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# 2020 Year in Review

# A VOICE FOR INDIANA AGRICULTURE IN OUR COURTHOUSES



Indiana Farm Bureau established the Indiana Agricultural Law Foundation (INAgLaw) to become more actively engaged in the judicial branch of government on behalf of Indiana agricultural producers. INAgLaw formally received its 501(c)(3) not-for-profit status determination from the Internal Revenue Service in April of 2005. This distinction recognizes INAgLaw as a charitable foundation whose purpose is to broaden the understanding of legal issues impacting Indiana farmers, landowners, the legal community and the general public. Contributions to INAgLaw are considered tax-deductible charitable contributions.

Indiana farmers operate in a complex legal environment. Federal, state and local laws, statutes and regulations present difficult challenges to Indiana agriculture. Lawsuits, often initiated by interest groups opposed to production agriculture, can threaten the very existence of the family farm. Navigating the legal landscape has become an essential facet of modern agriculture. Throughout its existence, INAgLaw has effectively promoted a better understanding of legal issues facing Indiana agriculture through educational programming and support of precedent-setting litigation.

Applicants to INAgLaw can request support for educational programs, legal research and litigation assistance. To receive support from INAgLaw, applicants present their request to the INAgLaw Advisory Committee, which bases its decision largely upon the likelihood of establishing favorable legal precedent for Indiana agriculture or furthering the understanding of complex legal issues. The Committee makes recommendations to the INAgLaw board of directors for final determination.



# 2020 SIGNIFICANT CASES

## Indiana Right to Farm Statute – Himsel (Hendricks County)

This case, funded and litigated by the environmental interest group Hoosier Environmental Council (HEC), is a direct attack on the constitutionality of Indiana's strong, well-litigated right to farm statute.

In their 2015 complaint, HEC also alleged nuisance, negligence and trespass. INAgLaw has been engaged in the important case at the trial court, Indiana Court of Appeals and now the Indiana Supreme Court.

As an amicus party INAgLaw provided an agricultural perspective detailing the value of the right to farm statute to Indiana agriculture and additional information about the history of the statute and how favorable prior precedent should be followed.

This case has received significant attention from state and national media sources and will prove to be a major, precedent-setting case in Indiana. Currently, the case is under consideration by the Indiana Supreme Court who will use its discretionary authority to determine if the issues presented merit their hearing of the case.

In 2020 this case was considered by our Indiana Supreme Court (cert. denied) and the U.S. Supreme Court (cert. denied) and the farmers were successful.

## BZA overturning a CAFO building permit – Light (Delaware County)

This case, also funded and litigated by the environmental interest group Hoosier Environmental Council (HEC) involves the overturning of a properly issued CAFO building permit by a local BZA.

A local BZA should not hear the merits/appeal of building permit issued by the building inspector, but more troubling was HEC's argument, which was accepted by the BZA, that a modern CAFO is not an acceptable use in an ag zoned area.

Instead, HEC argued that a CAFO is "industrial" and should only be allowed in an industrial zone. This is a troublesome new tactic utilized by opposition groups like HEC. INAgLaw became involved in the case when the BZA decision was appealed by the farmers to the trial court. The trial court rightly overturned the BZA decision and HEC has appealed the matter to the Indiana Court of Appeals.

This case clearly illustrates why favorable precedent must be established when new arguments like "a CAFO is industrial" are raised.

The Indiana Court of Appeals decided the case in 2020 and rejected HEC's argument that a CAFO is not an agricultural use.

# STATEMENT OF ACTIVITIES AND EDUCATIONAL ACTIVITY HIGHLIGHTS

## Statement of activities for the year ending December 31, 2019.

	<u>2019</u>	<u>2018</u>
<b>Revenue</b>		
Total Revenue	\$191,836	\$185,479
<b>Operating Expenses</b>		
Total Operating Expenses	\$16,032	\$14,252
<b>Fundraising</b>		
Total Fundraising Expense	\$53,165	\$52,849
<b>Program Expenses</b>		
Payroll expenses, programs	\$42,262	\$39,427
<b>Case, Legal &amp; Research</b>		
Total Case, Legal & Research	\$29,728	\$50,702
<b>Education</b>		
Total Education	\$5,968	\$5,408
<b>Grants</b>		
Total Program Expenses	\$77,958	\$95,537
Total Expenses	\$147,155	\$162,637
Change in Net Assets	\$44,681	\$22,842

## Educational Activity Highlights

- Estate and Succession Planning for the Family Farm Program**  
*Our annual program helps farm families and attorneys gain an understanding of the importance of estate and succession planning to their business. In 2020 this event was made virtual.*
- Wind and Solar Leasing Programs**  
*INAgLaw facilitates educational programs and brings experts to landowners, counties and ag stakeholders considering wind/solar projects.*
- Agricultural Employment Checklist**  
*This detailed checklist provides agricultural employers with information related to the employment process.*
- Utility Line Easements**  
*Due to Indiana's vast agricultural landscape, electrical utilities installing transmission lines naturally look to farmland for rights-of-way. This publication helps landowners understand their legal rights in the process.*
- Before You Build a Livestock Barn**  
*INAgLaw contributed to the updating of this valuable publication which explains zoning, permitting, regulatory process, dealing with lawsuits, dealing with OEA appeals, being a good neighbor and ways to communicate with media and government officials.*
- Zoning Guide for Agriculture**  
*Coming in 2021, this guide will be useful to educate farmers, landowners, county officials and county attorneys about zoning law as it relates to agriculture.*

# THANK YOU

The Indiana Agricultural Law Foundation relies on the support of its valued donors in order to carry out its mission of promoting a better understanding of the legal issues facing Indiana agriculture and support precedent-setting litigation. As stewards of the funds entrusted to INAgLaw, we strive to support educational programming and litigation which offers the most practical benefit to Indiana's farmers.

While 2020 was a successful year for INAgLaw, there is always more to do to support this industry. In particular, INAgLaw has seen a steady increase in legal issues facing agriculture. As interest groups continue to create challenges for modern production agriculture, our work providing clarification on important agricultural law issues in support of Indiana's farmers must also increase.

Thank you to our sponsors for your continued support. Our mission is made possible by each and every donor.

Sincerely,



John Shoup, *Director and Attorney*

For more information on INAgLaw, please visit our website at:

**[www.inaglaw.org](http://www.inaglaw.org)**

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