

CHS INC
Form 10-K/A
March 03, 2004

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SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K/A-3

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Fiscal Year Ended August 31, 2003

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to .

Commission file number: 0-50150

CHS Inc.

(Exact name of registrant as specified in its charter)

Minnesota

*(State or other jurisdiction of
incorporation or organization)*

41-0251095

*(I.R.S. Employer
Identification Number)*

5500 Cenex Drive

Inver Grove Heights, Minnesota 55077

(Address of principal executive office, including zip code)

(651) 355-6000

(Registrant's Telephone number, including area code)

Securities Registered Pursuant to Section 12(b) of the Act:

None

Securities Registered Pursuant to Section 12(g) of the Act:

8% Cumulative Redeemable Preferred Stock

(Title of Class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K:

Indicate by check mark whether the Registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes No

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter:

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The registrant's voting and non-voting common equity has no market value (the registrant is a member cooperative).

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date: The registrant has no common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

None.

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Consent of Independent Accountants

Independent Auditors' Consent

Certification Pursuant to Section 302

Certification Pursuant to Section 302

Certification Pursuant to Section 906

Certification Pursuant to Section 906

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This Form 10-K/ A-3 amends Item 9A to the Registrant's Annual Report on Form 10-K for the fiscal year ended August 31, 2003, as previously amended by the Registrant's Form 10-K/ A-2 and Form 10-K/A-1. In addition, in connection with the filing of this Form 10-K/ A-3 and pursuant to the rules of the Securities and Exchange Commission, the Registrant is including with this Form 10-K/ A-3 certain currently dated certifications. No other changes have been made to the Annual Report and this Form 10-K/ A-3 does not modify or update the disclosure contained in the Form 10-K, as amended by the Form-K/ A-2 and Form 10-K/ A-1, in any way other than as required to reflect the amendments discussed above and reflected below.

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PART II.

Item 9A. *Controls and Procedures*

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934 (the Exchange Act)) as of August 31, 2003. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of that date except as noted below with respect to the identification and elimination of certain sales and transfers within our Grain Marketing business segment, our disclosure controls and procedures were effective.

During our fourth fiscal quarter, there was no change in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Following the end of our fourth fiscal quarter, we determined that certain sales and transfers within our Grain Marketing business segment and also between the Grain Marketing segment and the Processed Grains and Foods segment had not been properly identified and eliminated in our consolidated financial statements for certain periods prior to that fiscal quarter. Following this determination, we restated our consolidated statements of operations for the fiscal years ended August 31, 2002, 2001 and 2000 and for the first three fiscal quarters of the fiscal year ended August 31, 2003. These changes had no effect on our financial condition, or changes in cash flows, and no effect on reported gross profit or net income for the periods stated above. In response, we changed our internal control over financial reporting to include additional processes that are intended to ensure the proper identification and reporting of intra-company transactions and enable us to eliminate those transactions in the preparation of our consolidated financial statements.

PART IV.

Item 15. *Exhibits, Financial Statements and Reports Filed on Form 8-K*

(a)(3) Exhibits

- 3.1 Articles of Incorporation of the Company, as amended.(13)
- 3.2 Articles of Amendment to the Articles of Incorporation.(18)
- 3.3 Bylaws of the Company, as amended.(13)
- 4.1 Resolution Creating a Series of Preferred Equity to be Designated 8% Cumulative Redeemable Preferred Stock.(14)
- 4.2 Unanimous Written Consent Resolution of the Board of Directors of Cenex Harvest States Cooperatives Amending the Amended and Restated Resolution Creating a Series of Preferred Equity to be Designated 8% Cumulative Redeemable Preferred Stock.(15)
- 4.3 Resolution amending a previous Preferred Stock Resolution with respect to the record date for payment of dividends for the Company's 8% Cumulative Redeemable Preferred Stock.(17)
- 4.4 Form of Certificate Representing 8% Cumulative Redeemable Preferred Stock.(15)
- 10.1 Lease between the Port of Kalama and North Pacific Grain Growers, Inc., dated November 22, 1960.(1)
- 10.2 Limited Liability Company Agreement for the Wilsey-Holsum Foods, LLC dated July 24, 1996.(1)
- 10.3 Long Term Supply Agreement between Wilsey-Holsum Foods, LLC and Harvest States Cooperatives dated August 30, 1996.(*)(1)
- 10.4 TEMCO, LLC Limited Liability Company Agreement between Cargill, Incorporated and Cenex Harvest States Cooperatives dated as of August 26, 2002.(12)
- 10.5 Cenex Harvest States Cooperatives Supplemental Savings Plan.(7)

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| 10.6 | Cenex Harvest States Cooperatives Supplemental Executive Retirement Plan.(7) |
| 10.7 | Cenex Harvest States Cooperatives Senior Management Compensation Plan.(7) |
| 10.8 | Cenex Harvest States Cooperatives Executive Long-Term Variable Compensation Plan.(7) |
| 10.9 | Cenex Harvest States Cooperatives Share Option Plan.(7) |
| 10.9A | Amendment to Cenex Harvest States Share Option Plan, dated June 28, 2001.(10) |
| 10.10 | \$225,000,000 Note Agreement (Private Placement Agreement) dated as of June 19, 1998 among Cenex Harvest States Cooperatives and each of the Purchasers of the Notes.(2) |
| 10.10A | First Amendment to Note Agreement (\$225,000,000 Private Placement), effective September 10, 2003, among CHS Inc. and each of the Purchasers of the notes.(19) |
| 10.11 | Credit Agreement (Revolving Loan) dated as of May 21, 2003 among Cenex Harvest States Cooperatives, CoBank, ACB, SunTrust Bank, Cooperatieve Centrale Raiffeisen-Boerenleenbank B.A., BNP Paribas and the Syndication Parties.(17) |
| 10.12 | \$200 Million Term Loan Credit Agreement dated as of June 1, 1998 among Cenex Harvest States Cooperatives, CoBank, ACB, and St. Paul Bank for Cooperatives, including Exhibit 2.4 (form of \$200 Million Promissory Note).(2) |
| 10.12A | First Amendment to Credit Agreement (Term Loan), effective as of May 31, 1999 among Cenex Harvest States Cooperatives, CoBank, ACB, and St. Paul Bank for Cooperatives.(4) |
| 10.12B | Second Amendment to Credit Agreement (Term Loan) dated May 23, 2000 by and among Cenex Harvest States Cooperatives, CoBank, ACB, St. Paul Bank for Cooperatives and the Syndication Parties.(6) |
| 10.12C | Third Amendment to Credit Agreement (Term Loan) dated May 23, 2001 among Cenex Harvest States Cooperatives, CoBank, ACB, and the Syndication Parties.(9) |
| 10.12D | Fourth Amendment to Credit Agreement (Term Loan) dated May 22, 2002 among Cenex Harvest States Cooperatives, CoBank, ACB and the Syndication Parties.(11) |
| 10.13 | Limited Liability Agreement of United Harvest, LLC dated November 9, 1998 between United Grain Corporation and Cenex Harvest States Cooperatives.(3) |
| 10.14 | Joint Venture Agreement for Agriliance LLC, dated as of January 1, 2000 among Farmland Industries, Inc., Cenex Harvest States Cooperatives, United Country Brands, LLC and Land O Lakes, Inc.(5) |
| 10.15 | Employment Agreement dated November 6, 2003 by and between John D. Johnson and CHS Inc.(19) |
| 10.16 | CHS Inc. Special Supplemental Executive Retirement Plan.(19) |
| 10.17 | Note purchase and Private Shelf Agreement dated as of January 10, 2001 between Cenex Harvest States Cooperatives and The Prudential Insurance Company of America.(8) |
| 10.17A | Amendment No. 1 to Note Purchase and Private Shelf Agreement, dated as of March 2, 2001.(8) |
| 10.18 | Note Purchase Agreement and Series D & E Senior Notes dated October 18, 2002.(12) |
| 10.19 | 2002 Amended and Restated Credit Agreement (364-Day Revolving Loan) dated December 17, 2002 by and among National Cooperative Refinery Association, CoBank, ACB and Farm Credit Bank of Wichita, D/B/A U.S. AgBank, FCB.(16) |
| 21.1 | Subsidiaries of the Registrant.(19) |
| 23.1 | Consent of Independent Accountants.(20) |
| 23.2 | Independent Auditor s Consent.(20) |
| 24.1 | Power of Attorney.(19) |
| 31.1 | Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.(20) |
| 31.2 | Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.(20) |

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| 32.1 | Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.(20) |
| 32.2 | Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.(20) |

- (*) Pursuant to Rule 406 of the Securities Act of 1933, as amended, confidential portions of Exhibit 10.3 have been deleted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment.
- (1) Incorporated by reference to the Company's Registration Statement on Form S-1 (File No. 333-17865), filed February 7, 1997.
- (2) Incorporated by reference to the Company's Form 10-Q Transition Report for the period June 1, 1998 to August 31, 1998, filed October 14, 1998.
- (3) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended November 30, 1998, filed January 13, 1999.
- (4) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended May 31, 1999, filed July 13, 1999.
- (5) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended February 29, 2000 filed April 11, 2000.
- (6) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended May 31, 2000, filed July 10, 2000.
- (7) Incorporated by reference to the Company's Form 10-K for the year ended August 31, 2000, filed November 22, 2000.
- (8) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended February 28, 2001, filed April 10, 2001.
- (9) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended May 31, 2001, filed July 3, 2001.
- (10) Incorporated by reference to the Company's Registration Statement on Form S-2 (File No. 333-65364), filed October 26, 2001.
- (11) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended May 31, 2002, filed July 3, 2002.
- (12) Incorporated by reference to the Company's Form 10-K for the year ended August 31, 2002, filed November 25, 2002.
- (13) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended November 30, 2002, filed January 9, 2003.
- (14) Incorporated by reference to Amendment No. 1 to the Company's Registration Statement on Form S-2 (File No. 333-101916), dated January 13, 2003.
- (15) Incorporated by reference to Amendment No. 2 to the Company's Registration Statement on Form S-2 (File No. 333-101916), dated January 23, 2003.
- (16) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended February 28, 2003, filed April 4, 2003.
- (17) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended May 31, 2003, filed July 2, 2003.
- (18) Incorporated by reference to the Company's Form 8-K, filed August 5, 2003.
- (19) Incorporated by reference to the Company's Form 10-K for the year ended August 31, 2003 filed on November 21, 2003.
- (20) Filed herewith.

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(b) Reports on Form 8-K

On August 5, 2003 the Company filed a report on Form 8-K announcing the Company's name change from Cenex Harvest States Cooperatives to CHS Inc. This was the only report on Form 8-K filed during the fourth quarter.

(c) Exhibits

The exhibits shown in Item 15(a)(3) above are being filed herewith.

(d) Schedules

None.

Supplemental Information

As a cooperative, the Company does not utilize proxy statements.

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| | |
|--------------------------|----------|
| Duane Stenzel* | Director |
| Merlin Van Walleghen* | Director |
| Michael Mulcahey | Director |
| Steve Fritel | Director |
| *By: /s/ JOHN D. JOHNSON | |

John D. Johnson
Attorney-in-fact