



U.S. Department of Agriculture
Office of Inspector General
Western Region
Audit Report

FARM SERVICE AGENCY
DISASTER PAYMENTS TO PRUNE
PRODUCERS IN CALIFORNIA –
PRODUCER D



Report No.
03006-8-SF
April 2003



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Western Region - Audit

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DATE: April 16, 2003

REPLY TO

ATTN OF: 03006-8-SF

SUBJECT: Disaster Payments to Prune Producers in California –
Producer D

TO: John G. Smythe
State Executive Director
California State Office
Farm Service Agency

ATTN: Jeff Yasui
Program Specialist

This report presents the results of our audit of Farm Service Agency (FSA) disaster payments made to a prune producer in California. Regulatory provisions allowed producers to receive both FSA disaster payments and Risk Management Agency (RMA) indemnity payments for losses sustained during crop years 1998 and 1999. Initially, we conducted an audit of RMA indemnity payments made to six prune producers.¹ Of those six, we determined that five had also received disaster payments.

This report covers one of the five producers, whom we are identifying as “producer D.” When applying for disaster benefits, the producer underreported over 40 percent of production, misreported ownership interest in the crop, and provided inconsistent information. As a result, we consider the entire amount of the payments, totaling \$295,754, made to this producer for crop years 1998 and 1999 to be in question.

On April 4, 2001, we referred the facts in this case to our Office of Investigations (OI) for review, and we suspended the completion of our audit while the investigation was in process. On July 11, 2002, OI issued its Report of Investigation to the California State FSA Office. After reviewing the details of the report, the State office directed the Sutter/Yuba County FSA Office and the County Committee to determine whether the

¹ Report No. 05099-7-SF addresses RMA indemnity payments to producer D.

producer misrepresented the facts and/or adopted a scheme or device to increase program payments.

BACKGROUND

FSA programs are delivered through an extensive network of field offices including over 2,500 service centers (e.g. county offices). Two of these programs, the 1998 Single-Year and Multi-Year Crop Loss Disaster Assistance Program (CLDAP) and the 1999 Crop Disaster Program (CDP), provided financial assistance to eligible producers for losses suffered due to disasters. Producers were eligible to receive disaster payments if they suffered crop losses in excess of 35 percent of expected production.²

RMA is responsible for supervision of the Federal Crop Insurance Corporation (FCIC), administration and oversight of programs designed to manage risk and support farm income. FCIC provides crop insurance through a network of approved private insurance companies that are reinsured by FCIC. Since 1998, these companies (insurance providers) have sold and serviced all crop insurance policies that insure producers against losses due to natural causes such as drought, excessive moisture, hail, wind, frost, insects, and disease.

Producers were allowed to apply for programs administered by both agencies during 1998 and 1999. Generally, producers had completed their loss claims for insurance payments prior to their applying for disaster benefits at FSA. To ease the administrative burden on FSA and the producers, regulations stated that FSA should use RMA production and unit data for insured producers, when available.

OBJECTIVE

Our objective was to confirm the accuracy of crop loss information used to calculate disaster assistance payments.

SCOPE

During our audit of RMA indemnity payments, we found discrepancies in the production reported by 6 producers we selected for review. We reviewed disaster files and found that five of the six producers had also applied for disaster benefits. Producer D is one of the producers who received both FSA and RMA insurance program payments in crop years³ 1998 and 1999.

Audit fieldwork was performed from April through August 2000 at RMA's Western Regional Compliance Office and Davis Regional Office, both located in Davis, California; the Rain and Hail Insurance Service Inc. office (insurance provider) located

² Expected production, for a unit, is the historic yield multiplied by the number of planted acres of the crop.

³ A crop year is designated by the calendar year in which the insured crop is normally harvested.

in Fresno, California; the Sutter/Yuba County FSA Office and Premier Valley packing house, both located in Yuba City, California.⁴

This audit was performed in accordance with generally accepted government auditing standards.

METHODOLOGY

We performed the following procedures:

- We compared production records obtained from the Prune Marketing Committee to production records used by the FSA county office to calculate producer D's disaster payments.
- We compared the producer's disaster application at the Sutter/Yuba County FSA Office with crop loss records submitted to insurance providers.
- We interviewed RMA and FSA officials, producer D, packinghouses, and insurance providers to resolve discrepancies.

FINDING

We question the accuracy, consistency, and sufficiency of the data provided by producer D to support his application for claims under the CLDAP and CDP programs. Since these were self-certifying programs, FSA relied on the integrity of the producer to provide accurate and complete information. The findings in this audit and the results of a corollary OIG investigation have been submitted to the County Committee to determine whether the producer misrepresented the facts and/or adopted a scheme or device to increase program benefits. We consider the entire amount of the payments, totaling \$295,754, made to this producer for crop years 1998 and 1999 to be in question (see exhibits A and B).

The FSA Disaster Assistance Program Handbook⁵ states, "actions considered a scheme or device include, but are not limited to: false certification of...any information required to determine eligibility including conservation compliance or person determination [and] interest in the production of the crop; ...submission of false production evidence for loss of production determination..." A producer must refund all CLDAP and CDP payments received "if the producer is determined to have knowingly done either of the following:

- adopted any scheme or device which tends to defeat the purpose of the program
- made any misrepresentation or misrepresented any fact affecting program determination.

⁴ During the survey phase of our audit in January 2000, we also performed fieldwork at the Prune Marketing Committee in Pleasanton, California.

⁵ 1-DAP (1998 CLDAP), paragraphs 1205A and 1205B, amendment 26 dated August 27, 1999 and paragraph 1205C, amendment 28 dated September 15, 1999. 2-DAP (1999 CLP), paragraph 156, amendment 5 dated July 18, 2000 has essentially the same language as 1-DAP.

If the scheme or device or misrepresentation affected the CLDAP [or CDP] then the COC [County Committee] shall require the producer to refund all disaster program benefits, plus interest.”

Producer D had approximately 575 acres of prune orchards located in Sutter County, California. During crop years 1998 and 1999, the producer suffered crop losses due to excessive rainfall and frost. The producer applied for relief through FSA disaster programs where he certified⁶ that all information reported was “true and correct.” The applications also stated “failure to provide true and correct information may result in civil suit or criminal prosecution and the assessment of penalties or pursuit of other remedies.”

In reviewing the producer’s loss files, we questioned the accuracy, consistency, and sufficiency of the data provided. FSA should determine if there was a possible scheme or device due to the number and type of discrepancies noted below:

Underreported Production. After prunes have been dried and delivered to a packinghouse, the California Dried Fruit Association prepares an Inspection Report and Certification Form (production record) to document the weight of the prunes. The production record is distributed to the producer, the packinghouse, and the Prune Marketing Committee, which maintains records for all prunes produced in California.

We tried to reconcile the production amounts that the producer certified to FSA as being “true and correct” with production records maintained by Prune Marketing Committee. We found that 3 of 9 production records representing 58.0 tons (43-percent) were not reported to FSA for crop year 1998 and 5 of 15 production records representing 60.2 tons (26-percent) were not reported in 1999 (see table 1).

Table 1: Comparison of Reported and Actual Production (in tons)

Crop Year	Reported	Actual	Difference	Unreported Percentage
1998	77.3	135.3	58.0	43 %
1999	169.8	230.0	60.2	26%
Total Unreported			118.2	

When the producer underreported 118.2 tons of production, he inflated the amount of his crop loss and was overcompensated by FSA. The above production came from several units/orchards. Payments are calculated per unit requiring that production records be maintained on a unit basis. However, we were unable to determine from which units the unreported production originated since the producer had supplied conflicting responses concerning the origin. Therefore, we were unable to calculate an overpayment amount.

⁶ For 1998, Form CCC-540 “Crop Loss Disaster Assistance Program” and CCC-540A “Notice of Loss/Production Worksheet 1998 Crop Loss Disaster Assistance.” For 1999, Form CCC-547 “1999 Crop Disaster Program Application.” The producer certifies on these forms loss information such as the amount of production, their share in the interest of the crop, if the crop was harvested or insured, etc.

Misreported Ownership Interest in the Crop. Producer D applied for CLDAP and CDP as two entities, (1) a partnership of four individuals including [] and (2) a joint venture made up of [].

Regulations⁷ state that “to be considered a separate person...the individual or other legal entity must:

- have a separate and distinct interest in the land or crop involved;
- exercise separate responsibility for such interest; and
- be responsible for the cost of farming related to such interest from a fund or account separate from that of any other individual or entity.”

Based on our review of packinghouse contracts and tax documents, the partnership consisted of two individuals rather than four. In addition, the joint operation did not meet the criteria above because it did not maintain funds or accounts separate from the partnership. For example, the packinghouse contracts listed [] as payees for all prune crop proceeds; income tax documents indicated that the partnership was owned entirely by [] each having an equal share; all farm income was shown as earned by the partnership; and [] did not have any farm income listed on his 1997 through 2000 income tax returns earned by him as an individual.

In addition, only two persons, not four, shared the full interest in all crop proceeds and bore the risk of loss from all 575 acres. For example, the packinghouse contracts listed [] as payees for all prune crop proceeds; income tax documents indicated that the partnership was owned entirely by [] each having an equal share; all farm income was shown as earned by the partnership; and [] did not have any farm income listed on his 1997 through 2000 income tax returns earned by him as an individual. Only [] had the risk of loss and were eligible to receive disaster payments.

In a statement made on May 17, 2002, [] admitted that most of the expenses for both of the farming “entities” were paid for by the partnership, all of the income from the “entities” was reported on the partnership’s tax returns, and it was all one farming operation. As a result, we concluded that only one entity, the partnership of [] had an interest in the crop. In February 2003, an FSA official informed us that because of the tax documents, he believed that there was only one producer that had the risk of loss, the partnership, and it consisted of only two individuals.

For 1998, producer D should have been limited to a maximum payment of \$135,840 (\$67,920 x two persons) instead of a maximum payment of \$271,680 (\$67,920 x four persons). FSA calculated a loss of \$178,890, which was over the maximum payment, resulting in the producer being overpaid \$43,050.⁸

⁷ 7 CFR 718.2, revised January 1, 1999. This section defines “person” as an individual, or an individual participating as a member of a joint operation or similar operation.

⁸ The overpayment of \$43,050 (\$178,890 – \$135,840) reflects only the effect of including four persons in the partnership rather than two and does not include the effect of other issues noted in this report.

Provided Inconsistent Information to FSA and the Insurance Provider. For producers that were eligible to receive FSA disaster payments and crop insurance indemnity payments for the same crop loss, regulations required FSA to use RMA production and unit data. Because both programs were for the same crop loss, the information submitted to these entities should have been the same. We found the following instances where the producer provided conflicting information:

- The producer certified to FSA that 242.1 acres were uninsured; however we learned that this land was insured under a crop insurance policy.⁹ As a result, FSA did not use RMA production and unit data for this producer and discrepancies between the information reported to FSA and the insurance provider were not discovered.
- In February 1999, the producer certified to FSA that all 242.1 acres were harvested. Less than a month earlier, the producer certified to the insurance provider that 125.0 (of the 242.1) acres were unharvested. As a result of the producer stating that all land was harvested, FSA paid the producer the maximum payment available for harvested acres.

Because of all the above items affecting the program determination, we concluded that the producer might not be eligible for any of the \$295,754 in prune payments he received for crop years 1998 and 1999. We referred producer D to OI, which issued a Report of Investigation (No. SF-350-19) dated July 11, 2002, to the California State FSA Office.

On January 28, 2003, the State office directed the Sutter/Yuba County FSA Office and the County Committee to determine whether the producer misrepresented the facts and/or adopted a scheme or device to increase program payments.

If the County Committee concludes that the producer adopted a scheme or device, or made misrepresentations on his prune crop, FSA should collect any other disaster payments made to the producer for crop years 1998 and 1999. If the producer received disaster payments for prunes for crop year 2000, FSA should ensure that the producer reported correct production information and that the payment was also based on the correct entity structure for that year.

Recommendation No. 1:

If the County Committee concludes that the producer adopted a scheme or device, or made misrepresentations, take appropriate action to collect the \$295,754 in payments for prunes and any other disaster payments made to producer D for crop years 1998 and 1999.

⁹ For FSA, the producer reported that the partnership had one unit totaling 242.1 acres. For insurance purposes, the producer separated the land into 4 units totaling 246.7 acres.

FSA Response:

FSA concurred with this finding and recommendation. In its April 7, 2003 response to the draft report, FSA stated that the Sutter/Yuba county committee determined that Producer D misrepresented facts and adopted a scheme or device to defeat the purpose of the program. As a result, Producer D must refund the entire payments for the 1998 Crop Loss Disaster Assistance Program and the 1999 Crop Disaster Program totaling \$295,754, plus interest.

OIG Position:

We agree with FSA's corrective action. To achieve management decision, the agency will need to provide us with documentation that producer D was billed for the appropriate amount and support that the amount was entered as a receivable on FSA's accounting records.

Recommendation No. 2:

If the producer received disaster payments for prunes for crop year 2000, FSA should ensure that the producer reported correct production information and that the payment was also based on the correct entity structure for that year.

FSA Response:

In its April 7, 2002, written response to the draft report, FSA stated that Producer D did not receive any payments under the 2000 Crop Disaster Program.

OIG Position:

We accept FSA's management decision for this recommendation. No final action is needed.

CONCLUSIONS AND REQUIRED AGENCY ACTIONS:

Your April 7, 2003, response to the draft report is included as exhibit C of the report. We have accepted your management decision for Recommendation No. 2. To achieve management decision on Recommendation No. 1, the agency will need to provide documentation that producer D was billed for the appropriate amount and support that the amount was entered as a receivable on FSA's accounting records.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframes for implementation for those recommendations for which management decision has not yet been reached. Please note that the regulation requires a management decision to be reached on all recommendations within a maximum of 6 months from report issuance.

The Office of the Chief Financial Officer (OCFO), U.S. Department of Agriculture, has responsibility for monitoring and tracking final action for findings and recommendations. Please note that final action should be completed within 1 year of each management decision. Follow your internal agency procedures in forwarding final action correspondence to the OCFO.

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

/s/

SAM W. CURRIE
Regional Inspector General
for Audit

EXHIBIT A – SUMMARY OF MONETARY RESULTS

RECOMMENDATION NUMBER	DESCRIPTION	AMOUNT	CATEGORY
1	Producer D misreported numerous facts used to calculate 1998 CLDAP and 1999 CDP payments.	\$ 295,754	Questioned Costs – Recovery Recommended
TOTAL MONETARY RESULTS		\$ 295,754	

EXHIBIT B – DISASTER PAYMENTS MADE TO PRODUCER D

CROP YEAR	PARTNERSHIP	JOINT VENTURE	TOTAL
1998	\$ 43,050	\$ 135,840	\$ 178,890
1999	\$ 34,975	\$ 81,889	\$ 116,864
TOTAL PAYMENTS			\$ 295,754

EXHIBIT C – FSA’S RESPONSE TO THE DRAFT REPORT




Farm
Service
Agency

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April 7, 2003
Ref: NKD

TO: Sam W. Currie
Regional Inspector General for Audits
Attn: 03006-8-SF

FROM: *fr* John G. Smythe 
State Executive Director

SUBJECT: Disaster Payments to Prune Producers in California-Producer D, Sutter/Yuba
County, California

After reviewing the audit report findings, the Sutter/Yuba County Committee has determined that Producer D misrepresented the facts affecting the program determination and adopted a scheme or device to defeat the purpose of the program and to evade the rules of the payment limitation and payment eligibility. As a result, Producer D must refund the entire payments for the 1998 Crop Loss Disaster Assistance Program and the 1999 Crop Disaster Program plus interest from date of issue. The total payment issued under both programs is \$295,754.

Producer D will be notified of the COC decision by COB April 11, 2003 and receivables will be established to collect the payments. Producer D did not receive any payments under the 2000 Crop Disaster Program.

If you have any questions, please contact Navdeep Dhillon, Agricultural Program Specialist, at 530-792-5520.

Informational copies of this report have been distributed to:

Office of the Chief Financial Officer	
Director, Planning and Accountability Division	(1)
General Accounting Office	(2)
Agency Liaison Officer	(3)