

INDIANA GRAIN INDEMNITY BOARD

OFFICIAL MINUTES

On November 30, 1998, at 1:30 p.m., Joseph Pearson introduced the new chairman, Robert Benson, who called the meeting of the Indiana Grain Indemnity Board to order. The meeting was held in the second floor conference room of the Administration Building at the Indiana State Fair Grounds located at 1202 East 38th Street, Indianapolis, Indiana.

PRESENT: The following voting members were present:

John Colvin
Greg Noble
Jerry Rulon

Roger Hadley II
Atlee Oyler
William Tudor

Ken Klemme
Herman Rettinger, Jr.
Don Villwock

The nonvoting members or their representatives present were:

Robert Benson, Director of Indiana Grain Buyers and Warehouse Licensing Agency

Mike Frick, Deputy Treasurer of the State of Indiana

J.D. Lux, Deputy Attorney General

RESOURCE The following resource people were present:

STAFF:

Joseph R. Pearson
Mary McCory
Cress Hizer

John Steinhart
Joe Miller

OTHERS: Valerie Tomlin, Indiana Agri-news
Mr. Carl Henning

Mr. & Mrs. Allen Chesak
Mr. & Mrs. Wilford Webb

Mr. & Mrs. Richard Chesak
Mr. Richard Christensen

MINUTES: The minutes of the annual meeting held May 27, 1998, were approved as written (motion from Klemme, second from Colvin).

The next order of business was a financial report presented by Mike Frick. (Exhibit A). He distributed a balance sheet and statement of operations for October 31 and June 30, 1998. The fund balances as of October 31, 1998, were \$11,387,862.34 and \$10,024,992.61 as of June 30, 1998. Frick reported that \$45,000 was received in June from the Prairie Productions, Inc. liquidation and that the fund is invested in three to six month Treasury Bills earning 5% interest. He stated that the lock box fee was \$55.00 per month and now that all the premiums have been remitted, the board may want to consider discontinuing it. **The motion by Atlee Oyler to discontinue the lock box (second from Roger Hadley) was passed. The financial report was approved with a motion from Ken Klemme and a second from Herman Rettinger.**

The next item of business was claims from producers of San Pierre Elevator, Inc. Chairman Benson stated that the Agency's \$10,000 bond was paid to two claimants per the Findings of Fact and Final Order of the Indiana Grain Buyers and Warehouse Licensing Agency (IGBWLA) dated September 22, 1998, which were mailed to board members with the agenda. It contained a spreadsheet listing claimants and the amounts due them (Exhibit B). J.D. Lux commented that the IGBWLA has different responsibilities than the Indemnity Board but the two statutes overlap and that several claims valid under the IGBWLA statute are prior to the law enacting the Indemnity Statute and Board.

Chairman Benson asked the Board how they wanted to proceed. **Greg Noble moved to take producer claims one at a time (second from Don Villwock). Motion Carried.**

The first claim reviewed was from Allen and Richard Chesak for \$284,568.49 all for grain delivered prior to July 1, 1996. Roger Hadley stated that there was no fund at the time this grain was delivered. Allen and Richard Chesak were present and explained their business transactions with San Pierre Elevator, Inc. and its owner Greg Vanek. The Chesaks explained that lawsuits regarding grain elevator repairs and a hog business had contributed to the failure of San Pierre Elevator, Inc. Richard Chesak stated they had won a judgement. It was pointed out that the board has a fiduciary duty to the rest of the farmers who have paid into the fund. **Jerry Rulon moved to deny the Chesak claim for grain delivered prior to July 1, 1996, the inception of the Indiana Grain Indemnity Program (second from John Colvin). Motion Carried.**

The Second claim was that of Richard Christensen for grain delivered after July 1, 1996. John Steinhart verified that Mr. Christensen had paid into the fund and had not received a refund. **Don Villwock moved that under the guidelines of the fund, Mr. Christensen be paid at 80% (second from Roger Hadley). Motion Carried.**

The third claim was that of Harold Liskey. Since his grain was stored, his claim was paid in full from the bond proceeds paid to the IGBWLA from the surety.

John Steinhart advised that no claimants had asked nor received refunds of producer premiums.

The fourth claim was from Carl Henning with lien holder Ag Services of America, Inc. **Atlee Oyler moved to pay Carl Henning's claim for grain delivered after July 1, 1996, (second from Herman Rettinger). Motion carried.**

The fifth claim was from Steven Henning. **Don Villwock moved (second from Jerry Rulon) to pay this claim for grain delivered after July 1, 1996. Motion carried. Don Villwock moved (second from John Colvin) to deny that part of the claim for grain delivered prior to July 1, 1996. Motion carried.**

Dan Henning submitted the sixth claim for grain delivered prior to July 1, 1996. **Ken Klemme made a motion that the portion of the claim prior to July 1, 1996, be denied because it was invalid (second from Jerry Rulon). Motion carried.**

The next claim was submitted by Paul Henning. **Don Villwock moved to approved claim for grain delivered after July 1, 1996, (second from Herman Rettinger). Motion carried.**

The eighth claim was the joint claim of Clarence Folkers and Carl Henning for grain delivered prior to the July 1, 1996, inception date of the Indiana Grain Indemnity Program. **Ken Klemme moved (second from Atlee Oyler) that the claim of Clarence Folkers be denied. Motion carried. Atlee Oyler moved (second from Roger Hadley) that Carl Henning's portion of the claim be denied. Motion carried.**

The ninth claim was from Wilford Webb for grain delivered after July 1, 1996. **Don Villwock moved (second from Ken Klemme) for approval of this claim. Motion carried.**

Chairman Benson asked about withholding the Indiana Grain Indemnity Fund Premium on these payouts. After discussion, **Roger Hadley moved to deduct the .002 premium (second from Herman Rettinger). Motion carried.**

Final distributions can be found in Exhibit C.

J.D. Lux and Joe Miller stated that the board had set a precedent for validating claims by using the July 1, 1996, inception date of the Indiana Grain Indemnity Fund. **Don Villwock moved that the board's interpretation of the statute is that grain delivered prior to July 1, 1996, is considered an invalid claim because the Indiana Grain Indemnity statute did not go into effect until July 1, 1996. The motion passed after a second from Greg Noble.**

The next order of business brought before the board by Chairman Benson was the letter the board requested regarding ceasing of collections and other information to be mailed to all Indiana farmers. He received a quote from Purdue University to handle the mailing. Following a discussion, Don Villwock stated that a press release be crafted to notify farmers and that the executive committee approve the press release and that the letter be tabled.

Don Villwock moved that it is the board's interpretation of the statute that a producer must do business with a grain buyer who is registered with the Indiana Grain Indemnity Corp. After a second from Ken Klemme, the motion passed.

Chairman Benson brought up several technical corrections that the board consider for the next legislative session (see Exhibit D). **By consensus, the board agreed that:**

(1) Bonds need to include both warehouse bonds and grain buyer bonds and would add "or warehouseman" to the end of the first sentence of IC 26-4-6-6;

(2)Change "Grain dealer" as used in IC 26-4-6-8 (1) to grain buyer, since grain dealer is not defined nor used in any other place in the statute;

(3)Make the definition for "grain" the same as the grain buyer statute;

(4)IC 26-4-6-8 (3) refers to a warehouse failure, add "or buyer" between warehouse and failure;

(5) Amend IC 26-4-1-22 to read: "valid claim" means a claim arising from a failure of a registered grain buyer or warehouseman. . .

It was discussed that seed companies collected and remitted producer premiums and that they should have a member on the board. **Greg Noble moved (second from John Colvin) that the board should include a member appointed by the largest Indiana organization representing the interests of the seed trade in Indiana. The motion carried.**

The next item of business was to the open door law and allowing board meetings by telephone or video conferencing. **Ken Klemme moved that if there is not a provision preventing teleconferencing or video conferences, then include it in the revision of the statute (second from Greg Noble). Motion carried.**

Don Villwock moved (second from Roger Hadley) in the future, a letter be sent to claimants explaining the difference between the Indiana Grain Buyer and Warehouse Licensing Agency actions and findings and the Indiana Grain Indemnity Board's duties. The letter is to go with the notice of the board meeting. The motion carried.

Since the fund is capped and collections have ceased, Dennis Henry created forms for new producers to enter the fund and to remit as per the statute. On the Producer Monthly Report and the Remittance form, the board suggested eliminating the P.O. Box 66635, since it was voted to discontinue it and to add "or warehouse" at the end of the first sentence. The board wanted the fax number removed from the New Producer Petition to Enter The Grain Indemnity Fund form. **Don Villwock moved to approve these two new forms as amended (second from Roger Hadley). Motion Carried.** Copies of the amended forms (Exhibits E and F) are attached.

Don Villwock stated that since Treasurer Joyce Brinkman will no longer be Indiana Treasurer of State when the board meets again, it would be appropriate to send her a note of thanks. See Exhibit G.

Chairman Benson adjourned the meeting at 5:12 p.m.

Respectfully submitted by Mary McCory

December 23, 1998