



U.S. Department of Agriculture



Office of Inspector General  
Western Region

# **Audit Report**

## **Risk Management Agency Prevented Planting Payments For Cotton Due to Failure of the Irrigation Water Supply in California and Arizona Crop Year 2003**

Report No. 05099-11-SF  
November 2005

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UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250



November 9, 2005

REPLY TO

ATTN OF: 05099-11-SF

TO: James Callan  
Acting Administrator  
Risk Management Agency

ATTN: Michael Hand  
Deputy Administrator  
Risk Compliance

FROM: Robert W. Young /s/  
Assistant Inspector General  
for Audit

SUBJECT: Prevented Planting Payments For Cotton Due to Failure of the Irrigation  
Water Supply in California and Arizona – Crop Year 2003

This report presents the results of our audit of prevented planting payments for cotton in California and Arizona for crop year<sup>1</sup> (CY) 2003. Our review focused on “failure of the irrigation water supply” as a cause of loss. Our objective was to evaluate the effectiveness of the Risk Management Agency’s (RMA) controls to ensure that cotton producers who may have sold all or part of their water service rights complied with the prevented planting provisions. We found that none of the cotton producers in our sample improperly sold their water service rights, and nothing came to our attention to indicate that the pertinent controls were not operating as prescribed. However, four cotton producers in California did not meet program eligibility requirements and should not have received payments totaling \$96,489.

### **BACKGROUND**

In 1996, RMA was established as an independent agency to supervise the Federal Crop Insurance Corporation, providing administration and oversight of programs authorized under the Federal Crop Insurance Act. RMA works closely with reinsured companies to implement the crop insurance program and is responsible for developing, reviewing, and approving crop insurance plans.

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<sup>1</sup> According to the Loss Adjustment Manual Standards Handbook, “the period within which the insured crop is normally grown, regardless of whether or not it is actually grown, and designated by the calendar year in which the insured crop is normally harvested.”

Prevented planting, one of the provisions in RMA's crop insurance policies, provides valuable coverage to producers when drought prevents expected plantings. If a water provider stops supplying water to producers after crops have been planted, the producers are eligible for payments if they had a reasonable expectation of receiving sufficient irrigation water on the planted acreage at the time of planting. If a portion of the diversion is due to an insured cause of loss (i.e., failure of the irrigation water supply) and a portion is due to uninsured causes, then only the portion attributable to the insured causes can be paid.

Most agricultural acreage has historical contract water service rights attached to it, specifying the right to a certain amount of water from the water district in which the acreage is located. In cases of drought, the water district allocates water to district users based on each user's total acreage. As water information becomes available, water districts notify district users about anticipated water allocations throughout the year.

### **OBJECTIVE**

The audit objective was to evaluate the effectiveness of RMA's controls to ensure that cotton producers who may have sold all or part of their water service rights complied with the prevented planting provisions.

### **SCOPE**

Our scope was prevented planting payments for cotton in Arizona and California where the cause of loss was failure of the irrigation water supply in CY 2003. We selected Arizona because it received about 55 percent (\$5,216,485) of nationwide cotton prevented planting payments (\$9,526,683). We selected California because it received the second highest payments within the Office of Inspector General's Western Region, with approximately 5 percent (\$459,375) of the total payments nationwide.

For Arizona, we selected Pinal County because it had the highest amount of prevented planting payments, and we judgmentally selected ten producers who received the highest indemnity claims in the county. For California, we reviewed all four<sup>2</sup> cotton producers, located in Fresno, Kern, and Kings Counties, who received prevented planting payments for failure of the irrigation water supply.

Audit fieldwork was conducted from November 2004 through January 2005 at the RMA National Office located in Washington, D.C.; the RMA Western Regional Compliance Office (WRCO) and RMA Regional Office located in Davis, California; and various irrigation authorities and crop insurance providers in California and Arizona. The audit was performed in accordance with generally accepted government auditing standards.

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<sup>2</sup> Six producers received payments for "failure of the irrigation water supply;" however, two producers were incorrectly keyed into the database as "failure of the irrigation water supply" when the cause of loss should have been "cold wet weather."

## **METHODOLOGY**

To accomplish our objectives, we performed the following procedures:

- Interviewed RMA officials to gather general information on prevented planting policies and procedures.
- Met with an official from the Office of the General Counsel to discuss the propriety of prevented planting payments to producers who sold their water service rights.
- Interviewed officials at eight water irrigation districts in California and Arizona to determine: (1) how irrigation districts allocate water to their producers, (2) if a database exists of all producers in the district who sold their water service rights, and (3) if the insurance companies coordinate with irrigation districts to obtain documentation regarding producers selling their water service rights.
- Contacted three crop insurance providers and obtained the applicable claim/policy files for selected producers who filed prevented planting claims for failure of the irrigation water supply in California and Arizona in CY 2003.
- Met with the representative of one crop insurance provider to discuss prevented planting claims.
- Met with three crop insurance agents and one adjuster who explained their roles during the prevented planting process.

## **FINDING**

In California, two insurance providers made improper payments to four cotton producers who were ineligible to receive prevented planting payments in CY 2003. This occurred because the insurance providers did not verify whether the producers were eligible to claim losses due to failure of the irrigation water supply. As a result, the four producers were improperly paid \$96,489 in prevented planting indemnity payments. (See exhibits A and B.)

The Prevented Planting Loss Adjustment Standards Handbook<sup>3</sup> (Handbook) states that “prevented planting payments are provided if the insured was prevented from planting the insured crop due to an insured cause of loss that is general in the surrounding area and that prevents other producers from planting acreage with similar characteristics.” In addition, in a Final Agency Determination,<sup>4</sup> RMA discusses the term “area:” “RMA agrees that the term ‘area’ is subject to multiple reasonable interpretations and the

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<sup>3</sup> FCIC-25370 (PP), Section 4(c) (2), dated September 2002.

<sup>4</sup> FAD-012, dated February 27, 2002.

determination of ‘area’ may vary from case to case. However, RMA believes that the area must be defined by the cause of loss.”

Although 1,057 cotton policies were active in 2003 in Fresno, Kern, and Kings Counties, only 4 producers received prevented planting payments due to failure of the irrigation water supply. We determined that all four producers were ineligible for these payments because the cause of loss was not general in the surrounding area and it did not prevent other producers from planting acreage with similar characteristics. The specifics for these producers are as follows:

- Producer A was the only one of 125 producers in his water district—and the only policyholder in Fresno County, which covers 5,963 miles and had 613 cotton policies—to claim prevented planting due to failure of the irrigation water supply.
- Producer C was the only one of 94 producers in his water district—and the only policyholder in Kern County, which covers 8,171 square miles and had 274 cotton policies—to claim prevented planting due to failure of the irrigation water supply.
- Producers B and D were the only two of nine producers in their water district—and the only policyholders in Kings County, which covers 1,390 miles and had 170 cotton policies—to claim prevented planting due to failure of the irrigation water supply.

An official from the RMA regional office stated that there was not a lack of irrigation water in California during 2003 and agreed with our analysis that these claims were not general in the surrounding area. Subsequently, we contacted one of the insurance providers to determine why it made these payments. He was not able to provide us with an explanation for the improper payment.

#### Availability of Supplemental Water

One of the four producers (producer C) was also ineligible for his prevented planting payment because he could have purchased supplemental water from his water district at an additional cost.

The Handbook<sup>5</sup> states that “increased costs for water...from sources historically used by the insured are not considered insurable causes of loss under the policy. Any acreage for which the irrigation water supply has been reduced by the insured because of such increased costs is not insurable under an irrigated practice and no prevented planting payment may be made.”

Producer C’s insurance provider was unaware that supplemental water was available because its claims adjuster did not collect several notices issued by the water district.

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<sup>5</sup> FCIC-25370 (PP), Section 4(c) (2) (b6), dated September 2002.

These notices stated that allocation levels combined with supplemental water supplies would provide sufficient water to meet anticipated district needs in 2003.

We determined that producer C purchased supplemental water in each of the 3 prior years. Although supplemental water was also available for CY 2003, he did not purchase any. Therefore, we concluded that the producer should not have received any prevented planting payments. Refer to table 1 for producer C's historical supplemental water purchases.

**Table 1: Producer C's Supplemental Water Purchases Since CY 2000**

<b>Crop Year</b>	<b>Allocated Water (Acre-feet)</b>	<b>Supplemental Water Purchased (Acre-feet)</b>	<b>Total Water (Acre-feet)</b>	<b>Charges For Supplemental Water</b>
2000	4,882	257	5,139	\$ 18,652
2001	1,378	2,001	3,379	\$ 173,726
2002	3,012	1,147	4,159	\$ 74,120
2003	4,280	0	4,280	\$ 0

Based on the two issues discussed above, RMA should collect \$96,489 (\$37,536 from insurance provider 1 and \$58,953 from insurance provider 2) for improper payments made to the four producers. Furthermore, RMA should determine whether the producers, loss adjusters, and agents may have willfully and intentionally provided any materially false or inaccurate information to RMA and, if so, impose sanctions or other appropriate actions against such persons. RMA should issue a reminder to all insurance providers to inform their claims adjusters to collect all water notices to verify whether supplemental water was available to the insured. Lastly, RMA should instruct the insurance providers cited in this report to place the claims adjusters on notice for failure to comply with the policies and procedures in the loss adjustment handbook.

**Recommendation 1:**

Collect \$37,536 from insurance provider 1 for 2003 prevented planting payments due to failure of the irrigation water supply paid to producers A and B in California.

**Agency Response:**

RMA conditionally agreed with this recommendation pending further analysis and evaluation. If the Western Regional Compliance Office (WRCO) determines there is a monetary discrepancy in the indemnity payments for either producer, RMA will establish an accounts receivable and collect monies owed from the responsible insurance provider.

**OIG Position:**

We agree with RMA's corrective action. To achieve management decision, RMA needs to provide us with the results of its analysis, a copy of the bill for collection, and documentation that an accounts receivable for \$37,536 from insurance provider 1 was established for the 2003 prevented planting payments.

**Recommendation 2:**

Collect \$58,953 from insurance provider 2 for 2003 prevented planting payments due to failure of the irrigation water supply paid to producers C and D in California.

**Agency Response:**

RMA conditionally agreed with this recommendation pending further analysis and evaluation. If WRCO determines there is a monetary discrepancy in the indemnity payments for either producer, RMA will establish an accounts receivable and collect monies owed from the responsible insurance provider.

**OIG Position:**

We agree with RMA's corrective action. To achieve management decision, RMA needs to provide us with the results of its analysis, a copy of the bill for collection, and documentation that an accounts receivable for \$58,953 from insurance provider 2 was established for the 2003 prevented planting payments.

**Recommendation 3:**

Determine whether the producers, agents, and loss adjusters have willfully and intentionally misrepresented information or provided inaccurate information in the questioned loss claims, and impose the appropriate sanction or other actions against such persons.

**Agency Response:**

RMA conditionally agreed with this recommendation pending further analysis and evaluation. If the WRCO reviews of producers A through D disclose the producer, agent, or loss adjuster intentionally concealed or misrepresented any material fact relating to the policy, RMA will impose the appropriate remedial sanction(s).

**OIG Position:**

We agree with RMA's corrective action. To achieve management decision, RMA needs to provide us with the results of its analysis and, if appropriate, a timetable for any remedial sanctions to be taken or completed.

**Recommendation 4:**

Require the two insurance providers cited in the report to place the claims adjusters that processed the questioned claims on notice for failure to comply with the policies and procedures in the loss adjustment handbook.

**Agency Response:**

RMA conditionally agreed with this recommendation pending further analysis and evaluation. RMA stated that if the WRCO reviews of producers A through D disclose the responsible loss adjusters failed to follow policy and/or procedures outlined in the loss adjustment handbook, RMA's Reinsurance Services Division will direct the responsible insurance provider(s) to place the loss adjusters on notice. The insurance provider(s) will be directed to provide a copy of their notice to the Reinsurance Services Division.

**OIG Position:**

We agree with RMA's corrective action. To achieve management decision, RMA needs to provide us with the results of its analysis and, if appropriate, a timetable for any remedial actions to be taken or completed against the two claims (loss) adjusters.

**CONCLUSION AND REQUIRED AGENCY ACTION**

Your October 25, 2005, response to the draft report has been included as exhibit C of this report. We agree with your proposed corrective actions but are unable to reach management decision for Recommendations 1, 2, 3, or 4 for the reasons cited above.

Departmental Regulation 1720-1 requires a reply within 60 days describing the corrective action taken or planned and the timeframes for implementation of those recommendations for which management decision has not been reached. The regulation also requires a management decision to be reached on all recommendations within a maximum of 6 months from report issuance and final action to be taken within 1 year of the management decision.

We appreciate the assistance and cooperation of your staff during our review.

## **Exhibit A – Summary of Monetary Results**

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<b>Finding No.</b>	<b>Recommendation No.</b>	<b>Description</b>	<b>Amount</b>	<b>Category</b>
1	1	Insurance provider 1 made improper prevented planting payments to two producers who did not meet program eligibility requirements.	\$37,536	Questioned Costs – Recovery Recommended
1	2	Insurance provider 2 made improper prevented planting payments to two producers who did not meet program eligibility requirements.	\$58,953	Questioned Costs – Recovery Recommended
<b>TOTAL MONETARY RESULTS</b>			\$96,489	

## **Exhibit B** – Summary of Prevented Planting Payments

Exhibit B – Page 1 of 1

<b>Insurance Provider</b>	<b>Producer</b>	<b>Crop Year</b>	<b>Crop</b>	<b>Prevented Planting Acres</b>	<b>Payments</b>
<b>1</b>	<b>A</b>	2003	Cotton	40.7	\$13,206
			Cotton ELS	10.1	\$1,613
		<b>Subtotal</b>		<b>50.8</b>	<b>\$14,819</b>
	<b>B</b>	2003	Cotton	130.8	\$22,717
			<b>Subtotal</b>		<b>130.8</b>
		<b>TOTAL PAYMENTS</b>			
<b>2</b>	<b>C</b>	2003	Cotton	182.5	\$16,777
		<b>Subtotal</b>		<b>182.5</b>	<b>\$16,777</b>
	<b>D</b>	2003	Cotton	225.3	\$42,176
			<b>Subtotal</b>		<b>225.3</b>
		<b>TOTAL PAYMENTS</b>			
	<b>GRAND TOTAL</b>				

## Exhibit C – Agency Response

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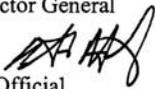


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TO: Robert W. Young  
Assistant Inspector General for Audit  
Office of Inspector General

FROM: Michael Hand   
Audit Liaison Official

SUBJECT: Office of Inspector General (OIG) Draft Audit Report 05099-11-SF  
Prevented Planting Payments

OCT 25 2005

Outlined below is the Risk Management Agency's (RMA) response to the subject report.

### **RECOMMENDATION NO. 1:**

**Collect \$37,536 from insurance provider 1 for 2003 prevented planting payments due to failure of the irrigation water supply paid to producers A and B in California.**

#### **RMA Response:**

We conditionally agree with this recommendation pending further analysis and evaluation of this matter. Within the next year, the RMA, Western Regional Compliance Office (WRCO) will open a case and review the crop year 2003 indemnity payments made to producers A and B. If the WRCO determines there is a monetary discrepancy in the indemnity payments for either producer, RMA will establish an accounts receivable and collect monies owed from the responsible insurance provider.

*RMA requests management decision for this recommendation.*

### **RECOMMENDATION NO. 2:**

**Collect \$58,953 from insurance provider 2 for 2003 prevented planting payments due to failure of the irrigation water supply paid to producers C and D in California.**

#### **RMA Response:**

We conditionally agree with this recommendation pending further analysis and evaluation of this matter. Within the next year, the RMA, WRCO will open a case and review the crop year 2003 indemnity payments made to producers C and D. If the WRCO determines there is a monetary discrepancy in the indemnity payments for either producer, RMA will establish an accounts receivable and collect monies owed from the responsible insurance provider.

*RMA requests management decision for this recommendation.*



## Exhibit C – Agency Response

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### RECOMMENDATION NO. 3:

**Determine whether the producers, agents, and loss adjusters have willfully and intentionally misrepresented information or inaccurate information in the questioned loss claims, and impose the appropriate sanction or other actions against such persons.**

#### RMA Response:

We conditionally agree with this recommendation pending further analysis and evaluation of this matter. If the WRCO reviews of producers A through D disclose the producer, agent, or loss adjuster intentionally concealed or misrepresented any material fact relating to the policy, RMA will impose the appropriate remedial sanction(s). We would note that this action is automatically accomplished by RMA as part of every compliance review, such as those agreed to in recommendation numbers 1 and 2. For this reason, we question the purpose for having a recommendation that instructs an agency to perform an action that is automatically performed as part of its normal business process.

*RMA requests management decision for this recommendation.*

### RECOMMENDATION NO. 4:

**Issue a notice to all insurance providers that claims adjusters are to collect all water notices to verify whether supplemental water was available to the insure, and require the two insurance providers cited in the report to place the claims adjusters that processed the questioned claims on notice for failure to comply with the policies and procedures in the loss adjustment handbook.**

#### RMA Response:

We conditionally agree with this recommendation pending further analysis and evaluation of this matter. Concerning the first part of this recommendation, at the exit conference it was RMA's understanding that the first part of the recommendation was to be eliminated, and the second part substituted in its place. The rationale for this action was to eliminate the broad recommendation, which is not substantiated or supported by the limited non-statistical or review performed, and in its place substitute a more specific recommendation relative to the specific situation and individuals identified. We respectfully request the first part of the recommendation be eliminated from the final report.

Concerning the second part of this recommendation, if the WRCO reviews of producers A through D disclose the responsible loss adjusters failed to follow policy and/or procedures outlined in the loss adjustment handbook, RMA's Reinsurance Services Division (RSD) will direct the responsible Insurance Provider(s) (IP) to place the loss adjusters on notice. The IP will be directed to provide a copy of their notice to RSD. Please note: IP number 2 no longer holds a Standard Reinsurance Agreement with RMA. For this reason, if the adjusters in this situation are found to be at fault, RMA will determine if the adjusters cited for this IP continue to adjust claims for another IP, and if so, RMA will direct that IP to put the loss adjuster on notice.

## **Exhibit C – Agency Response**

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Exhibit C – Page 3 of 3

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*RMA requests management decision for this recommendation.*

Should you have any questions or require additional information, please contact Alan Sneeringer at (202) 720-8813.