NGFA Newsletter

Volume 62, Number 5, March 11, 2010

NGFA Elects New Industry Officers

NGFA members elected **Hal Reed**, president of the Grain and Ethanol Group at The Andersons Inc., Maumee, Ohio, as the association's new chairman during its 114th annual convention on March 5.

NGFA members also elected as their new First Vice Chairman **David R. Hoogmoed**, executive vice president of Land O'Lakes Inc., Shoreview, Minn., and chief operating officer for feed for the company's Land O'Lakes Purina Feed LLC business unit. **Bailey Ragan**, vice president and general manager of Bunge Grain, St. Louis, Mo., was elected NGFA's new second vice chairman.

The NGFA's newly elected officers are shown during the 114th annual convention at the Westin Maui, Maui, Hawaii. Pictured are (from left): NGFA Immediate Past Chairman Tom Coyle, general manager, Nidera North American Grain and Oilseeds, Chicago, Ill.; Second Vice Chairman Bailey Ragan, vice president and general manager, Bunge Grain, Bunge North America, St. Louis, Mo.; Chairman Hal Reed, president, Grain and Ethanol Group, The Andersons Inc., Maumee, Ohio; and NGFA President Kendell W. Keith. Not pictured is First Vice Chairman David Hoogmoed, executive vice president, Land O'Lakes Inc., and chief operating officer for feed for the company's Land O'Lakes Purina Feed LLC business unit, Shoreview, Minn.

Reed is the 63rd industry leader to serve at the helm of the NGFA. He also serves on the NGFA's Board of Directors and Executive Committee. Reed previously served two-year terms as first and second vice chairman, respectively.

In his capacity as president of The Andersons' Grain and Ethanol Group, Reed oversees the operations of 20 grain terminal elevators with a combined storage capacity exceeding 100 million bushels. The Andersons' grain facilities ship more than 300 million bushels annually, primarily in Ohio, Michigan, Indiana and Illinois. The company also merchandises substantial additional quantities of grains and oilseeds, primarily in the Eastern Corn Belt. The Andersons is a diversified company founded in 1947.

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USDA Announces Intent to 'Maximize' CRP Enrollment

During the annual "Pheasant Fest" meeting of the wildlife group Pheasants Forever on Feb. 27, Secretary of Agriculture Tom Vilsack announced his intent to "maximize" enrollment in the Conservation Reserve Program (CRP).

Toward that end, Vilsack said the U.S. Department of Agriculture (USDA) would conduct a general signup to enroll more acres on the CRP "later this year" after completing an environmental impact statement on the program. Under the 2008 farm law, USDA has authority to enroll up to 32 million acres starting with fiscal year 2010, which began Oct. 1, 2009, through fiscal year 2012, which ends Sept. 30, 2012. As of Jan. 31, there were 31.19 million acres enrolled in the program. CRP contracts representing 4.5 million acres are scheduled to expire on Sept. 30, with contracts representing another 4.4 million acres set to expire on Sept. 30, 2011.

Vilsack also announced USDA had approved an additional 300,000 acres for conservation projects under the CRP. Those actions include adding: 1) 150,000 acres for the State Acres for Wildlife Enhancement (SAFE) Initiative; 2) 50,000 acres for the Duck Nesting Habitat Initiative; and 3) 100,000 acres for the Habitat Buffers for Upland Birds Initiative. Currently, USDA has enrolled in the SAFE Initiative up to 500,000 acres in 75 approved projects in 22 states. Meanwhile, the duck initiative now will encompass up to 150,000 acres in the Prairie Pothole Region that includes parts of Iowa, Minnesota, Montana, and North and South Dakota. The habitat buffers for upland birds initiative now is authorized to total 350,000 acres.

CRP Policy Options: Vilsack's statement apparently preempts one of the three alternatives proposed in a draft supplemental

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Phone: (202) 289-0873, Fax: (202) 289-5388, Web Site: www.ngfa.org

by Randall C. Gordon
V.P., Communications/
Gov't Relations

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environmental impact statement regarding the future size of the CRP on which USDA is seeking public comments by April 5. That alternative, which also was proposed for discussion during a series of nine public meetings conducted last September and October, would reduce the CRP to 24 million acres – consisting of 20 million acres enrolled through general sign-ups and 4 million acres through targeted sign-ups, such as the Conservation Reserve Enhancement Program, continuous enrollments of buffer and filter strips to protect water quality, and the State Acres for Wildlife Enhancement Program. Under this option, the reduction in the CRP's size would have been accomplished by conducting general signups to attract 2.5 million acres in fiscal year 2010, 2.5 million acres in fiscal 2011 and 3.5 million acres in fiscal 2012.

The other two policy options concerning the ultimate size of the CRP proposed by USDA on Feb. 19 in its draft supplemental environmental impact statement consist of:

- Reaching the 32-million-acre CRP maximum ceiling by apportioning 27.5 million acres to contracts entered into through general sign-ups and 4.5 million acres to targeted (continuous) enrollments until fiscal year 2012.
- Attaining the 32-million-acre CRP maximum ceiling by apportioning 24 million acres to contracts entered into through general sign-ups and 8 million acres through targeted (continuous) enrollments.

USDA also is soliciting comments in the CRP draft supplemental environmental impact statement on the following provisions:

- Implementation of the 25 percent limit on a given county's enrollment of cropland in the CRP and Wetland Reserve Program, unless waived based upon a lack of adverse economic impacts on the local economy. Three options are being considered: 1) retaining USDA's current practice of allowing a waiver of the 25 percent limit if the action would not adversely affect the local economy and if operators in the county are "having difficulties" complying with highly erodible lands conservation requirements for working cropland, <u>with acreage enrolled in conservation practices for shelterbelts and windbreaks exempted from the 25 percent cap</u>; 2) empowering each county government to exercise its yes/no authority to exceed the 25 percent limit for additional continuous or Conservation Reserve Enhancement Program enrollments, with <u>no additional per-county acreage limit imposed</u>; and 3) empowering each county government to exercise its yes/no authority to exceed the 25 percent cap for additional continuous or Conservation Reserve Enhancement Program enrollments <u>up to 50 percent of the county's cropland</u>.
- Implementing the 2008 farm law's provision requiring annual surveys of per-acre estimates of county average market dryland and irrigated cash rental rates for cropland and pastureland in all counties with 20,000 or more acres of cropland and pastureland. The three alternatives being considered by USDA are to: 1) retain the existing annual rental payment rules with a soil productivity adjustment, with incentives for targeted sign-ups remaining unchanged; 2) update rental rates with soil productivity adjustments for new general sign-ups conducted after Dec. 1, 2009, with allowance for increases in incentives for targeted CRP enrollments "to ensure program acreage targets are achieved." Maintenance incentives would be reduced to zero for general signup practices in accordance with a procedure that took effect Oct. 1, 2009; and 3) implement updated cash rental rates with soil productivity adjustments for all new CRP contracts executed after Dec. 1, 2009. Incentives for targeted signups would remain the same as the current program, while maintenance incentives would be reduced to zero.
- Implementation of a farm law provision that clarifies alfalfa grown in an approved rotation practice is considered an agricultural commodity and can be used to fulfill the requirement that eligible land be cropped in four of the six years prior to 2008 when determining eligibility for CRP enrollment.
- Clarifying that CRP participants are required to manage the conservation plan requirements throughout the term of the CRP contract.
- Implementing new authority for CRP participants to routinely graze and manage biomass harvest, as well as other commercial use of forage on land enrolled in CRP contracts. This provision would authorize prescribed grazing for controlling invasive species, emergency haying and grazing, and installation of wind turbines, so long as such activities "do not defeat the purpose" of the CRP contract and are consistent with conservation of soil, water quality and wildlife habitat, including habitat during nesting season for birds. A reduction in the CRP rental payment would be taken commensurate with the economic value of the activity being implemented.
- Whether to incorporate new incentives for CRP participation for socially disadvantaged farmers, ranchers and Indian tribes.
- Whether to provide new incentives to encourage development of habitat for native and managed "pollinators" beyond those currently offered in USDA Natural Resources Conservation Service standards and technical guides.

The NGFA will be preparing a statement responding to USDA's request for comments on the draft supplemental environmental impact statement. Members receiving the ***NGFA Newsletter*** electronically may <u>click here</u> to access the 622-page USDA draft. The first 66 pages provide an executive summary of the document.

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

NGFA, Ag Producer, Agribusiness, Meat Groups Continue Efforts to Further Improve Senate Food/Feed Safety Bill

...Consideration on Senate Floor Likely By May...

The NGFA, American Farm Bureau Federation and American Meat Institute continue to lead efforts of a broad and diverse array of 24 national agricultural producer, agribusiness, livestock, poultry and meat organizations in urging several additional improvements to the Senate version (S. 510) of a comprehensive food/feed safety bill likely to be considered on the Senate floor by May.

During a March 2 hearing, Senate Health, Education, Labor and Pensions Committee Chairman Tom Harkin, D-Iowa, said the final version of the bill "is about ready to go" and should be considered on the Senate floor in March or shortly after Congress reconvenes on April 12 following its Easter recess. The bipartisan bill, whose lead sponsor is Sen. Richard Durbin, D-Ill., was approved on Nov. 18 by the Senate committee. A bipartisan group, led by Sens. Harkin, Durbin, Christopher Dodd, D-Conn., Michael Enzi, R-Wyo., Judd Gregg, R-N.H., and Richard Burr, R-N.C., currently are meeting several times a day to hammer out a final version of the bill that is expected to differ in several important respects from the version previously approved by the committee.

The House on July 29 approved its version (H.R. 2749) of a food/feed safety bill, which on balance is considered to be less science and risk-based than the Senate approach. Both bills would require all facilities registered with the Food and Drug Administration (FDA) under the Bioterrorism Act (including grain elevators, feed mills, grain processing and milling facilities, and grain exporters) to assess and develop procedures and written plans to address hazards that could adversely affect human or animal health. The bills also would grant FDA more access to company product-safety records, as well as mandatory recall authority if companies refuse or are recalcitrant in conducting voluntary recalls of tainted products.

By the end of this week, representatives of the NGFA and other organizations will have discussed with 26 different senatorial offices the recommended improvements still being sought in the Senate version of the bill. Those enhancements would:

- **Clarify USDA Jurisdiction Over Food Safety:** This provision would clarify that to the degree the U.S. Department of Agriculture already regulates product safety under existing meat, poultry, egg and grain statutes, FDA would not have jurisdiction. This would apply primarily to meat products regulated by USDA's Food Safety and Inspection Service personnel. But it also potentially could apply to grain export elevators where USDA Federal Grain Inspection Service personnel inspect and weigh outbound grain shipments.

- **Require FDA to Base Regulatory Standards on Science, Risk:** This proposed change would require FDA to base any regulatory standards for product safety on science and risk, which is appropriate since FDA will be authorized to establish standards and require facilities to conduct hazard analyses and implement preventive controls. Some existing FDA "zero-tolerance" standards are not based on the latest science or risk assessments. This provision also would require FDA to use notice-and-comment rulemaking (which includes economic impact analyses) to establish binding regulatory requirements, rather than using guidance documents that bind neither the agency nor regulated industry, and to consult with expert advisory committees when establishing product-safety standards.

- **Streamlined Mandatory Recall/Indemnification:** This proposed change would streamline FDA's authority to order a mandatory recall to protect public health if voluntary recalls are not initiated in a timely manner. But it also includes an indemnification provision to financially compensate producers and facilities if FDA wrongfully issues a mandatory recall or administrative-detention order. FDA also would be designated the lead government agency for food under its jurisdiction, and be required to designate an individual to serve as a recall coordinator to work with affected industry firms, states and others.

- **Increase 'Reasonable Probability' Standard for Facility Registration Suspensions:** This proposed change would elevate to a level higher than "reasonable probability" the standard FDA is required to meet before suspending a facility's registration (and hence its ability to operate). This proposal also would require FDA to respond within a time certain (15 days or less) to a facility's corrective action plan to restore its registration. And it would limit suspension authority to facilities that have manufactured and distributed products – not for storage and packaging operations where the product has not left the facility's control.

- **Clarify Food-Defense Related Provisions Distinct from Food Safety Hazard Analysis:** This change would relocate provisions requiring facilities to develop a food-defense plan to protect against intentional contamination incidents (e.g.,

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by Todd Kemp
Director of Marketing/Treasurer
E-Mail: tkemp@ngfa.org

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caused by a terrorist or troubled insider) out of the hazard-analysis/product safety section of the bill that addresses unintentional contamination.

- **Protect Confidential Business Information, Records:** This proposed provision would insert confidentiality-protection language requiring FDA to promulgate, with public input, standards to protect against inappropriate disclosure of sensitive business information to which the agency now would have access, including facility food-safety/quality-assurance plans, hazard analyses, preventive controls and other food safety-related records.

- **Inspection Frequency for Low-Risk Facilities:** This change would provide FDA with more flexibility to decrease the mandated inspection frequency for low-risk facilities, such as grain elevators and feed mills, to better allocate scarce resources.

The NGFA will continue to keep members up-to-date on developments involving this important legislation.

House Subcommittee Examines Commodity Exchange Act Provisions of 2008 Farm Law

…CFTC Chair Recommends Insider Trading Ban, Commission Growth…

The House Agriculture Committee's Subcommittee on General Farm Commodities and Risk Management conducted a hearing on March 3 to review implementation of changes to the Commodity Exchange Act that were contained in the 2008 farm law.

Among those changes were provisions that strengthened the Commodity Futures Trading Commission's (CFTC's) authority over retail foreign currency transactions; extended the CFTC's principles-based oversight to exempt commercial markets that trade significant price-discovery contracts that mirror contracts traded on designated contract markets like the Chicago Board of Trade; and increased criminal and civil penalties for market manipulation.

Subcommittee Chairman Leonard Boswell, D-Iowa, convened the hearing to review the CFTC's implementation of these and other farm law provisions, stating his goal of "…bring(ing) greater transparency and oversight to the futures markets and ensure that we provide necessary oversight of these markets without hindering legitimate consumers…"

The sole witness during the hearing was CFTC Chairman Gary Gensler. Gensler reported that the agency aggressively was utilizing its authority to oversee futures and options markets, citing 50 enforcement actions filed this year, a 25 percent increase compared to last year. Gensler also testified that, "…the CFTC has implemented new transparency efforts to give more accurate depictions of the makeup of the futures markets to the public." As examples, he noted new weekly reporting about market activity of swap dealers and managed accounts, enhancements to the CFTC's Commitments of Traders report, and new reporting on index investment in futures markets.

Gensler noted that the agency has proposed rules to establish position limits in energy futures contracts. The proposal also would adjust how exemptions from energy position limits would be granted. Gensler noted that a public hearing will be conducted on March 25 to receive public testimony on whether position limits should be applied to metals futures markets.

Gensler also briefly outlined the active role taken by the CFTC to address the lack of convergence in the Chicago Board of Trade wheat futures contract, citing involvement of the agency's Agricultural Advisory Committee. "The (CFTC) will continue to monitor the effectiveness of variable storage rates to see if they address the convergence problem," Gensler said. "If convergence does not improve, the commission will consider whether additional measures are necessary."

Concerning ongoing legislative efforts, Gensler reported that the CFTC has recommended banning the use of misappropriated government information to trade in commodity markets, which he said is not illegal under current law. The NGFA currently is reviewing CFTC-drafted language implementing such a ban to ensure that it does not have the unintended consequence of adversely affecting legitimate commercial activity on futures markets.

Gensler closed his testimony by describing a decline in CFTC staffing levels from 567 employees 10 years ago to a historic low of 437 over the following eight years, before rebounding to a current level of 580. He remarked that increasing the agency's staffing levels to those of 10 years ago, while futures trading volume has increased almost five-fold, is insufficient to enable the agency to perform its statutory mandate. He endorsed the CFTC's budget proposal for fiscal year 2011 that calls for 95 additional full-time positions, stating that such an increase is important to making what he called much-needed improvements in the agency's surveillance and technology programs and to keep abreast with expanding futures and options markets. Gensler also noted that the president's budget proposal recommends an additional 119 employees for the CFTC in fiscal year 2011 if financial regulatory reform legislation is approved by Congress, with 119 more employees added in fiscal year 2012.

On Capitol Hill

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

Senate Passes Second 'Jobs' Bill; Includes Biodiesel Tax Credit

The Senate on March 10 approved by a 62-36 vote a second so-called "jobs" bill that includes a retroactive extension of the $1-per-gallon biodiesel tax credit that expired at the end of 2009.

The $140 billion Senate package (H.R. 4213) also includes extensions of expiring unemployment assistance and a 65 percent subsidy of COBRA health insurance premiums for the unemployed through the end of December. The Senate version also would prevent a 21 percent reduction in physicians' Medicare reimbursement rates and provide temporary aid to states having difficulty covering Medicaid costs. The $66 billion cost of providing the additional months of unemployment assistance – the core benefit is 26 weeks – is added directly to the federal budget deficit already expected to hit $1.6 trillion this year. Spending to assist states with Medicaid payments would add $25 billion more, while the COBRA subsidy would add $10 billion.

The biodiesel tax credit extension is among more than $30 billion in one-year extensions of 70 different tax credits that lapsed last year, including the research and development tax credit. The Senate measure also includes a $1.5 billion in agricultural disaster assistance for 2009 crops advocated by Senate Agriculture Committee Chairman Blanche Lincoln, D-Ark. Producers would be eligible if they sustained a crop yield or quality loss in counties declared "primary" disaster areas by the U.S. Department of Agriculture, with payments equal up to 90 percent of farmers' direct payment rates for 2009. Producers who did not have crop insurance still would be eligible for the disaster aid, but would be required to purchase such coverage for their 2010 crops. The bill also would allocate $150 million in assistance for producers who suffered yield or quality losses of specialty crops, such as fruits and vegetables; $75 million in emergency loans to poultry producers affected by bankruptcies; $50 million for livestock producers; $25 million for aquaculture assistance and $42 million to aid first-handlers of cottonseed.

Six Republicans voted for the bill, while Sen. Ben Nelson, D-Neb., was the sole Democrat to oppose it. The next step is to reconcile differences with a version previously passed in December by the House, which is wary about some Senate provisions included to help defray the bill's impact on the federal deficit. Some House members are inclined to "save" those so-called offsets to help pay for health care legislation.

Country/Terminal Corner

by Randall C. Gordon
V.P., Communications/
Gov't Relations

USDA, Justice Department Launch Ag Competition, Concentration 'Workshops' in Iowa

The U.S. Departments of Agriculture and Justice kick off their planned series of agricultural competition and concentration public "workshops" on Friday (March 12) with a high-profile event in Ankeny, Iowa, at the Des Moines Area Community College.

The workshops, first announced jointly by Secretary of Agriculture Tom Vilsack and Attorney General Eric Holder on Aug. 5, are to examine "whether changes in the marketplace, including increased consolidation and vertical integration, have generated efficiencies, or whether they have led to increases in monopoly or monopsony (buying) power."

Vilsack, Holder and Assistant Attorney General for Antitrust Christine Varney are scheduled to participate in the initial workshop, which includes 33 confirmed or invited speakers or panelists. The day-long session, which starts at 9:30 a.m., is scheduled to begin with a "roundtable discussion and presentation of issues" where Vilsack, Holder and Varney will be joined by Iowa Lt. Gov. Patty Judge (formerly the state's agriculture secretary), Iowa Attorney General Tom Miller, Iowa Secretary of Agriculture Bill Northey, and several members of the Iowa congressional delegation, including Sens. Tom Harkin, D-Iowa, and Charles Grassley, R-Iowa. That will be followed by a panel of five producers from different sectors, including pork, cattle and grain. The afternoon agenda includes a panel on competition in the seed industry, which is expected to focus on generic seed traits and patent expiration policies. The seed panel will consist of Monsanto Vice President for Industry Affairs James Tobin, American Soybean Association Vice President Ray Gaesser, Neil Harl, former professor of agricultural economics at Iowa State University, Dr. Dermot Hayes, economics and finance professor and holder of the Pioneer chair in agribusiness at Iowa State, and Diana Moss, vice president and senior fellow at the American Antitrust Institute. Moss authored a paper last October entitled, "Transgenic Seed Platforms: Competition Between a Rock and a Hard Place?"

Subsequent panels are to focus on trends in contracting, transparency and buying power, as well as agriculture enforcement. The latter topic will feature the attorneys general from Montana, Ohio and Missouri; the USDA deputy undersecretary for marketing and regulatory programs; the director of the Division of Enforcement at the Commodity Futures Trading Commission; and the assistant section chief of the Transportation, Energy and Agriculture Section at the U.S. Justice Department.

NGFA staff will be attending the meeting, and will provide a report to members.

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

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Reed also oversees The Andersons' investments in three ethanol plant LLCs (one each in Michigan, Indiana and Ohio), to which The Andersons provide management, operations and merchandising services. In addition, he oversees The Andersons' investment in Lansing Trade Group LLC.

He began his career at The Andersons in January 1980 as a certified public accountant. He subsequently held various accounting, operational and marketing positions within the company's Grain Division. He was named vice president and general manager of the Grain Division in 1998, and became division president in January 2001. He became president of the company's Grain and Ethanol Group in 2006.

An Ohio native, Reed is a graduate of Miami University in Oxford, Ohio, with an undergraduate degree in accounting. He received his masters in finance from The University of Toledo. He is active in the community, serving on several business and philanthropic boards.

Hoogmoed Elected First Vice Chairman: Elected NGFA's new first vice chairman, **David Hoogmoed** is a 30-year veteran of the feed industry. As executive vice president of Land O'Lakes Inc. and chief operating officer for feed, he leads the company's Land O'Lakes Purina Feed LLC business unit. Prior to being promoted to his current position in January 2010, he served as the company's vice president for feed, where he oversaw the firm's national sales organization and was responsible for sales administration, training and strategic positioning. He also was responsible for the cooperative's retail development team and feed solutions group, the latter of which serves both private label and non-traditional distribution channels.

Hoogmoed began his career with Ralston Purina Co., St. Louis, Mo., and later served in top management with Purina Mills Inc. prior to its acquisition by Land O'Lakes in 2001. His previous responsibilities included serving as general manager, vice president of regional operations and various other officer roles. He is a graduate of Rutgers University, with an undergraduate degree in agricultural economics.

With the NGFA, Hoogmoed also serves as chairman of the Feed and Animal Agriculture Strategic Issues Committee, a unique forum in which senior-level managers from feed, feed ingredient and integrated livestock and poultry operations identify and develop strategies to address major domestic and international developments affecting the feed sector. The committee also interacts with animal agriculture and species organizations to maintain and enhance the economic viability of U.S. animal agriculture production. And it interfaces with the grocery and retail food industry, which influences feed and food-animal production practices.

Hoogmoed also is a member of the NGFA's Board of Directors and Executive Committee.

Bailey Ragan Elected Second Vice Chairman: Elected NGFA's new second vice chairman, **Bailey Ragan** heads Bunge Grain, where he oversees all operational and commercial activities of one of Bunge North America's six business units.

He joined Bunge in 1981 as procurement manager at its soybean processing facility in Decatur, Ala., and was promoted to commercial manager within two years. In 1998, he was promoted to Bunge North America's headquarters in St. Louis, Mo., to assume responsibility for the firm's soybean crushing facilities in the South Central region. He transferred from the soybean processing unit to Bunge's grain operations in 2002 before assuming his current responsibilities in 2006.

Bunge North America, the North American arm of Bunge Limited (BG), is a vertically integrated food and feed ingredient company, supplying raw and processed agricultural commodities and specialized food ingredients to a wide range of customers within the livestock, poultry, food processor, food service and bakery industries. Bunge North America and its subsidiaries operate grain elevators, oilseed processing plants, edible oil refineries and packaging facilities, and dry corn mills in the United States, Canada and Mexico.

With the NGFA, Ragan serves on the Board of Directors and Executive Committee. He also is a past member of the NGFA's Country Elevator Committee, and has served as an arbitrator within the association's system that resolves commercial trade disputes.

Kendell W. Keith, Washington, D.C., serves as the NGFA's president, the association's top executive staff officer.

Calendar

Sept. 7-9, 2010: NGFA Board of Directors
Chicago Marriott Magnificent Mile, Chicago, Ill.

Sept. 22, 2010: NGFA Feed Legislative and Regulatory Affairs Committee; Feed Manufacturing and Technology Committee; Feed and Animal Agriculture Strategic Issues Committee
Chicago Marriott Magnificent Mile, Chicago, Ill.

Sept. 22-24, 2010: NGFA-PFI Feed/Pet Food Joint Industries Conference
Chicago Marriott Magnificent Mile, Chicago, Ill.

Dec. 5-7, 2010: NGFA Country Elevator Conference & Trade Show
Marriott Indianapolis, Indianapolis, Ind.

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

NGFA Elects Members to Board of Directors

NGFA members elected the following 15 industry leaders to serve three-year terms on its 60-member Board of Directors during the organization's 114th annual convention conducted March 3-5:

Martin J. Anderson .... president, GrainStore Elevators, Galesburg, Ill.
Alan Brewer .... vice president, North American health and nutrition, Evonick Degussa Corp., Kennesaw, Ga.
Paul DeBruce .... chief executive officer, DeBruce Grain Inc., Kansas City, Mo.
Scott Dubbelde .... general manager, Farmers Cooperative Elevator Co., Hanley Falls, Minn.
Ken Eckhardt .... vice president, commodities and energy, Aventine Renewable Energy Inc., Pekin, Ill.
Joe Neal Hampton .... president, Oklahoma Grain and Feed Association, Enid, Okla.
Greg Konsor .... general manager, grain operations, Gavilon Grain LLC, Omaha, Neb.
Duane Madoerin .... merchandising manager, Gold-Eagle Cooperative, Goldfield, Iowa
Scott Mills .... vice president and feed grains manager, Lansing Trade Group LLC, Overland Park, Kan.
Robert Nawrot .... general merchandiser, Central States Enterprises Inc., Heathrow, Fla.
Hugh Parker .... director, commodities purchasing, Corn Products International Inc., Westchester, Ill.
Andrew Riffe .... marketing manager, Stratford Grain Co., Stratford, Texas
John Ripple .... general manager, Morrow County Grain Growers Inc., Lexington, Ore.
Jack Smit .... vice president and general manager, agribusiness, Furst-McNess Co., Freeport, Ill.
Randall Wuttke .... vice president, Farm City Elevator Inc., Darien, Wis.

NGFA Board Elects Members to Executive Committee

Members of the NGFA's Board of Directors subsequently elected the following 13 of its members to serve on the 18-member NGFA Executive Committee:

Kevin Adams .... president and chief executive officer, CGB Enterprises Inc., Mandeville, La.
Erik Anderson .... president, Louis Dreyfus Commodities, Wilton, Conn.
Gary Beachner .... chief executive officer and general manager, Beachner Grain Inc., St. Paul, Kan.
Rick Browne .... senior vice president, grain, CHS Inc., St. Paul, Minn.
Rick Calhoun .... vice president, Grain and Oilseed Supply Chain North America, Cargill Inc., Minneapolis, Minn.
Sharon Clark .... vice president, transportation, Perdue AgriBusiness Inc., Salisbury, Md.
Paul DeBruce .... chief executive officer, DeBruce Grain Inc., Kansas City, Mo.
Scot Hillman .... chief executive officer, J.D. Heiskell & Co., Tulare, Calif.
Craig Huss .... vice president, transportation and grain, Archer Daniels Midland Co., Decatur, Ill.
Greg Konsor .... general manager, grain operations, Gavilon Grain LLC, Omaha, Neb.
Steve Nail .... president and chief executive officer, Farmers Grain Terminal Inc., Greenville, Miss.
Gary Olsen .... group vice president, grain, Ag Processing Inc., Omaha, Neb.
Eric Wilkey .... president, Arizona Grain Inc., Casa Grande, Ariz.

In addition, serving on the NGFA's Executive Committee by virtue of their office are:

NGFA Chairman **Hal Reed** .... president, Grain and Ethanol Group, The Andersons Inc., Maumee, Ohio
NGFA First Vice Chairman **David Hoogmoed** .... executive vice president, Land O'Lakes Inc., and chief operating officer for feed for the company's Land O'Lakes Purina Feed LLC business unit, Shoreview, Minn.
NGFA Second Vice Chairman **Bailey Ragan** .... vice president and general manager, Bunge Grain Bunge North America, St. Louis, Mo.
Immediate Past Chairman **Tom Coyle** .... general manager, Nidera North American Grain and Oilseeds, Chicago, Ill.
NGFA President **Kendell W. Keith** .... Washington, D.C.

Newsletter

by Charles M Delacruz
Counsel for Public Affairs
E-Mail: cdelacruz@ngfa.org

Changes to NGFA Trade Rules, Arbitration Rules Approved

At its meeting on March 5, the NGFA Board of Directors considered and approved four separate sets of amendments to the NGFA Trade Rules and Rail Arbitration Rules.

Pursuant to the NGFA Bylaws, each of the changes take effect 30 days thereafter – on April 4 – and are subject to ratification by the NGFA membership at the next annual business meeting in March 2011 at the NGFA's convention in San Diego, Calif. The changes were recommended by the NGFA Trade Rules Committee and Rail Arbitration Rules Committee, respectively.

The changes to the NGFA Trade Rules adopted by the Board of Directors were as follows:

- **Claims for Damages by Breaching Parties:** The NGFA Board approved changes that had been the focus of extensive review by the Trade Rules Committee, including by a special designated task force for more than a year in response to issues potentially arising from claims for damages based upon shifts in market prices by a party in breach (default) of a contract.

  The Trade Rules Committee first addressed the issue several years ago, concluding that the NGFA's Trade Rules did not anticipate that a defaulting party whose contract is canceled and closed out "in the money" would be entitled to any net monetary benefit from the cancellation. The committee decided at that time that the rule's intent was sufficiently ascertainable. But after various subsequent developments and inquiries within the industry, the Trade Rules Committee appointed a task force to consider implications for the Trade Rules and Arbitration System, and to formulate a clarification for the rules. Input from other NGFA committees, including NGFA's Legal Council, was solicited, and the task force considered various comparable provisions in other sets of rules and standards. Over multiple telephone conferences, the task force also considered legal issues and other implications on contracting practices beyond the traditional scope of the Trade Rules.

  The recommendation of a majority of the Trade Rules Committee – approved unanimously by the NGFA Board of Directors – adds the following provision under Grain Trade Rule 28(D); Feed Trade Rule 19(C); Barge Freight Trading Rule 14(C); and Secondary Rail Freight Trading Rule 9(D): *"This rule does not permit compensation to the defaulting party to a contract."*

- **NGFA Feed Trade Rule 18(A) *[Condition Guaranteed Upon Arrival]*:** The NGFA Board also adopted a recommendation of the Trade Rules Committee to address *"flowability"* as it applies to NGFA Feed Trade Rule 18(A) [Condition Guaranteed Upon Arrival]. The Feed Trade Rules Subcommittee and the full Trade Rules Committee had been considering the topic for several years, and concluded at the outset that the term *"flowability"* was used widely by the industry as a criterion for accepting or rejecting distillers grains upon arrival. However, the Feed Trade Rules Subcommittee and full Trade Rules Committee determined that the term "*flowable*" – like terms such as *"cool, sound and sweet"* – was not quantifiable; no standardized procedures existed to handle cars rejected for flowability issues. Further, current expectations in the industry were that reporting of "hard" cars by buyers should be aligned with reporting requirements for other quality-related factors.

  Various proposals to amend the rule were considered over the last several meetings of the Trade Rules Committee. The proposal ultimately recommended by the committee (by majority) – and subsequently approved by the Board (by majority) was as follows *[additions boldfaced and underscored]*:

  *"Shipment on contracts shall be guaranteed by the Seller to arrive at final destination, cool, sound and sweet, free of objectionable extraneous material and **shipment must discharge from conveyance without excessive or unsafe action**, with the following exception: When shipments are ordered to a reconsignment point ..."*

- **Secondary Rail Freight Trading Rule 6 *[Advice of Schedules]*:** The NGFA Board also adopted a recommendation from the Trade Rules Committee based upon a review of a special task force assigned to monitor and consider recommendations for the Secondary Rail Freight Trading Rules. Specifically, the task force reviewed Secondary Rail Freight Trading Rule 6 *[Advice of Schedules]* to determine whether clarifications were warranted to provide for verbal communications, which are customary in the trade. Based upon the task force's findings, the Trade Rules Committee recommended and the Board approved (by majority) the following change to paragraph (A)(1) [Application of Shuttle Freight] of Rule 6 *[additions boldfaced and underscored]*:

  *The Seller shall furnish the identifying number(s) and identity of the shuttle trip owner to the Buyer for the unit/freight by 12 noon, Central Time. **Application including all pertinent shuttle information is defined as a phone call from the Seller to the Buyer.** The Buyer shall notify the Seller of acceptance or rejection of application by 2 p.m., Central Time. In the case of rejection, the last Buyer shall also notify the shuttle trip owner by 2 p.m., Central Time. Acceptance*

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by Charles M Delacruz
Counsel for Public Affairs
E-Mail: cdelacruz@ngfa.org

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shall be defined as transfer of shuttle trip ownership or naming of a loading origin. Application many not be given on Saturdays, Sundays and legal holidays.

The change adopted by the NGFA Board to the Rail Arbitration Rules was as follows:

- **Commodities Subject to NGFA Rail Arbitration:** Under Rail Arbitration Rule 2(c), the disputes for which a party is obligated to arbitrate include an extensive list of commodities designated by Standard Transportation Commodity Classification (STCC) Codes. Under NGFA Rail Arbitration Rule 5, amendments to these rules are required to be approved by the Rail Arbitration Rules Committee before being considered by Board.

The Board adopted a recommendation of the NGFA Rail Arbitration Rules Committee to add the following two commodities to the list of those subject to NGFA Rail Arbitration.

"STCC	Description…
20-143	grease/inedible tallow
20-511	*bakery products … "*

Changes to NGFA Trade Rules Ratified by Membership: In addition, the NGFA's membership during the annual business meeting on March 5 ratified changes to the NGFA Grain Trade Rules, Feed Trade Rules, Barge Freight Trading Rules and Secondary Rail Freight Trading Rules striking references to phrases that could be misinterpreted as restricting the parties to a contract from altering application of any or all of the Trade Rules to their contracts.

The phrases stricken from each set of the Trade Rules were those that stated, *"unless otherwise agreed…" and "in no case shall…"* The changes had been recommended by the NGFA Trade Rules Committee and had been approved by the NGFA Board at its March 31, 2009 meeting. Each of the changes were distributed to NGFA Active, Rail Associate/Trading and Affiliated Association members on Feb. 3 as part of the announcement of the 2010 annual business meeting.

NGFA Trade Rules and Arbitration Rules Booklet to Be Revised: Each of these changes will be incorporated into a new, updated ***NGFA Trade Rules and Arbitration Rules Booklet*** that will be published in April. The changes also will be incorporated soon into the NGFA Trade Rules and Arbitration Rules posted on the NGFA website at www.ngfa.org. The NGFA will notify members when the new booklet is available for purchase.

NGFA, NAEGA Issue Policy Priorities for 2010

During the NGFA's 114th annual convention, the NGFA and North American Export Grain Association (NAEGA) unveiled a 10-page document containing their joint "Growth and Competitiveness" policy priorities for 2010.

"Legislative challenges confronting the industry in 2010 are big, daunting and more diverse than seen in many years," the organizations said. "Topping the list is climate-change legislation and its cap-and-trade provisions, which as currently written in the House-passed bill would divert 35 million acres of U.S. cropland into forest by 2050 – certainly not a boon for the long-term success and vitality of U.S. agriculture."

Also on the top list of policy priorities for the NGFA and NAEGA, many of which the two group are playing a leadership role, are:

- Legislation that would reform the financial regulatory system, which may have ramifications for market speculation, commercial hedging, derivatives and the role of the Commodity Futures Trading Commission.
- Food and feed safety legislation.
- Rail reform legislation and waterway infrastructure development.
- Restrictions on mandatory arbitration agreements in contracts.
- Legislation that would ease rules governing the unionization of workplaces.
- Support for international trade agreements and fostering sound, trade-supportive policies and commercial practices for addressing export quality, plant health and product safety matters.
- Reforming the Conservation Reserve Program.
- Developing prudent policies to address biotechnology-enhanced commodities that have different functional properties than their conventional counterparts to prevent disruptions to commercial trade.
- Encouraging continued steps to enhance futures market performance and convergence.
- The future of biofuels policies.
- Addressing critical safety, health and environmental standards.

The document is used widely by the NGFA and NAEGA in public policy work with Congress, federal agencies and other organizations. Members receiving the ***NGFA Newsletter*** electronically may access the document by clicking here.

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

U.S. Trade Representative Outlines Obama Administration's 2010 Trade Policy Agenda

U.S. Trade Representative Ron Kirk outlined the Obama administration's trade policy agenda for 2010, in which he restated the president's goal of doubling U.S. exports in the next five years to support 2 million additional U.S. jobs.

In submitting the report to Congress, which is required March 1 each year, Kirk said the 2010 trade agenda will support the president's National Export Initiative by pursuing new market access and trade enforcement as part of what he called a "broader strategy that seeks to strengthen the global trading system and reflect American values…."

During a March 3 hearing conducted by the Senate Finance Committee, Kirk said that working to resolve "outstanding issues" the administration has with the free trade agreements negotiated by the Bush administration with South Korea, Panama and Colombia "is a priority...so we can move forward."

But Kirk was challenged by both Finance Committee Chairman Max Baucus, D-Mont., and ranking member Sen. Charles Grassley, R-Iowa, for a seeming lack of urgency in submitting those accords to Congress for ratification. "…[W]e should approve our pending trade agreements," Baucus said unequivocally, noting that South Korea is America's seventh largest trading partner, Colombia is the United States' largest agricultural market in South America and Panama is a center of global commerce. "We must address the remaining obstacles to these agreements. But we must also recognize the consequences of delay. Our competitors are signing trade deals that will put our farmers and businesses at a competitive disadvantage unless we act." Baucus noted that the U.S. International Trade Commission estimates the three trade accords, once implemented, would increase U.S. exports by approximately $12 billion annually.

Baucus also noted the "ambitious" goal of doubling U.S. export volumes in five years would require exports to grow nearly 15 percent annually – almost double the yearly average since 1960. In addition to ratifying existing trade agreements, Baucus urged increased U.S. government support for export promotion; pursuing negotiations for a new Trans-Pacific Partnership accord; completion of an "ambitious" Doha Round agreement under the World Trade Organization; enforcing existing trade agreements; and incorporating strengthened, bipartisan labor and environmental protections into future trade agreements, which he noted already had been done in the pending accords with South Korea, Colombia and Panama.

Meanwhile, Grassley cited the seeming "disconnect" between the administration's launch of negotiations to create a Trans-Pacific Partnership Agreement and the "apparent" lack of urgency to resolve outstanding issues cited by the administration in the South Korean, Colombian and Panama accords. "South Korea already has concluded a trade agreement with the European Union, and Colombia reportedly has just done the same," Grassley warned. "Such erosion to global U.S. competitiveness concerns me."

USDA Unveils 'New' Strategy for U.S. Agricultural Export Growth: In a related development, Secretary of Agriculture Tom Vilsack on March 5 discussed what he called a "new roadmap" for U.S. agricultural trade. Vilsack said that while USDA traditionally tailored its export programs by geographic region, the new strategy will examine countries based upon their "position on an agricultural market continuum, which enables tailored strategies to increase exports to each individual market." Among the segments of the continuum identified by Vilsack were "fragile markets/food security states," "potential growth markets," "restricted-access markets," "rapid-growth markets" and "developed country markets." He maintained that the new strategy will "improve collaboration among USDA agencies and guide priorities for international staffing, foreign assistance and agricultural research."

As examples, Vilsack said USDA programs for "potential growth markets" will emphasize building the institutional and human capacity needed to support increased trade. Meanwhile, the strategy for "restricted-access markets" will focus on removing trade barriers. In "rapid-growth markets," Vilsack said the administration will emphasize using a "full range of programs to build trade capacity, remove trade barriers and develop new markets for U.S. products."

Elements of Obama Administration's 2010 Trade Agenda: As submitted to Congress, the Obama administration's 2010 trade agenda contains the following elements:

- **Support, Strengthen Rules-Based Trading System:** The United States "strongly supports an ambitious and balanced Doha agreement that liberalizes three core market-access areas: agriculture, goods and services," the document states.
- **Enforce U.S. Rights in Rules-Based Trading System.** In 2010, USTR said it plans to strengthen further its trade agreement monitoring and enforcement efforts, bringing cases at the WTO if necessary. "We will increase focus on non-tariff barriers that hinder U.S. exports," the plan states. "We will fully enforce labor and environmental rights in trade agreements."
- **Enhance U.S. Economic Growth, Job Creation and Innovation:** The plan notes that "deeper engagement" with major emerg-

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International Trade

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

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ing markets is critical for U.S. trade prospects and the realization of trade's benefits in terms of economic growth, job creation and American innovation. "We will emphasize bilateral relations with such markets, as well as with long-standing key partners, and will pursue regional engagement, particularly the president's intention to negotiate a Trans-Pacific Partnership Agreement to access key markets in the Asia-Pacific…," the trade agenda states.

- **Work to Resolve Outstanding Issues with Pending Free Trade Agreements and Build on Existing Agreements:** The administration's 2010 trade agenda states that "proper resolution and implementation" of the pending free trade agreements with South Korea, Colombia and Panama "can bring significant economic benefits." The plan further states that the administration in 2010 "will continue to consult with Congress and the public, and to engage with these nations to address outstanding issues. We will also strengthen relationships with current partners such as Canada, Mexico, Japan and the European Union, and seek to maximize returns on the economic opportunities of existing agreements."

- **Facilitate Progress on U.S. Energy and Environmental Goals:** The trade agenda document states that "good trade policy can accelerate the success of sound energy and environmental initiatives, and can complement sustainable growth." The administration said it supports "fast-tracking action with willing partners in the WTO's work on liberalizing trade in innovative, climate-friendly goods and services through tariff reductions and other initiatives."

- **Foster Stronger Partnerships with Developing and Poor Nations:** The administration said it was committed to expanding trade opportunities with least-developed nations. "Opportunities created by open markets and preferences, such as the Generalized System of Preferences, require complementary measures, such as technical assistance, and market-based and rule-of-law reforms…to maximize benefits," the document states.

- **Reflect U.S. Values in Trade Policy:** The administration pledged that USTR would "consult with Congress partner with small businesses, continue innovative outreach with new media tools, and widen the scope of stakeholder input to ensure as broad a cross-section of views as possible, consistent with (the) goals of openness in government."

Membership Matters

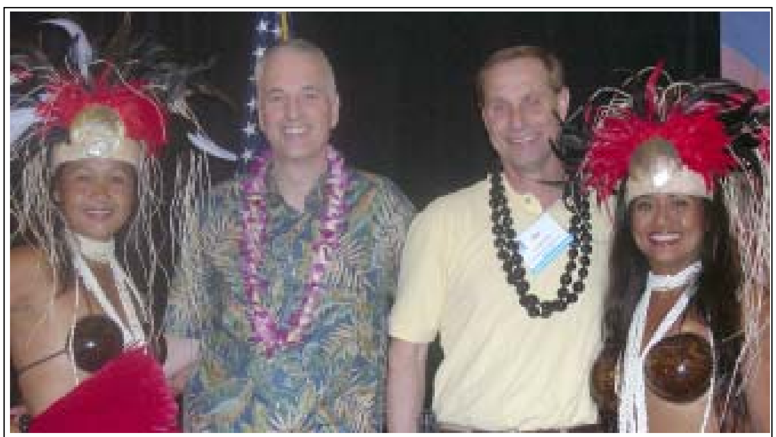
by Todd Kemp
Director of Marketing/Treasurer

("Membership Prizes" continued from page 12)

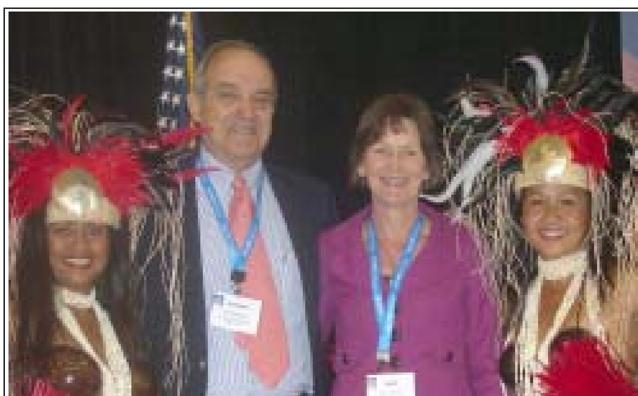
from former NGFA Membership Committee Chairman Ashmead Pringle, president of Grain Service Corp., Atlanta, Ga. Pringle delivered brief remarks thanking Nootbaar and recognizing the importance of membership recruiting to the NGFA.

- **Grain Service Corp. Cash Prizes:** In addition to awarding the Nootbaar Prize, Pringle generously donated four cash prizes of $500 and $250 to additional recruiters entered in the Nootbaar Prize drawing. Winners were **Ray Keating**, Center Ethanol, Sauget, Ill.; **Scotty McCoy**, White Commercial Corp.; **Diana Klemme**, Grain Service Corp., and **JoAnn Brouillette**, Demeter LP, Fowler, Ind.

Visit www.ngfa.org for a photo gallery of the NGFA Membership Awards!



Steve Strege and the North Dakota Grain Dealers Association were among the winners in the affiliated association, individual and Nootbaar Prize competition. Accepting the awards is Dan DeRouchey (third from left), Berthold Farmers Elevator, Berthold, N.D. Presenting the award is NGFA Membership and Marketing Committee Chair Mark Avery, publisher, Grain Journal, Decatur, Ill.



Grain Service Corp. offered cash prizes of $500 and $250 to additional recruiters entered in the Nootbaar Prize drawing. Ashmead Pringle congratulates winner JoAnn Brouillette, Demeter LP, Fowler, Ind.

Membership Matters

by Todd Kemp
Director of Marketing/Treasurer

Major Membership Prizes Awarded at NGFA Annual Convention

The NGFA's membership recruiters were awarded major travel and cash prizes during the Membership Awards Ceremony at the NGFA's 114th annual convention in Maui, Hawaii.

Emceed by Membership and Marketing Committee Chairman Mark Avery, publisher of ***Grain Journal***, Decatur, Ill., ably assisted by two lovely hula dancers, the awards culminated another successful membership recruiting year.

Major prizes awarded were as follows:

- **Affiliate Competition – "Greatest Percentage Increase": North Dakota Grain Dealers Association (NDGDA)**. Dan DeRouchey, Berthold Farmers Elevator, Berthold, N.D., accepted the award on behalf of the NDGDA, which will receive a traveling plaque to display for the coming year.
- **Affiliate Competition – "Most Total Points": Texas Grain and Feed Association.** Benjamin Smith, Attebury Grain Co., Amarillo, Texas, accepted on behalf of the TGFA, which also will receive a traveling plaque to display over the next year.
- **Individual Competition – Third Place: Scotty McCoy, White Commercial Corp.**, Sandersville, Ga., signed up seven new member companies to claim third place! One of McCoy's recruits, Dave Danker of Buchheit Inc. in Perryville, Mo., accepted the "Vegas Vacation" prize on his behalf. Sponsored by Arizona Grain Inc., Casa Grande, Ariz., and Demeter LP, Fowler, Ind., the prize includes airfare for two to Las Vegas and two nights' accommodations.
- **Individual Competition – Second Place: Steve Strege, executive vice president, North Dakota Grain Dealers Association**, Fargo, N.D., sponsored five new member companies to win the "Frisco Frolic" prize. The prize consists of airfare for two to San Francisco, Calif., and two nights' accommodations, sponsored courtesy of Penny-Newman Grain Co., Fresno, Calif., and R.J. O'Brien, Chicago, Ill.
- **Individual Competition – Grand Prize: Terry Knudson, Ag First Farmers Cooperative, Brookings, S.D.,** won the "Cancun Get-Away" prize, consisting of airfare for two to Cancun and two nights' accommodations. Accepting the prize on Knudson's behalf was Kathy Zander, executive director, South Dakota Grain and Feed Association, Aberdeen, S.D. Thanks to sponsor The Greenbrier Companies, Antioch, Ill.
- **Nootbaar Prize – $1,000 Cash Prize:** Endowed by past NGFA President Herb Nootbaar, this annual prize is awarded through a random drawing in which all successful NGFA recruiters over the past year are entered. Once again, **Steve Strege** emerged victorious. Accepting again on Steve's behalf was Dan DeRouchey, who received congratulations

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National Grain and Feed Association
1250 Eye St., N.W., Suite 1003
Washington, D.C. 20005-3922

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