



DIRECTION OF COMPLIANCE

Issued To: Saskatchewan Wheat Pool

RE: Saskatchewan Wheat Pool/Grain Services Union (I.L.W.U.) Pension Plan
(Hereinafter referred to as "Plan")

I am of the opinion that Saskatchewan Wheat Pool (SWP) has not complied with the *Pension Benefits Standards Act, 1985* ("PBSA" or "Act") and its Regulations and, in respect of the Plan, is acting in a manner that is contrary to safe and sound financial or business practices by (1) not remitting the full amount of the prescribed payments to the fund in order to bring the Plan into compliance and (2) not keeping this amount separate and apart from its own assets.

I have arrived at this decision and I am taking this action based on information respecting the terms and background of the Plan, the Plan's supporting documentation, and after considering the requirements of the PBSA, the *Pensions Benefits Standards Regulations, 1985* ("PBSR"), the context of the provisions of the PBSA and PBSR in the scheme of the Act, as well as the purpose of the legislation and the objects of the Office of the Superintendent of Financial Institutions ("OSFI") as set out in the *Office of the Superintendent of Financial Institutions Act* (the "OSFI Act") R.S. 1985, c.18 (3rd Supp.). I have also reviewed and considered the written representations made on behalf of SWP and the Grain Services Union.

SWP is the only employer participating in the Plan. The Plan was established in respect of employment with SWP and is subject to the PBSA. The *Actuarial Valuation Report as at December 31, 2005*, filed with OSFI determines the amounts that are required to be remitted to the Plan. For the nine-month period ending September 30, 2006, the amount owed to the Plan fund is approximately \$8.6 million, comprising of \$2.1 million in current service cost and \$6.5 million in solvency special payments. The amounts owed must be remitted to the Plan fund within 30 days after each period end. OSFI has received confirmation on November 16, 2006, from the Plan fund custodian that for the above period, the custodian received \$1.8 million from SWP. Therefore, according to information filed or obtained by OSFI, the amount owed to the Plan fund for the nine-month period ending September 30, 2006, that is late and outstanding is approximately $(\$8.6 - \$1.8 =) \$6.8$ million.

Pursuant to subsection 9(1) of the PBSA, a pension plan must provide for funding in accordance with the prescribed tests and standards for solvency that is adequate to provide for payment of all pension benefits and other benefits to be paid under the terms of the plan. Subsection 9(14) of the PBSR specifies when payments must be made to the plan's fund. Paragraphs 9(14)(a) and (b) require, amongst other matters, that the normal cost and special payments of the plan shall be paid and the contributions of employees be remitted to the administrator within the time periods set out in those paragraphs. Paragraph 9(14)(d) of the PBSR, 1985 stipulates that the administrator must forthwith pay into the fund any amount remitted to the administrator.

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It is my opinion that SWP has not remitted the required payments to the Plan's fund to ensure that the Plan meets the prescribed standards and tests for solvency that are adequate to provide for payment of all pension benefits and other benefits required to be paid under the terms of the Plan. It is my understanding that SWP has not remitted payments beyond the minimum amount set out in the Plan.

Section 8 of the PBSA provides, in part, that an employer shall ensure that an amount equal to the payments prescribed by the regulations and other amounts due to the pension fund from the employer, that have not been remitted to the pension fund, are kept separate and apart from its own monies and shall be deemed to hold these amounts in trust for the members of the pension plan, former members and any other persons entitled to pension benefits or refunds under the plan. SWP has not taken steps to ensure that the amounts described in subsection 8(1) have been remitted to the pension fund and have not shown that it has taken the necessary steps to keep these amounts separate and apart from its own assets.

I am therefore of the opinion that SWP has not acted in compliance with the PBSA, the PBSR, or the Plan. In addition, I am of the opinion that by not remitting the required payments to the pension fund, SWP is committing and is about to commit or pursue an act or course of conduct that is contrary to safe or sound financial or business practices in respect of the Plan.

Accordingly, pursuant to section 11 of the PBSA, I direct that SWP remit on or before November 30, 2006, the amounts that are now owed and outstanding to the Plan fund and continue to remit or pay to the Plan fund the amounts that are sufficient to meet the current service costs and special payments determined in, or that can be determined from, the *Actuarial Valuation Report as at December 31, 2005* and subsequent actuarial reports filed with OSFI.

This Direction is effective immediately and will remain in effect until I notify you that I am satisfied that there are sufficient grounds for revoking this Direction.

Directions issued pursuant to section 11 are subject to enforcement in Federal Court of Canada under the provisions of section 33.1 of the PBSA. In addition, non-compliance of a direction is an offence pursuant to section 38 of the PBSA. A copy of these provisions of the [Act](#) is attached for your convenience.

Dated at Ottawa, Ontario this 20th day of November 2006.

Julie Dickson
Acting Superintendent