IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

H & M FARMS, INC.,)	
Plaintiff,)	8:12CV101
V.)	
CARGILL, INCORPORATED, and LEON VANDEN BERGE,)))	MEMORANDUM AND ORDER
Defendants.)))	

This matter is before the court on the findings and recommendation filed by Magistrate Judge F.A. Gossett on May 30, 2012 (filing 15). Judge Gossett recommends that the plaintiff's motion to remand (filing 6) be granted and that this action be remanded to state court.

Defendant Cargill has filed a statement of objections to the recommendation that the case be remanded (filing <u>16</u>), and the plaintiff has filed a responsive brief to Cargill's objections. The matter is now ripe for decision under <u>28 U.S.C.</u> § 636(b)(1).

I find and conclude after de novo review, and after giving careful consideration to the parties' written arguments, that Judge Gossett has correctly found the facts and applied the law in recommending that this matter be remanded to state court due to the lack of complete diversity between the parties. Accordingly, Judge Gossett's findings and recommendation will be adopted.

IT IS ORDERED:

1. The magistrate judge's findings and recommendation (filing <u>15</u>) is adopted.

¹This case was reassigned to the undersigned United States district judge on June 21, 2012. (Filing <u>20</u>.)

- 2. The statement of objections filed by defendant Cargill, Incorporated, (filing 16) is denied.
- 3. The plaintiff's motion to remand (filing <u>6</u>) is granted, and this case is remanded to the District Court of Howard County, Nebraska, for lack of diversity jurisdiction.
- 4. The Clerk of the United States District Court for the District of Nebraska shall mail a certified copy of this order to the District Court of Howard County, Nebraska, and may take any other action necessary to effectuate the remand.
- 5. Because the court did not consider additional evidentiary materials in resolving the objection to the magistrate judge's findings and recommendation, the plaintiff's motion for leave to submit evidence (filing 18) is denied as moot.
- 6. The motion to dismiss (filing <u>4</u>) filed by defendant Cargill, Incorporated, is denied as moot.
- 7. Final judgment will be entered by separate document.

DATED this 12th day of July, 2012.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge

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