Iowa Court of Appeals rules in favor of contract feeder who purchased custom feeding insurance policy endorsement, but further appeal is pending

by Eldon McAfee, IPPA legal counsel

On Nov. 23, 2011 the Iowa Court of Appeals ruled in favor of a contract feeder and ordered the feeder's insurance company to provide coverage for pig losses under a contract feeding endorsement to the feeder's farm liability policy. In the case of Dale and Nancy Boelman v. Grinnell Mutual, the court found that the policy language was ambiguous. Accordingly, long-standing legal precedent established by Iowa courts required the Appeals Court to interpret the ambiguous provisions in the policy to provide coverage for the contract feeder. A copy of the court's decision can be found at http://www.iowacourts.gov/court_of_appeals/Recent_Opinions/20111123/1-721.pdf.

This decision is now under further review by the Iowa Supreme Court at Grinnell Mutual's request.

The Boelmans fed hogs under a contract nursery agreement for Budke Farms. In October of 2008, 535 feeder pigs died from suffocation in the Boelmans' hog building. The Boelmans were liable to the Budkes for $24,075 for the loss. Grinnell Mutual denied Boelmans' claim under their farm liability policy for the loss. The Boelmans then filed a lawsuit in Butler County District Court for their loss and Grinnell counterclaimed, asking the court to rule that there was no coverage.

As previously discussed in the March 2011 issue of Iowa Pork Producer ("Contract Feeders Need to Pay Special Attention to Insurance"), cases where farm liability coverage is denied for pig suffocation loss by contract feeders are not unusual. Normally, the denial is under the standard farm liability policy exclusion for losses from property under the "care, custody and control" of the insured. The premise for this exclusion is that there should only be liability insurance coverage when the person who caused the loss of property owned by someone else is not in control of that property when the loss occurs. However, the more unusual and troubling aspect of this case, and several other recent situations as discussed in the March 2011 article, is that the Boelmans were aware that they would not have coverage under their standard policy and purchased a custom feeding endorsement.

Despite this specific policy rider for custom feeding, Grinnell Mutual denied coverage and argued in court that other provisions in the policy negated coverage under the custom feeding endorsement for the pig losses due to suffocation. The problem, according to Grinnell Mutual, was that other sections of the policy excluded coverage for damage to property in the "care, custody or control" of the Boelmans and that Grinnell Mutual was not obligated to provide coverage for "custom farming." The Boelmans, on the other hand, pointed to the custom feeding endorsement they had bought for the custom hog feeding operation. The language of that endorsement specifically provided coverage for losses from the care or raising of livestock by the Boelmans that was owned by someone else and being fed under a written or oral agreement.

In the decision, the court first characterized Grinnell Mutual's arguments as gutting the endorsement that the Boelmans had paid a premium for and would "withdraw with the policy's left hand what is given with its right." The court went on to note that the policy language could reasonably be interpreted either way but that it was ruling for the Boelmans' since Grinnell Mutual had complete control over the language in the policy. The court stated:

> "It was Grinnell Mutual's duty to define any limitations or exclusionary clauses in clear and explicit terms. It could have clearly and explicitly stated in its custom feeding endorsement that, despite purchase of the endorsement, property damage to property in the insureds' care, custody, or control, i.e., the pigs in this case, was not covered under Coverage A. It did not. Similarly, Grinnell Mutual could have clearly and explicitly stated in the endorsement that property damage arising out of "custom farming" was not covered under Coverage A-1. It did not."

As previously noted, this case and others like it are particularly troubling because the contract feeder took the right step in getting coverage for contract feeding. If the insurance company did not intend for the policy to cover losses from contract feeding, the policy should have been written more clearly as the court noted and/or the contract feeder should have been expressly advised when the policy endorsement was purchased that there was no coverage due to other exclusions in the policy. No matter who ultimately prevails in court, the contract feeder, as well as the insurance company, have paid and continue to pay attorneys fees and the business relationship between the contract feeder and the insurance company has obviously suffered. As often happens in a legal dispute, nobody really wins.