



United States
Department of
Agriculture

INFORMATIONAL MEMORANDUM: IS-09-008

Risk
Management
Agency

TO: All California Approved Insurance Providers
All Risk Management Agency Field Offices
All Other Interested Parties

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FROM: William J. Murphy /s/ *William J. Murphy*
Deputy Administrator for Insurance Services

6/4/2009

SUBJECT: Claims Alert – Prevented Planting and Reduced Irrigation Water
Allocations in California for the 2009 Crop Year

BACKGROUND:

California is experiencing a third consecutive drought year. Snowpack water content is about 60 percent of average and runoff is also expected to be 60 percent of average for the state. As a result of reduced irrigation water supply, prevented planting claims are expected for California.

The Central Valley Project (CVP) and the State Water Project (SWP) are two water delivery systems in the State of California which provide irrigation water to over 1.6 million acres of farmland. The U.S. Bureau of Reclamation’s CVP provides water to agricultural lands located south of the Sacramento River Delta (Delta) along the west side of the Central Valley in the counties of San Joaquin, Stanislaus, Merced, Fresno and Kings. The California Department of Water Resources’ SWP provides water to irrigated farmland, the majority of which is located in the San Joaquin Valley counties of Kern, Kings, and Tulare.

The Central Valley Improvement Act of 1992 reallocated water on an annual basis for environmental restoration purposes. Additionally, allocations are mandated for wildlife refuges on an annual basis. These allocations, plus the listing of the Winter Run Salmon and Delta Smelt under the Endangered Species Act in the early 1990’s, have reduced the availability of water for irrigation.

A Federal Judge’s decision in December, 2007, further restricted the pumping of water out of the Delta to meet requirements of the Endangered Species Act for the Delta Smelt for the period from December 26, 2007, through June 25, 2008. The Federal Judge’s order expired upon issuance of a new biological opinion for the Delta smelt, which was issued by the Fish and Wildlife Service in December, 2008. This new biological opinion imposed restrictions on operations of the CVP and SWP export pumping plants that are similar to those imposed by the Federal Judge’s order.

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Due to past legislation and Federal Court's actions, agricultural producers located south of the Delta can no longer expect to receive their historic allotments. Given normal conditions, the CVP allocation for south of the Delta producers is expected to be 55 percent of their historic allotment. Given normal conditions, the SWP allocation is expected to be 53 percent of Table A allotment. Table A water is defined by the SWP as the maximum amount of water delivered to each contractor if water is available and if the contractors request their full allotments.

ACTION:

Throughout most of the spring of 2009, the CVP indicated allocations for producers located south of the Delta would be 0 percent due to the extended drought. On April 21, 2009, the CVP revised the initial allocation and announced that the producers would receive 10 percent of their historic allotment. This is the lowest allocation for CVP agricultural water service contractors in the history of the Project's operations. The initial SWP allocation was 15 percent of Table A allotment. The SWP allotment was increased to 20 percent of the Table A allotment on March 18, 2009, and was further increased to 30 percent of the Table A allotment on April 15, 2009.

Due to the reduced water allocations for CVP and SWP contractors, there may be expectations of prevented planting payments and production losses for the 2009 crop year due to the failure of the irrigation water supply caused by adverse weather.

The Basic Provisions of the Common Crop Insurance Policy states in section 17(d) that failure of the irrigation water supply is an insurable cause of loss for the purposes of prevented planting if on the final planting date, (or within the late planting period if the producer elects to try to plant the crop), there is not a reasonable expectation of having adequate water to carry out an irrigated practice. The California drought situation will be considered an insurable cause of loss if it occurred within the applicable prevented planting insurance period, and may justify prevented planting payments or production losses for irrigated lands located within the CVP or the SWP water delivery areas.

For purposes of prevented planting based on the information provided in this document, AIPs should use 55 percent of the CVP contract amounts and 53 percent of SWP Table A allotment as a baseline for the amount of water a producer can expect to receive under normal conditions. This information may be helpful to approved insurance providers when adjusting prevented planting claims.

An example of reduced allocation is as follows: an insured is contracted for a CVP allotment of 10,000 acre-ft, but the expected allotment under normal conditions is only 55 percent of the contracted allotment (5,500 acre-ft). However, due to dry conditions, the insured only receives 1,000 acre feet, which is 4,500 acre-ft less than their expected allotment under normal conditions. If their normal farming practice/water budget takes 3 acre-ft of water to produce a cotton crop, then the producer may be eligible for prevented planting on 1,500 acres (4,500 acre-ft short/3 acre-ft) as long as all other terms of the policy are met.

Please contact the Davis Regional Office if you have any questions.

DISPOSAL DATE:

This Claims Alert transmits information and expires when 2009 California claims are complete.