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<https://www.in.gov/isda/2352.htm>

## BOARD OF DIRECTORS MEETING MINUTES

**Date:** Wednesday, March 27<sup>th</sup>, 2019

**Time:** 9:45 AM EDT

**Location:** Indiana Farm Bureau Building  
7<sup>th</sup> Floor Executive Dining Room  
225 S East St.  
Indianapolis, IN 46202

**Type:** Public Meeting

**Notice Posted in Advance:** Yes

**Quorum:** Satisfied (minimum of six voting members required)

### Meeting Attendees

#### Voting Members of the Board:

Mr. Mike Buis  
Mr. Bob Bischoff – via phone  
Mr. Jim Douglas  
Mr. Dave Howell  
Mr. Randy Kron  
Mr. Ron Reichart  
Mr. Mike Silver – via phone  
Mr. Don Villwock  
Mr. Grant Whaley  
Mr. Mark Wolf

#### Non-Voting Members of the Board:

Mr. Philip Gordon, Designated Representative for the Attorney General  
Mr. Harry Wilmoth, IGBWLA Director & Chairman of the Board

#### Excused Members of the Board:

Mr. Curtis Hill, Indiana Attorney General  
Ms. Kelly Mitchell, Indiana Treasurer of State  
Ms. Vicki Pool, Designated Representative for the Treasurer of State

#### Resource Staff:

Mr. Jeff Cummins, General Counsel and Director of Public Affairs, Indiana State Department of Agriculture  
Mrs. Heather Crockett, Section Chief, Office of the Attorney General  
Miss Regan Holtsclaw, Deputy Director of Communications, Indiana State Department of Agriculture  
Mr. Bruce Kettler, Director, Indiana State Department of Agriculture  
Mr. Ross Newton, Deputy Director, Indiana Grain Buyers and Warehouse Licensing Agency  
Mr. Jordan Seger, Deputy Director, Indiana State Department of Agriculture  
Mrs. Dakota Shepard, Grain Compliance Officer, Indiana Grain Buyers and Warehouse Licensing Agency  
Mr. Kyle Shepherd, Grain Compliance Officer, Indiana Grain Buyers and Warehouse Licensing Agency  
Mr. Dan Wilkins, Grain Compliance Officer, Indiana Grain Buyers and Warehouse Licensing Agency  
Mrs. Amanda Williams, Grain Licensing Officer, Indiana Grain Buyers and Warehouse Licensing Agency

#### Guests:

Mrs. Amy Cornell, Vice President, Bose Public Affairs Group  
Mr. Dennis Henry, Compliance and Accounting Manager, Indiana Soybean Alliance

**Call to Order:** 9:46 AM EDT

**Roll Call:** Newton conducts roll call that identifies eight (8) voting members and (2) non-voting members of the board to be physically present, and two (2) voting members of the board are participating via teleconference.

**Quorum:** Wilmoth states the required quorum of six (6) voting members is met.

**Review of Previous Board Meeting Minutes:** Wilmoth stated the minutes from the board meeting held on Thursday, July 19<sup>th</sup>, 2018, had been previously distributed to all board members and asked if any amendments to the minutes need to be made.

Motion made by Villwock to approve the previous meeting's minutes as read.  
Seconded by Kron and passed without dissent.

**Chairman's Welcome:** Wilmoth welcomes all attendees to the board meeting and introduces the following new board members:

Mr. Mike Buis – replacement appointee for the Indiana Farmers Union. Buis will be serving in Mr. Jim Benham's place on the board until Benham's current term officially expires in July of 2020. Buis meets the producer requirement outlined in Indiana Code 26-4-3-2(b).

Mr. Philip Gordon – replacement designated representative for the Office of the Indiana Attorney General. Gordon will be serving in Mr. James Schmidt's place on the board.

**Legal Updates:** Cummins spoke on the following items:

- Cline Grain, Inc., grain failure regarding Sears vs IGBWLA, the Indiana Court of Appeals ruled two to one, in favor of IGBWLA, finding the agency's interpretation of "claimant" was not arbitrary or capricious. Sears has filed a Petition to Transfer this case to the Indiana Supreme Court. At this time the agency is waiting on the Supreme Court's decision to take the case or not. It was asked if the Supreme Court's decision would be the final verdict. Cummins and Crockett both stated it would be the end of the appeals process.
- Several sections of 824 Indiana Administrative Code are now up for readoption. The agency filed a *Notice of Intent to Readopt* the whole article as it is currently written on March 26<sup>th</sup>, 2019. This does not affect Indiana Grain Indemnity Corporation rules.
- No legislative bills have been filed that would impact the Indiana Grain Buyers and Warehouse Licensing Agency, Indiana Grain Indemnity Corporation, or current grain statutes.
- First Financial Bank filed a complaint against Dorsett Bros., Inc., on December 18<sup>th</sup>, 2018. Wilmoth called for an executive session with available board members to discuss this matter and its significant risk exposure anonymously. On Friday, December 21<sup>st</sup>, 2018, Mr. Don Dorsett, Jr., voluntarily surrendered the company's Buyer/Warehouse license. Agency staff collected records on Saturday, December 22<sup>nd</sup>, 2018. The public claims hearing held on Thursday, January 31<sup>st</sup>, 2019, at the Eminence Fire Barn outside of Martinsville, Indiana (less than thirty days after the date of failure). Before payments are distributed, the agency will ask all proven claimants to subrogate their respective claim.

**Indemnity Fund Update:** Wilmoth provided an update on the Indiana Grain Indemnity Fund. As of February 28<sup>th</sup>, 2019, the fund balance is \$37,100,605.65 (see attachment). On March 5<sup>th</sup>, 2019, the agency deposited a check into the indemnity fund in the amount of \$300,000. This check is expected to be the last installment regarding the Lambright's, Inc., grain failure.

**IGBWLA Director's Report:** Wilmoth spoke on the following items:

- The possibility of working with Indiana Farm Bureau and the Indiana Farmers Union to help strengthen the lines of communication between the agency and Hoosier grain producers. The two main objectives of this project are to educate producers about the agency and its purpose, and to address any questions they may have regarding the Indiana Grain Indemnity Program. Wilmoth also discussed the possibility of a "roadshow" outreach strategy where he would meet directly with licensees to strengthen the agency's working relationship with the industry.
- Mrs. Danae Schneck left the agency in October of 2018 and we are thankful for her years of service. Mr. Kyle Shepherd joined the agency in February of 2018 as a Field Auditor. Mrs. Amanda Williams joined

the agency in January of 2019 as a Field Auditor. Mr. Ross Newton was promoted to the agency's new Deputy Director position in January of 2019. This past February the agency received final approval to reclassify all Field Auditors as Grain Compliance Officers.

- The agency has completed the grain liquidation sale of Dorsett Bros., Inc., remaining inventory and in process of completing the necessary documents to collect on the company's surety bond. He thanks Wilkins, Shepard, Shepherd, and Williams for all of their hard work at the facility.
- The ethanol industry is entering a time of transformation that has yet to unfold. There are eight (8) ethanol plants either for sale, operating at minimum production levels, or idling in different area around the United States. Wilmoth does not believe this is a unique situation that is only happening in Indiana.
- The agency is still working with two licensee's regarding their respective miscalculations of producer premiums for the Indiana Grain Indemnity Fund.
- The agency has renewed its checkoff audit agreement with the Indiana Corn Marketing Council and Indiana Soybean Alliance for another two years with a few amendments to the former agreement. All IGBWLA team members will be meeting with both associations to discuss how to be more effective in our checkoff audits and communications efforts.
- The agency will begin testing all licensee's registered moisture meters in April.
- The agency is in the final stages of its new software development project: testing and addressing bug issues, and organizing agency data for migration.
- The agency will be attending the Association of Grain Regulatory Officials annual conference in Savannah, Georgia, from July 28<sup>th</sup>, through July 31<sup>st</sup>. As of now the agency is considering sending two representatives.
- Grain Safety Week this year is the week of March 25<sup>th</sup>. This year's theme is Stand-Up 4 Grain Safety. The Indiana State Department of Agriculture helped promote the week by posting *Six steps to grain safety* tips on the department's Facebook page.
- The agency is currently interviewing for a summer intern.

**New Business:** Wilmoth opened the floor for discussion regarding grain merchandising companies with no physical assets within Indiana and the potential risk exposures they have towards the indemnity fund. Reichart asked, what inherent risk do out-of-state licensees carry and what are the agency's needs in addressing these type of audits. Wilmoth explained how out-of-state licensee audits can be more challenging than those conducted on licensees located within Indiana. Villwock and Silver both express concern for licensees with no physical assets located within the State. Reichart asked how does the agency conduct audits on out-of-state licensees. Wilmoth explained that most out-of-state licensees are audited via phone calls and e-mail exchanges between an agency Grain Compliance Officer and the company's identified point-of-contact.

Motion made by Howell to form a committee to research and assess the fund's risk exposure with grain companies that have no assets within the State.

Seconded by Villwock and passed without dissent.

Action Item: Establish a committee, with respect to all Indiana open door law requirements, to collaborate with the grain industry to better understand the business model of grain merchandisers with no physical assets.

Wilmoth reminded board members to complete and submit their respective travel vouchers and confidentiality agreements.

**Adjournment:** 11:54 AM EDT

Motion made by Whaley to adjourn the meeting.

Seconded by Reichart and passed without dissent.

The following travel vouchers for mileage were submitted after the meeting was adjourned:

<b>Name</b>	<b>Amount</b>
Mr. Mike Buis	\$ 28.50
Mr. Jim Douglas	\$ 34.50
Mr. Dave Howell	\$ 20.90
Mr. Ron Reichart	\$ 49.40
Mr. Don Villwock	\$ 80.56
Mr. Grant Whaley	\$ 72.20
Mr. Mark Wolf	\$ 79.80
<b>Grand Total</b>	<b>\$365.86</b>

Minutes submitted by: Ross Newton

Adopted by the Board during the meeting on: 07 / 23 / 2019

Chairman's Signature: Harry Wilmoth