

Iowa Grain Depositors and Sellers Indemnity Fund
Iowa Grain Indemnity Fund Board
Meeting Minutes for January 15, 2009
Page 1

DATE: January 15, 2009
TO: Members of the Grain Indemnity Fund Board
FROM: Angela Burke Boston, Secretary Designee
RE: Summary of the Minutes January 15, 2009

The Grain Indemnity Fund Board (hereafter “Board” or “Fund”) held a meeting by telephone conference call on Thursday, January 15, 2009 at the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa, with John Whipple, Consumer Protection & Industry Services Division Director and president designee, as Chairperson.

Attending the meeting in addition to John Whipple (hereafter “Chairperson”) were the following:

Angela Burke Boston (Board Secretary Designee)	330 Maple St. Des Moines, IA 50319
Steve Larson (Board Treasurer Designee)	Lucas State Office Building Des Moines, IA 50319
Ed Hershberger (Board Member & Industry Rep.)	Kalona, IA 52247
Tom Kaldenberg (Board Member & Producer Rep.)	Albia, IA 52531
Sharon Smith (Board Member & Producer Rep.)	Knoxville, IA 50138
Sandy Simpson (Board Member & Industry Rep.)	Onawa, IA 51040
Steve Moline (Assistant Attorney General for the Fund)	Lucas State Office Bldg. Des Moines, IA 50319
Richard Wahl, Bureau Chief Grain Warehouse Bureau	Wallace State Office Bldg. Des Moines, IA 50319
Jeff Walker, Accountant Grain Warehouse Bureau	Wallace State Office Bldg. Des Moines, IA 50319

Cheryl Petersen, Secretary
Grain Warehouse Bureau

Wallace State Office Bldg.
Des Moines, IA 50319

This meeting, upon duly prescribed notice, was called to order by the Chairperson at 2:03 P.M. The Chairperson noted that this meeting of the Grain Depositors and Sellers Indemnity Fund was being held by telephone conference call since it was impractical for members to travel to a common location for a meeting projected to last only a few minutes.

The Chairperson called for any additions or corrections to the minutes for the December 22, 2008 Board meeting. There were no corrections or questions regarding the Board minutes. Ed Hershberger made a motion to approve the minutes, Sharon Smith seconded the motion, and the Board approved the motion unanimously.

After the minutes were approved, Steve Larson asked a question about claims that are denied. He wondered if the claimants have any type of an appeal process outside the Grain Indemnity Fund (GIF.)

Richard Wahl explained that the first right of an appeal, according to the GIF statute, is to the Board itself. He added that it can eventually end up in district court. Steve Moline asked if there is an intra-agency appeal to the Board itself again. Richard Wahl answered in the affirmative. Jeff Walker added that the appeal would go before a hearing officer. Steve Moline stated that a contested case would be another process in front of the Board. He went on to say that an administrative law judge would preside at the hearing on behalf of the Board. This judge would draft the proposed decision which the Board can then affirm, amend, or start over. After that process, once there is a final Board action, then there could be a judicial review proceeding take place.

The Chairperson asked if the administrative law judge represents the Board. Steve Moline answered by saying that the judge handles the ongoing hearing, dealing with rules on objections, etc., as the judges are trained for this type work. The judge drafts a proposed decision which the Board can accept or amend. If the claimant is still not satisfied, he or she can appeal to the district court where the claimant resides or to Polk County. The claimant chooses the judicial venue.

Jeff Walker stated that the claimant has 20 calendar days (excluding holidays) to make their first appeal to the Board from the date the certified letter was mailed to the claimant.

The Chairperson called on Steve Larson to present the Treasurer's Report. The balance of the fund as of January 14, 2009 was \$8,142,714.55. Sandy Simpson made a motion to approve the Treasurer's Report. Angela Burke Boston seconded the motion, and the Board approved the motion unanimously.

The Chairperson called on Jeff Walker to present the financial statement. The balance in the Investment in State of Iowa Pooled Accounts as of December 31, 2008 was \$8,166,402.66. The Equity in the Iowa Grain Indemnity Fund as of December 31, 2008 was \$8,155,946.32. There is a decrease for the month of December in the amount of \$26,373.15. There is a fiscal year to date decrease in the fund for the six months ending December 31, 2008 of \$28,872.18 The Chairperson asked if there were any questions about the financial statements. Hearing none, the Chairperson called for a motion to accept the financial statements. Steve Larson made a motion to approve the financial statements. Ed Hershberger seconded the motion, and the Board approved the motion unanimously.

There was no reason for the Board to go into closed session.

The Chairperson asked for any new business to come before the Board.

Richard Wahl discussed that there was a claim against VeraSun Energy Corporation (VeraSun.) Claim GD-5156-1.0 was for Hesper Grain, LLC. for grain delivered to VeraSun Dyersville location on or around October 8, 2008. The check that was issued did not clear the bank before the VeraSun bankruptcy filing. Since the delivery took place prior to the 20 day window (when checks were good again) Hesper Grain, LLC was denied payment for the grain.

Tom Kaldenberg entered the conference call at 2:15 PM.

Richard Wahl continued to explain the Hesper Grain, LLC claim to the Board. He said there was initially a question about Hesper Grain, LLC's status. Richard wondered if the company was a producer or a grain dealer from another state. The Grain Bureau tracked down information from the Dyersville plant. Richard contacted a Mr. Horahan, who was the sole member and owner of Hesper Grain, LLC. Richard requested that Mr. Horahan produce an affidavit confirming that Hesper Grain, LLC produced the grain and the grain was not purchased from any person(s) or other business entity. Mr. Horahan quickly signed and returned the affidavit to the Grain Warehouse Bureau. Richard stated that it was the Grain Bureau's recommendation that claim GD-5156-1.0 be approved and paid in the amount of \$8,215.94.

Steve Moline shared that the Board should be aware that the bureau contacted its counterpart in Minnesota to inquire if Hesper Grain, LLC was listed there as a grain dealer. Jim Johnson with the Minnesota Department of Agriculture verified that there was no listing for Hesper Grain, LLC as a grain dealer in the state of Minnesota.

The Chairperson asked for a motion to approve the claim. Sharon Smith made a motion to approve the claim, and Sandy Simpson seconded the motion. The motion carried unanimously.

Richard Wahl reported to the Board that on January 13, 2009 the department met with AAI a final time to arrive at a consensus regarding proposed changes to the Fund. Those proposed

changes included raising the GIF cap to a maximum of 8 million dollars, changing the claim limit to \$300,000.00, and the per bushel purchased assessment fee to ½ cent. The Board can decide if it should be assessed at a lower rate. Richard went on to say that the big change would be in the annual fees that the licensees pay. Richard added that these pertained to the GIF fees only and not the usual licensing fees. One one-hundredth of a cent would be assessed on bushels purchased by the company based upon what they purchased in their fiscal year. This same rate would apply to the capacity of warehouse storage facilities as well. The warehouse fee would be capped at \$500.00 per company. Richard explained that this new proposed fee structure radically shifts the bulk of the fees from the warehouse side to the grain dealer side. The net affect of requiring new grain dealer companies to pay substantially more would be evident.

Richard finished by saying that the draft changes would be written up and would be proposed to the Iowa Legislature. The Legislature will consider the proposal from that point on. Richard shared that he received news today that Senator Fraise introduced a bill to raise the cap to a maximum of 12 million dollars. Senator Fraise made no other substantial changes. He did not include raising the per bushel assessment purchased to ½ cent.

The Chairperson stated that AAI and the commodity groups like the department's proposal, adding that this bill will totally change the fee structure of these grain indemnity fees.

The Chairperson shared with the Board that AAI awarded Richard Wahl the "Regulator Of The Year" award for all his hard work and dedication these last two years regarding the recent GIF issues that have often been discussed in recent Board meetings.

The Chairperson asked if there was any other business to be brought before the Board. There was none.

The next regularly scheduled board meeting will be a telephone conference meeting on Thursday, February 19, 2009 at 2:00 P.M. in the office of Richard Wahl at the Henry Wallace State Office Building.

With no further business, the Chairperson asked for a motion to adjourn. Ed Hershberger made a motion to adjourn. Sharon Smith seconded the motion, and the Board approved the motion unanimously.

The meeting adjourned at 2:29 P.M.