

**Hasselberg, Williams, Grebe,
Snodgrass & Birdsall**
Attorneys and Counselors

AGRI-BUSINESS LEGAL NEWS



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IS YOUR CORPORATE HOUSE IN ORDER?

How old are your Articles of Incorporation and Bylaws? Have they been untouched for 20 years? 50 years? 80 years? Laws change and times change. What might have been appropriate 20, 50 or 80 years ago might not be what your business needs today. For example, do your Bylaws allow for indemnification of directors? Some organizations find this protection for directors' good faith actions to be beneficial. Also, are your documents consistent with your actual practice? We have seen corporations that designate a class of stock, but it does not match the designation in its Articles.

If your corporate documents are old, we suggest having your attorney review them. He or she might be able to recommend changes that benefit your business. You might find that what the corporation drafted decades ago still meets your needs and is consistent with your practice. Either way, you will know that you have performed your duty to your business.

BEWARE

With the drought and volatile grain prices, there may be some individuals who will look for some unacceptable excuses not to comply with their obligations. We have already received calls about unusual (and potentially illegal) activity. Please give us a call if you would like to discuss situations or issues related to performance on obligations owed to your business.

JIM GREBE APPOINTED CHAIRMAN OF THE AGRICULTURAL LAW SECTION COUNCIL

Jim Grebe has been appointed Chairman of the Agricultural Law Section Council by the President of the Illinois State Bar Association. Jim has been a member of the Ag Law Section Council for nearly 14 years, and previously served as its chairman for 2004-2005. Jim's encore selection reflects his more than 30 years of serving the agricultural community. In addition to representing the Grain and Feed Association of Illinois as its general counsel, Jim and his firm represent numerous grain elevators and other agricultural businesses and associations throughout the State of Illinois.

Hasselberg, Williams, Grebe, Snodgrass & Birdsall is a proud member of the Grain and Feed Association of Illinois and the National Grain and Feed Association. We have extensive experience in agricultural law representing grain elevators, cooperatives and other agricultural businesses throughout the State of Illinois, including: grain contracts; grain industry commercial litigation; Illinois Grain Code and Illinois Department of Agriculture matters; and arbitrations before the National Grain and Feed Association. **Jim Grebe** has been practicing law and been an active member of the agri-business community for more than 30 years. Jim, along with **Bill Streeter**, **Chuck Urban** and **Dave Wentworth**, lead our firm's Agri-Business Law Practice Group.

GOOD STEWARDSHIP AND QUICK ACTION TO LIMIT ENVIRONMENTAL PENALTIES

Give a Hoot — Don't Pollute. The U.S. Forest Service's message from decades ago still rings true. A grain spill into a creek or a ditch might not just harm the environment; it could also result in an enforcement action from the Illinois Attorney General on behalf of the Illinois EPA.

In 2002, Illinois Central Railroad Company operated a rail yard where four rail cars carrying corn derailed. The Attorney General, for the IEPA, filed a complaint against the railroad, and alleged that several thousand pounds of corn spilled, some of it into a stream that flows through the rail yard. IEPA further alleged that the railroad let the spilled corn sit for two months, allowing the corn to decay and discharge contaminants into the waters of the State of Illinois, resulting in a large fish kill.

The railroad ultimately hired a contractor to vacuum the spilled corn from the creek, pumped approximately 100,000 gallons of water into the creek to increase oxygen levels and decrease contaminant levels (which the State believed had little effect), and paid "fish kill" damages to the IDNR of more than \$2,799. To resolve the litigation, the IEPA and the railroad entered into a consent order whereby the railroad denied all liability but paid a \$50,000 penalty. Add legal fees to these costs, as well as time and effort of the rail yard employees, and it adds up to a costly mistake.

Just recently, in April, an auto accident in Tazewell County resulted in the release of a mixture of nitrogen and Atrazine into a creek. Diesel fuel was also released. The spill has led to a "complete" fish kill downstream, and temporarily rendered downstream water unsuitable as drinking water for animals, recreation or any

other purpose. Quick and thorough responsive action by the operator will likely limit any potential penalty above "fish kill" type damages.

The lesson to be learned? Don't pollute. This applies not only to spilled corn, but any type of grain. It also applies to fuel and agronomy products and any other product or substance that could make its way into the environment. If an accident happens, take proper action as soon as you can as soon as you can to minimize any potential pollution. Doing so not only protects the environment, but can help reduce your costs.

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