a McCook Feed & Fertilizer (McCook), entered into a stipulation with the Public Utilities Commission (Commission) surrendering his licenses as a grain dealer and grain warehouseman and permitted the Commission to take immediate possession of his facilities. On March 8, 2001, the Commission filed with the First Judicial Circuit a Petition to Appoint South Dakota Public Utilities Commission as a receiver. On March 27, 2001, the Commission was appointed receiver by the Honorable Judge Boyd L. McMurchie of the First Judicial Circuit of South Dakota.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 21-21, 49-42, 49-43, and 49-45, specifically 49-42-15.1, 49-43-5.6, 49-43-5.8, 49-45-13, 49-45-16, and 49-45-18. Pursuant to the order of the Court, the Commission shall determine claims against the cash proceeds of the grain dealer's bonds and the grain warehouseman's bonds, one bond numbered S16 7010, commencing July 1, 2000, and ending June 30, 2001, and a second bond commencing July 1, 1999, and ending June 30, 2000, with Employers Mutual Casualty Company, being the surety, and all grain inventory currently located at the Canistota facility. A hearing was held as scheduled on the claims as described above on May 3, 2001, beginning at 10:00 a.m., at the American Legion Hall, Jenard D. Post, 162 Main Street, Canistota, South Dakota.

By order dated May 8, 2001, the Court authorized the Commission to liquidate the grain inventory. The Commission sent and published notice soliciting bids for the sale of the grain and requested those interested in bidding on the grain to contact the Commission. The Commission accepted the following bids:

FreMar Farmers Cooperative, Marion, South Dakota: approximately 21,000 bushels of soybeans at \$4.12 per bushel, subject to the discount tables; and

Hanson County Grain Store, Alexandria, South Dakota: approximately 750 bushels of oats at \$1.31 per bushel; approximately 750 bushels of mixed corn and soybeans at \$2.25 per bushel; and approximately 48,000 bushels of corn at \$1.51 per bushel, subject to the discount tables.

On June 8, 2001, the Commission received a Notice and Motion to Reopen for Further Evidence from Commission Staff. Staff requested the record be reopened for the purpose of receiving into evidence affidavits from some of the claimants requesting

rescission of their delayed price contracts and/or deferred price contracts entered into with McCook Feed and Fertilizer. On June 19, 2001, the Commission received a Motion to Reopen for Further Evidence from Home Federal Savings Bank for the purpose of receiving into evidence the Affidavit of Richard Shane regarding alternative methods of selling grain and the usual practices concerning the issue of elevator contracts. On June 28, 2001, the Commission received the Affidavit of Richard Shane.

At its July 6, 2001, meeting, the Commission considered the motions. None of the parties objected to all of the affidavits being received into evidence. None of the parties requested any additional hearings. Since there were no objections, the Commission voted to grant both motions and received the affidavits into evidence. It is therefore

ORDERED, that the Commission grants both Staff's and Home Federal Savings Bank's motions and reopens the record to receive into evidence the aforementioned affidavits.

Dated at Pierre, South Dakota, this 12th day of July, 2001.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u><i>Nellaine Kalbo</i></u>
Date:	<u>7/17/01</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner