

# INAgLaw

Indiana Agricultural  
Law Foundation

ANNUAL  
UPDATE

2015

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**Indiana Agricultural Law Foundation, Inc.**  
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# **Indiana Agricultural Law Foundation, Inc.**

## **2015 Update**

### ***“Defending our growing industry”***

Indiana Farm Bureau established the Indiana Agricultural Law Foundation (IALF) to become more actively involved in the judicial branch of government on behalf of agricultural producers. The IALF formally received its 501(c)(3) not-for-profit status determination from the Internal Revenue Service in April of 2005. This action recognizes the IALF as a charitable foundation whose purpose is to establish a more comprehensive understanding of legal issues affecting agricultural production among farmers, the legal community and the general public. Contributions to the IALF are considered tax-deductible 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, the IALF has effectively promoted a better understanding of legal issues facing Indiana agriculture through educational programming and support of precedent-setting litigation.

Applicants to the IALF can request support for educational programs, legal research and litigation assistance. To receive support from the IALF, applicants present their request to the IALF 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 IALF Board for final determination. The IALF Advisory Committee for 2015 was:

**Steve Maple, Chair**  
**Philip Springstun**  
**Kevin Underwood**  
**Larry Jernas**  
**Kevin Ousley**  
**Dan Gordon, Esq.**  
**Josh Trenary, Esq.**  
**Jeremy Barron**  
**Don Lamb**

## *Indiana Agricultural Law Foundation Activity in 2015*

### CASES

**Standing to Challenge a CAFO Broshears – BZA Appeal (Jackson Co.)** - This application was submitted by Kyle & Leah Broshears and involves an organized challenge against the granting of a special exception by the BZA for a 4,000 head swine CAFO in Jackson County. The Broshears are represented by James Federoff of Carson Boxberger in Ft. Wayne, Indiana. Mr. Federoff is regarded as one of the top zoning attorneys in the state.

A petition was filed by surrounding neighbors requesting judicial review of the Jackson County BZA approval of the special exception. Three other CAFO projects prior to the Broshears case were challenged by this organized opposition group as well. Each proposed CAFO was stopped or withdrawn. Many of the plaintiffs and arguments against the Broshears CAFO were present in the prior cases. The Jackson-Jennings Cooperative was very supportive of the Broshears' effort as the cooperative would contract to own and market the pigs produced at the site.

In this case, the plaintiffs allege: That they were aggrieved by the BZA Decision because, (i) their property values would be diminished, (ii) their potable water supplies would be contaminated by discharges from the Broshears CFO, (iii) their health would be harmed because of airborne emissions, and (iv) the odor of manure, in and of itself, would harm them.

The primary reason the IALF backed the case was the issue of legal standing. Standing is the legal capacity of a party to bring suit in court. At the heart of standing is the requirement that a plaintiff has sustained or will sustain direct injury or harm and that the harm is redressable in a court. Mr. Federoff challenged each of the Plaintiffs as lacking standing to bring the lawsuit. In October four days of hearings were held specific to the issue of standing. Utilizing appraisal experts, odor modeling technology from Purdue University, strong cross examination of opposing medical testimony and common sense, Mr. Federoff demonstrated how many of the plaintiffs simply lacked legal standing and should be removed from the case.

On February 19, 2016 the Jackson County Circuit Court ruled that 12 of the plaintiffs lacked standing. Three families and one individual plaintiff were able to show that they did have standing. However, the most active and financially responsible plaintiffs were among those removed from the case. The case was a clear victory for Broshears and created good law for the livestock industry. As of this date the removed plaintiffs have not appealed the Circuit Court decision.

**Indiana Fence Law - Belork (Starke Co.)** - This application came from Mr. John Belork and involves the application of Indiana's fence law. Mr. Belork is represented by attorney John Schwarz of the Schwarz Law Office in Hudson, Indiana. Attorney Todd Janzen of Janzen Ag Law, Indianapolis, Indiana is also involved in the case and drafted an Amicus Curiae brief supportive of Mr. Belork's position.

This case presents relatively simple facts. Belork, a cattle farmer, brought suit against the Starke County Davis Township Trustee, seeking an order requiring the Trustee to adhere to her statutory duty to see that partition fences between Belork and his crop-raising neighbors were completed in accordance with Indiana Code Chapter 32-26-9. The trial court ruled against

Belork, reasoning that the neighbors did not “use” the fences and therefore could not be compelled to build half of them. Belork appealed, and the Court of Appeals affirmed the trial court’s opinion, ruling the fence was used only to keep Belork’s cattle out of the neighbor’s fields, and therefore the neighboring landowners did not need to construct, maintain, or pay for the partition fence. In doing so, the Court of Appeals relied on Illinois law interpreting and Illinois statute. Illinois’ statute imposed some level of reasonableness and fairness in partition fence disputes. Indiana’s statute is much different.

This holding is a significant departure from the accepted law and long-standing agricultural practice in the State of Indiana which provide that as long as one property is agricultural, neighboring property owners must share the costs of maintaining a partition fence, regardless of whether both owners raise livestock. Courts in states with fence laws like Indiana have consistently required adjoining property owners to share in the costs of maintaining a partition fence.

Indiana’s fence law has been debated and generates differing opinions among agricultural stakeholders. The issue supported by the IALF is that changes to existing, well-settled law should come from the legislature not the judiciary.

Upon the Court of Appeals ruling the IALF engaged Todd Janzen to assist in the drafting of an Amicus Brief in support of Belork. In cooperation with Mr. Schwarz, it was decided that a Petition for Rehearing by the Court of Appeals was the best strategy. Our brief is on file with the Court of Appeals and they had made no determination as of this date. If unsuccessful, Belork has expressed his willingness to petition the Indiana Supreme Court to hear the case.

**Whitestown Annexation (Boone County)** - This application comes from a group of approximately 20 Boone County property owners challenging Whitestown’s involuntary annexation of 621 acres of rural land. The landowners are represented by Kent Frandsen of the Parr Richey Obremskey Frandsen & Patterson firm in Lebanon, Indiana.

The IALF was contacted following an adverse Court of Appeals decision. Mr. Frandsen requested an Amicus Brief in support of their Petition to Transfer to the Indiana Supreme Court. Our discussions with Mr. Frandsen centered on explaining to the Court why farmland is different than adjacent urban property.

The remonstrators were successful at the trial court level, but lost with the Indiana Court of Appeals. The two primary issues are the “significant financial impact” detailed in IC 36-4-3-13(e)(2)(B) and “needed for its development in the reasonably near future” requirement of IC 36-4-3-13(c)(2) provisions of Indiana’s involuntary annexation law. These issues are present in nearly all involuntary annexation cases.

The IALF’s brief contrasted the needs of adjacent farmland verses adjacent urban property. When looking at the history of annexation disputes, the cases have almost exclusively involved attempts of municipalities to annex adjacent urban territory. Adjacent urban territory has the same characteristics as land already within the municipal limits and shares a need for the same types of services and use restrictions common to dense populations. The agricultural community had little interest in such annexations, because farmland bore very little resemblance to developed neighborhoods. The annexation of farmland generally occurred on a voluntary basis

when a developer had purchased the property and was seeking city services to enable the development of the property.

In just the last few years, annexations have changed. There have been a number of recent involuntary annexations involving farmland. Part of this may be due to the fact, that like the Whitestown annexation, farmland requires few services, so there is little additional cost incurred by the municipality by bringing that land into the city.

While adjacent “urban” property shares many of the characteristics of the property within the municipal limits, farmland does not. Ordinances regulating the conduct within more densely populated areas: such as limits on hunting, open burning, noise, lighting, smell are not appropriate for agricultural pursuits. Further, the owners of farmland, when annexed, have little voice in municipal government because votes are based on population and farms consist of hundreds of acres with no population. Clearly, farmland should be treated differently.

IC 36-4-3-13(c)(2) provides that to annex agricultural land, a municipality must establish “that the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.” The General Assembly has not specifically defined what is meant by the “reasonably near future,” but it has to mean something. Two Indiana Courts of Appeals have held that the potential for the “long term inevitability” of annexation satisfies the statutory requirement that the municipality needs and can use the annexation territory for its “development in the reasonably near future.” Our brief, filed on November 12, also explains how this broad standard conveys too much discretion to municipalities.

As of this date, the Indiana Supreme Court has not ruled on the Petition to Transfer. The IALF eagerly awaits a decision. If granted, it will be the first time our state’s highest Court has considered these issues.

**Brownsburg North Annexation (Hendricks Co.)** - This application comes from a group of Hendricks County landowners challenging an involuntary annexation by the City of Brownsburg. Attorney Gregory Black, Plainfield, Indiana represents the landowners.

This application initially came to the IALF regarding the validity of remonstrator’s signatures in reaching the 65% threshold requirement. That issue was resolved in advance of our advisory committee meeting. Mr. Black was asked to submit a second application describing the remaining precedent setting issues. Mr. Black cited IC 36-4-3-13(e). This subsection focuses on police, fire and sewer/water services provided to residents. Brownsburg North Annexation argues that they are more than adequately served in all of these service areas. Mr. Black also discussed how landowners will be worse off financially if the town is annexed under IC 36-4-3-13(e)(2)(B), and that Brownsburg established “That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.” Under IC 36-4-3-13(c)(2).

The case continues at the trial court level and the landowners have made no additional requests of the Foundation.

**Annexation - McDaniel v. Martinsville (Morgan County)** - This application for assistance was submitted by Mr. Mark McDaniel on behalf of Martinsville annexation territory landowners. Stephen Buschmann, Thrasher Buschmann & Voelkel, attorney for the landowners, is an Indianapolis attorney that has represented numerous landowners involved in annexation cases throughout the state.

The City of Martinsville would like to annex approximately 3,030 acres which is approximately 95% agricultural land used for farming. The remonstrance process against the proposed annexation by the City of Martinsville is a key issue to this case. The landowners were granted an Agricultural Exemption before the trial, which exempts agricultural land from municipal taxes and prohibits the City from rezoning the land from agricultural to any other use without the consent of the landowners. However, this does not protect the land from an eminent domain proceeding. Most of this land is in a planning and zoning buffer, which is controlled by the City of Martinsville. The key issue argued in this case is whether the City can establish that the land is needed and can be used for development by the municipality in the reasonable future. This case has gone to trial. The City of Martinsville presented several reasons for needing the land, but no reasonable timeline involving developers was established, nor was said project mentioned in the City's fiscal plan. Landowners are concerned that land will be acquired by City and not developed in the reasonably near future.

The trial court ruled in favor of the City of Martinsville. The trial court made a finding that the City of Martinsville had established that this land could be needed to establish future projects. The landowners appealed the case to the Indiana Court of Appeals. The Indiana Court of Appeals decided against the landowners and dismissed the appeal holding that Martinsville completed the filing process before the landowners requested a stay of the judgment. The landowners did not request a stay. Instead, they relied on Indiana statute and case law that they had 30 days to file their appeal and that pending the resolution of the appellate process the territory was not annexed as a matter of law. This holding effectively took away the appellate rights of the landowners. The Appeals Court did not reach the primary issue of whether the territory "is needed and can be used by the municipality for its development in the reasonably near future."

On October 23, 2014, the landowners filed their Petition to Transfer the case to the Indiana Supreme Court. On March 19, 2015 the Indiana Supreme Court denied transfer.

**Agricultural Nonconforming Use – Pahl v. Lake County (Lake County)** - This application for assistance was submitted by Alan and Kimberly Pahl from Lake County and their attorney, John Reed.

While the facts in the case are not perfect, the issue of nonconforming agricultural use is of significant concern to Indiana agriculture. The Pahl's own property in Lake County, which is the subject of the zoning dispute. This property was purchased by the Pahl's in 2006. In 1956, the property was zoned A-1 for agricultural use. In 1995, property was rezoned as R-1. The property has always been utilized as farmland and there has never been a break in farming. The area in which the property is located consists of approximately 25 acres that are subdivided into nine residential lots. The Pahl's lot is the largest in the subdivision at approximately 10 acres in size. Currently the Pahl's property is being used for livestock and was previously farmed for corn and soybeans. Legal issues began in 2009 when Lake County Plan Commission decided that the

property could no longer be used for agriculture since it was rezoned to R-1 subdivision status in 1995. The Pahls claimed the agricultural use exception as a defense. As a result of continuing to use the property for agricultural purposes, the Zoning Department filed numerous citations and any requests for permits submitted by the Pahls, were denied. The case was heard by the Lake Superior Court in March 2014, and they ruled in favor of the Pahls. In May 2014, the Lake County Plan Commission filed a Motion to Correct Errors, which was unsuccessful. On October 17, 2014 the Lake County Plan Commission filed to appeal this case to the Indiana Court of Appeals.

The Pahls lost on appeal. In overturning the trial court, the Court of Appeals reasoned that, while Ind. Code 36-7-4-616(e) prohibited the county from terminating or restraining agricultural non-conforming uses, Ind. Code 36-7-4-616(f) permitted the county to require the Pahls to maintain their agricultural non-conforming use with all laws that conforming agricultural property is subject to under the county's zoning ordinance. In other words, the county may treat the Pahls' property like it does property that is zoned for agricultural use. And because the zoning ordinance prohibits the keeping of livestock on less than 20 acres of property across the board--meaning even on property zoned for agriculture, the agricultural nonconforming use statute does not protect the Pahls. Similarly, because the zoning ordinance requires permits for structures and fences even on property zoned for agricultural, the trial court erred in not ruling on the county's request for an order to remove the Pahls' fencing and temporary structures.

The Pahls did not make an additional request of the Foundation.

**High-Fenced Hunting, are legally-owned animals excluded from Indiana Department of Natural Resources authority – Whitetail Bluff v. Indiana Department of Natural Resources (Harrison County)** - This application was originally submitted in 2005 and has continued through 2014. At issue is the extent, if any, of IDNR authority over animals legally-owned by private individuals.

Attorney Brian Babb of Bose McKinney & Evans took over the case at the appellate level. On August 14, 2014 Mr. Babb filed his brief in support of appellee Whitetail Bluff to the Indiana Court of Appeals. On February 2, 2015 the Court of appeals ruled in favor of Whitetail Bluff. The Court of Appeals holding confirmed the reason that the IALF originally supported the case – the overreaching by a state agency (IDNR) in excess of their statutory authority, which excludes legally owned animals. Since that time the IDNR filed its Petition to Transfer the case to the Indiana Supreme Court.

On June 15, 2015 the Indiana Supreme Court denied transfer.

**Public Trust Doctrine, Ordinary High Water Mark – Homeowners Association v. Town of Long Beach (LaPorte County)** - This application was submitted by a group of Lake Michigan lakefront landowners/homeowners association (LBLHA, LLC) located in Long Beach, Indiana and their attorney Michael Knight of Barnes & Thornburg (South Bend). Mr. Knight represents landowners along the southern shore of Lake Michigan.

In this case the homeowners association sought to enforce their property rights as shown by their deeds, challenging the town's resolution mandating that the local police not enforce laws protecting private property below the ordinary high water mark. The issue of the case is the

legality of town's adoption of IDNR's position that the dividing line on Lake Michigan (where the state's regulatory jurisdiction lies and to determine where public ownership or use begins and/or ends) is the ordinary high watermark. The landowners believe that the northernmost property boundary is water's edge, and that there is no public right, access, trust or ownership burdening their property. The trial court ruled in favor of the town and held that the town's resolution adopting IDNR's position is not a claim adverse to the landowner's property rights nor does it constitute a taking, it is merely a statement of policy and does not speak to ownership of land. The landowners have appealed this case to the Indiana Court of Appeals and on October 3, 2014 filed their brief in support of the appeal.

Last fall, the Indiana Court of Appeals remanded the lakefront homeowners' appeal to the trial court to consider additional issues prior to continuing the appeal. On December 18, 2015, the trial court heard the issues and on December 21, 2015, issued its order denying all motions. This denial spawned 2 more appeals. On February 2, 2016, the Indiana Court of Appeals consolidated the issues and granted the lakefront owners 30 days in which to amend the appellants' brief they filed on October 2, 2015. On February 19, 2016, the landowners filed an amended brief. The State and Intervenors have 30 days from February 19, 2016 to respond and or file any cross appeals.

Despite these procedural moves, the issue has not changed. The issues are: how far does the landowners' title extend in relation to Lake Michigan? Where is the public trust right, on the navigable waters and soils beneath or on land abutting the navigable waters? What is the public trust right - traditionally the right for navigation and commerce (fishing) on navigable waters or something more on land abutting navigable waters?

The matter is pending before the Indiana Court of Appeals.

### **EDUCATIONAL ACTIVITIES**

**Estate and Succession Planning Event** - Estate and succession planning impacts every farm in the State of Indiana. The IALF recognizes an important role the Foundation can play in educating farmers in this area. July 21, 2015 marked the second installment in an annual series developed by the IALF geared towards educating Indiana farmers on estate and succession planning issues. This year's event focused on the succession aspect of the planning process while highlighting other basic estate planning techniques and considerations. CLE credit was offered to attending attorneys. The program was sponsored by Farm Credit Mid-America, Indiana Pork, Schrader Real Estate and Auction Company, Indiana Farm Bureau Insurance and Indiana Farm Bureau, Inc.

Professor Drew Kershen, law professor at the University of Oklahoma opened the event. Professor Kershen drew upon his years of experience in dealing with farm families and discussed the need for the succession plan and its significance in the family farm dynamic. He addressed the need for assembling a quality succession planning team of professional advisers, ethical considerations in creating the estate and succession plan, and post-plan maintenance.

Farm Credit Mid-America CEO Bill Johnson spoke on the need for effective succession planning for their many farm clients. He discussed specific examples of how planning can ensure the

continuity of the farm operation. Jessica Lehman of Farm Credit Mid-America did an excellent job of explaining the financing considerations as the farm is passed to future generations.

Valuation of land assets and leasing value play an important role in the estate and succession planning process. Dr. Jason Henderson, Associate Dean and Director of Purdue Extension, discussed Indiana farmland values and how Purdue assists ag stakeholders in determining rental values.

Iowa CPA Mark Penningroth, LattaHarris, LLP provided a detailed presentation discussing the estate and succession planning process from the CPA's perspective, including tax consequences and issues unique to agriculture. He used a case study of a family farm in Iowa that was particularly instructive. Mr. Penningroth works with several large production agriculture operations in the Midwest and was the highlight of the program.

Gary Chapman, Bose McKinney & Evans is a frequent speaker on estate and succession planning topics and represents many Indiana farm families. Mr. Chapman educated our audience on the practical tools and strategies regarding both estate and succession planning.

The conclusion of the program featured Mr. Penningroth and Mr. Chapman answering audience questions.

**Utility Line Easements – Landowners Rights** - With Indiana's vast agricultural landscape, electrical utilities installing transmission lines in Indiana naturally look to farmland for rights-of-way. These utilities acquire easements in order to survey, construct, operate, and maintain their lines over a landowner's property. Seemingly, the sale of easements generates easy income for Indiana's farmers. However, farmers may come to regret granting an easement to a utility if they fail to consider key points during negotiation of an agreement.

With support from the IALF, Lafayette attorney James Schrier prepared an excellent and practical guide for landowners faced with dealing with electrical utilities seeking an easement on their property. The IALF received many calls from concerned landowners and Mr. Schrier's document provided a useful roadmap in understanding easement considerations. It was distributed directly to many landowners and made available on the IALF website.

**Syngenta Corn Lawsuit** - In 2009 Syngenta released a seed corn variety that contained a new strain trait called MIR162 into the U.S. market. Prior to such release, Syngenta failed to acquire approval from China to allow imports with corn produced from seeds carrying this new trait. Because China detected MIR162 in U.S. corn shipments to China, China rejected all U.S. corn shipments beginning in November 2013 and throughout 2014. This rejection of U.S. corn shipments by China and other countries has been a contributing cause for the significant drop in the price of corn over recent years. The National Grain and Feed Association estimates that the total economic damages from Syngenta's commercialization of MIR162 without first obtaining approval from China resulted in \$2.9 billion in losses.

Farmers in states such as Indiana, Illinois, Iowa, Kansas, Nebraska, Missouri, Kentucky, Texas, South Dakota, North Dakota, Michigan, Ohio, Pennsylvania, New Jersey, New York, Arkansas, Louisiana, and Minnesota have begun filing lawsuits against Syngenta for the negative impact on

the market caused by the company's marketing of genetically modified corn seed before ensuring its approval in foreign markets.

While not advocating that Indiana corn producers join the lawsuit, The IALF played a key role in educating Indiana farmers as to their options, statutes of limitations, fee agreement considerations and general information about the litigation. The IALF worked closely with the lead counsel for the multidistrict litigation in Kansas City, Scott Powell of Alabama, to facilitate a lawsuit being filed by an Indiana producer in an Indiana state court. The significance of this filing was that it preserved the rights of Indiana producers who had not joined the lawsuit and may have missed the November 2015 statute of limitations deadline. The IALF will continue to monitor this lawsuit and provide updates to Indiana farmers as needed.

**Gene Editing in Agriculture** - Gene editing allows precise changes to be made to the genome of an animal or plant without introducing genetic material from another organism. This is different than traditional "GMO" type technology. One recent example is that researchers and scientists from the University of Missouri, Kansas State University, and Genus pIc recently bred genetically-edited pigs that are not affected by the disease called porcine reproductive and respiratory syndrome (PRRS). Gene editing stopped the virus from spreading. PRRS costs North American pork producers more than \$660 million each year, and there is no effective vaccine to prevent the virus. According to Genus, this genetic innovation will lower the impact on the animals, improve their well-being, and improve farm productivity, which will help meet global demand for pork products.

The IALF has been in communication with Genus to better understand the technology and its potential impact on Indiana pork producers. There will be debate as to how genetically edited animals will be regulated and licensed to producers. While this initial agricultural fit for gene editing involves the pork industry, the potentially transformational breakthrough will impact many other areas of agriculture and food production as well. The IALF has also worked with IFB Livestock Specialist Greg Slipher to determine the policy considerations of this emerging technology.

**Environmental Law Handbook** - The IALF provided funds to update the Environmental Law Handbook. The Handbook is a comprehensive summary of laws affecting agriculture in Indiana. The Handbook encompasses more than just environmental law, therefore, the name may change to better reflect the content. This Handbook previously was published by Indiana Farm Bureau, Inc. and was updated in 2013. The document is available on the IALF website.

**Agricultural Employment Publication** - The IALF funded an update of the "Legal Considerations for Agricultural Employers" checklist in 2013. The publication contains pre/post hiring guidelines, annual requirements, references, labor law and regulatory compliance thresholds and contacts. This detailed checklist, which was first created in 2008, provides agricultural employers with detailed information related to employment process. The document is made available upon request and continued to provide practical guidance to farmers in 2015.

**"Before You Build a Livestock Barn" Project** - The IALF approved funding in 2013 to produce a publication designed to help farmers make good decisions when building livestock operations and to proactively elevate some of the problems associated with nuisances, lawsuits,

environmental appeals, etc. IFB, Inc.'s Justin Schneider worked with IN Pork, ISDA, Indiana Soybeans and Indiana Corn to develop the publication.

The materials explain in detail permitting, regulatory process, zoning, dealing with lawsuits, dealing with OEA appeals, being a good neighbor, communications with media and government officials, etc. There is also a resource guide being developed listing ag organizations, attorneys and government agencies associated with the process. IFB, Inc. Livestock specialist Greg Slipher routinely uses the publication when working with farmers contemplating a new livestock barn.

The guide bears the IALF logo (along with other sponsors) and continued to provide important guidance to Indiana livestock producers in 2015.

**Indiana Chamber of Commerce Foundation Study: “Water and Economic Development in Indiana”** - In 2013, the IALF approved funding for a request from the Indiana Chamber of Commerce Foundation to participate in a study of water supply in Indiana and its relationship to economic development. A distinct part of that study related to a legal study of water rights in Indiana and around the nation. The agricultural perspective was represented in the study by IFB's Justin Schneider. This part of the study is to be purely a legal analysis and the results are generally available. Results were made available in 2014 and continue to be a valuable resource in 2015.

**The Spotlight Newsletter** - The Spotlight is a monthly e-newsletter providing readers with current information about activities of the IALF and other important legal issues such as high-profile court cases. The Spotlight covers articles on legal issues important to farmers and related agribusinesses.

**AALA Symposium Sponsorship** - The IALF provided sponsorship funds for the American Agricultural Law Association (AALA) annual symposium held in Charleston, South Carolina in October 2015. The AALA is a significant legal organization created for attorneys who are engaged in agricultural law.

**Indiana State Bar Association (ISBA) Agricultural Law Section** - The IALF continues to be supportive of the ISBA Agricultural Law Section. The IALF previously donated funds for the production of the Agricultural Law Section Attorney Directory, used by many attorneys today.

## **FUNDRAISING**

**Indiana Agricultural Law Foundation Campaign Highlights:** In 2015, the IALF made the decision to convert to a calendar year system of accounting. The reason for this change was to allow future campaign years to end on December 31. This reflects how most not-for-profits gear efforts to end a campaign year at a time when donors are most likely to give. At the end of the year donors can better estimate the funds available to give and have a better understanding of their tax situation. Therefore, this campaign year runs from October 1, 2014 through December 31, 2015. Future campaign years will be from January 1 through December 31.

Considerable time was spent in 2015 communicating the function, role and value of the IALF to Indiana agriculture. In spite of being created in 2005, many agricultural stakeholders simply

were not aware of the IALF and the positive impact it has had on Indiana agricultural law. Great strides were made in 2015 in this regard. The IALF is emerging as a positive force and Indiana agriculture is seeing the potential value.

Our educational programs discussed above were professional, high quality and well-attended showcases for the Foundation. Throughout the course of 2015 the IALF had the opportunity to speak at many IFB events including State Convention, District meetings, county Board meetings and other IFB educational programs. The IALF was represented at numerous state-wide agricultural programs and conferences. Each event created an opportunity to tell the IALF story to new listeners, or reinforce the Foundation's mission.

The county Farm Bureaus are the most committed supporters of the IALF. Since its creation in 2005, they have sustained the Foundation and enabled us to play a key role in shaping the legal landscape for Indiana's agricultural stakeholders. In 2015, 84 of the 92 counties contributed to the IALF and the amount donated increased by \$8,000. The generosity and commitment to the future of Indiana agriculture by the county Farm Bureaus is greatly appreciated by the IALF and more importantly, by Indiana farmers. The IALF especially thanks the Indiana Farm Bureau Regional Manager team for their effort in communicating with the county Farm Bureaus and coordinating donations.

2015 saw the largest individual gift in the history of the IALF. Forrest and Charlotte Lucas donated \$25,000. The IALF sincerely thanks Director Robert Schickel for arranging the meeting with the Lucas'. The opportunity to spend most of the day with Mr. Lucas and tour the Indiana operations of Lucas Oil was very impressive. Equally impressive was his commitment to Indiana agriculture and the IALF. We look to the Lucas family to be annual contributors to the IALF.

Indiana Pork donated \$10,000 to the IALF and has agreed to be an annual supporter at this level for years to come. Indiana Pork Executive Director and attorney Josh Trenary has also joined the IALF Advisory Committee. Josh has already proven to be a valuable contributor to the committee and has helped in reaching out to other commodity organizations about the value of the IALF to their organizations and constituents.

Indiana Farm Bureau, Inc. continues to recognize the impact the IALF has on significant agricultural law issues, and is committed to growing the Foundation. In an effort to spur additional support from individuals and individual family farms, in 2014 Indiana Farm Bureau, Inc. pledged \$15,000 to the IALF to be used as dollar for dollar matching funds. This campaign ran from mid October 2014 through December 31, 2014. For each dollar that an individual or individual family farm donated to the Foundation, Indiana Farm Bureau matched that dollar as a donation.

The match campaign was very successful. A total of 73 family farms and individuals contributed, 45 of which were new, first time donors. The campaign raised \$12,835, which was matched by Indiana Farm Bureau, Inc. – the result was \$25,670 in new funds to the IALF. The IALF was especially pleased with the number of new donors. Our goal is to convert these first time donors to annual donors. The IALF sincerely thanks Indiana Farm Bureau, Inc. for its commitment to the Foundation.

This year brought several cases (described above) that present significant legal issues important to Indiana agriculture. As a fundraising tool, we have spent considerable time in communicating the IALF role in these cases. In the past six months we have been engaged in meaningful cases involving involuntary annexation, right to farm, standing to challenge CAFOs, nuisance, fence law and private property rights. An amicus brief filed in November by the IALF supporting Boone County property owners could mark the first time the Indiana Supreme Court has considered arguments as to why farmland should be treated differently than adjacent urban property in involuntary annexations. The media splash generated the Hendricks County case challenging the constitutionality of Indiana's Right to Farm statute, orchestrated Hoosier Environmental Council, upset many farmers and stakeholders. Each of these cases provide a concrete example of how the IALF stands with Indiana's farmers and works diligently to help establish favorable legal precedent benefitting all Indiana agricultural stakeholders.

The IALF thanks each of the donors listed in the attached donor recognition section. The IALF will be stewards of the funds donated and use the resources for the betterment of Indiana agriculture.

### **Summary**

2015 was a successful year for the IALF, but there is much more to do. Legal issues will arise, interest groups will continue to initiate challenges to modern production agriculture and the need for clarification of important agricultural law issues will increase. The IALF was created to address these challenges on behalf of Indiana farmers.

Securing additional foundation resources will enable IALF to further its mission and continue to impact Indiana agriculture. As stewards of the funds entrusted to the foundation, IALF strives to support educational programming and litigation offering the most benefit to Indiana's farmers.

I again thank each of our valued donors for their generosity and commitment to Indiana agriculture.

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## Thank you to our 2015 Campaign\* County Farm Bureau Donors

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Greene	Orange	White
Hamilton	Owen	Whitley
Hancock	Parke	District 9 Farm Bureau
Harrison	Perry	District 10 Farm Bureau
Hendricks	Pike	

*\*The 2015 Campaign runs from October 1, 2014 through December 31, 2015.*

## Thank you to our 2015 Individual Donors

Forrest & Charlotte Lucas	Brad & Emily Ponsler	Don & Jodi Lamb
Philip & Debbie Springstun	Harold & Jane Parker	Ed Yanos
James & Vicki Loughmiller	Jerry & Carol Rulon	Dan Gordon
Tom & Kerry Dull	Robert & Waneta Bishop	Kermit Paris
Mark & Susan Smith	Duane & Mary Rinker	Ginny Rodgers
Roby & Jodi Webster	Mark & Dee Dee Sigler	
Mark & Julie Thornburg	James & Patricia Wenning	

## Thank you to our 2015 Business Donors

Rulon Enterprises  
Indiana Pork Producers Association  
Schrader Real Estate & Auction Co.  
Indiana Packers Corporation

Legan Livestock & Grain, Inc.  
Swine Health Services, LLC  
Plews Shadley Racher & Braun

## Thank you to our Match Program Donors\*

Mark & Linda Bacon	Robert Kraft	Robert Schickel
Clark Beard	Randy Kron	Justin & Tamara Schneider
Robert Bishop	Mark Legan	John Shoup
Greg Bohlander	Erna & Richard Lloyd	Mark & Dee Dee Sigler
Charles & Patricia Calvert	James & Vicki Loughmiller	Gregory Slipher
Robert Cherry	Steve Maple	Philip & Debbie Springstun
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Donald & Betty Cook	Jack Mitchell	Mark & Julie Thornburg
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Kendell Culp	George Morton	Kim Vail
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Andy Dietrick	John & Stacey Newsom	James & Patricia Wenning
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Dale & Margaret Gladden	Kevin Ousley	Robert White
Dan Gordon	Kermit Paris	Dave Wyeth
Jeff Gormong	Harold & Jane Parker	Kent Yeager
Katrina Hall	Harry Pearson	Rulon Enterprises
Seth Harden	Brad & Emily Ponsler	Milligan Farms
Irvin & Marjorie Harmeyer	Philip & Cynthia Ramsey	Crawford Co. Cattleman Assoc.
David Hicks	Duane & Mary Rinker	Egolf Farms, Inc.
Melvin Hollingsworth	Megan Ritter	Orange Co. Cattle Assoc.
Amy Hutson	Max Rodibaugh	Country Consultants, Inc.
Larry Jernas	Thomas Roney	
Linda (Kay)Keown	Elaine Rueff	
Michael Knight	Jerry & Carol Rulon	

*\*The Match Program ran from October 1, 2014 – December 31, 2014. The 2015 Campaign runs from October 1, 2014 through December 31, 2015. Match donors were also recognized in the 2014 Annual Update. Thank you.*

**Indiana Agricultural Law Foundation Inc.**  
**Statement of Financial Position**  
**December 31, 2015**

	<u>2015</u>	<u>2014</u>
<b>Assets</b>		
Cash, HUCU	\$79,179	\$78,927
Cash, Fifth Third	234,572	191,590
Cash, Farm Bureau Bank	290,421	289,551
Cash, Stock Yard Bank	205,059	204,331
Cash, PayPal	3	24
Investments	<u>472,329</u>	<u>469,199</u>
<b>Total Assets</b>	<b><u>\$1,281,563</u></b>	<b><u>\$1,233,621</u></b>
<b>Net Assets</b>		
Unrestricted net assets	790,950	743,008
Restricted funds, Cy Pres	<u>490,613</u>	<u>490,613</u>
Net Assets	<u>1,281,563</u>	<u>1,233,621</u>
<b>Total Liabilities and Net Assets</b>	<b><u>\$1,281,563</u></b>	<b><u>\$1,233,621</u></b>

**Indiana Agricultural Law Foundation Inc.**  
**Statement of Activities**  
**For the years ended December 31**

	<u>2015</u>	<u>2014</u>
<b>Revenue</b>		
Contributions Unrestricted	\$175,514	\$123,552
Contributions, Silent Auction	0	880
Registration Fees, Seminars	3,685	9,085
Income, Sponsorship	3,500	0
Interest income	<u>4,956</u>	<u>5,772</u>
Total Revenue	\$187,655	\$139,289
<b>Operating Expenses</b>		
Payroll expenses, administrative	16,274	50,210
Office expenses	507	1,165
Dues and subscriptions	600	755
Legal and accounting	187	7
Insurance, corporate	1,323	0
Travel	146	1,335
Other expenses	<u>275</u>	<u>130</u>
Total Operating Expenses	19,313	53,602
<b>Fundraising</b>		
Payroll expenses, fundraising	42,810	22,849
Travel, fundraising	110	478
Other expenses, fundraising	<u>0</u>	<u>637</u>
Total Fundraising Expense	42,920	23,965
<b>Program Expenses</b>		
Payroll expenses, programs	49,413	34,182
Travel and meals, programs	175	225
<b>Case, Legal &amp; Research</b>		
Legal - High Fenced Hunting	4,888	12,001
Legal - Annexation	3,000	9,500
Legal - Zoning Ag use exemption	0	5,000
Legal - Property rights, water	0	10,000
Legal - Equitable estoppel	0	5,188
Legal - BZA Jackson County	10,000	0
Legal - Fence law	<u>5,000</u>	<u>0</u>
Total Case, Legal & Research	22,888	41,689
<b>Education</b>		
Education - Immigration Labor Information Meetings	0	1,980
Education - CLE sponsor	500	873
Education - Estate Planning Seminar	3,503	2,677
Education - Big Data Seminar	1	2,421
Education - Transmission line easement	<u>1,000</u>	<u>0</u>
Total Education	5,004	7,950

**Grants**

Total Program Expenses

77,48184,046

Total Expenses

139,713161,612

Change in Net Assets

\$ 47,942\$ (22,324)