

CFC/FREMAR, LLC

Due to a recent Circuit Court ruling regarding Voluntary Credit Sale Contracts (i.e.; Delayed Price contracts, Deferred Payment contracts and Basis Fixed contracts), the South Dakota Public Utilities Commission has notified all grain warehouses in the State of South Dakota (See Below) that they MUST have the above mentioned contracts signed and returned to the warehouse within 30 days of final delivery or the PUC will mandate that the warehouse sends a check to the producer immediately. Effective immediately, CFC and FREMAR, LLC will be following this State mandated ruling.

FOR IMMEDIATE RELEASE; Monday, April 15, 2013

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Notice to grain sellers and grain buyers

On April 4, 2013, Circuit Judge Tony L Porta issued a ruling overturning one of the South Dakota Public Utilities Commission's findings in the matter of the Anderson Seed Co., Inc. grain buyer bond.

The commission ruled in support of staff's findings that pursuant to SDCL 49-45-9 Martinmaas Dairy should not be eligible to participate in the bond proceeds because its entire claim amount was subject to the terms of a voluntary credit sale (VCS) contract. Martinmaas Dairy challenged the PUC ruling based on the fact that it had not signed the VCS contract that was prepared to memorialize the agreement to defer payment. In finding Martinmaas Dairy had entered into a signature requirement for contracts for the sale of grain, as well as the sworn testimony of the Raymond Martinmaas that he did intend to defer payment.

When the PUC presented recommendations for the disbursement of the bond to the 5th Judicial Circuit Court on March 19, 2013, Raymond Martinmaas appeared on behalf of Martinmaas Dairy and asked the court to overturn the PUC's findings with respect to the Martinmaas Dairy claim. The court found, pursuant to SDCL 49-45-11 and ARSD 20:10:12:13, that a VCS contract is not enforceable unless signed by both parties.

Therefore, going forward all grain purchases more than 30 days old will be considered cash sales that must be paid pursuant to SDCL 49-45-10 unless the grain buyer has in its possession a VCS contract signed by both parties.

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