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April 5, 2011

Rodger Olson  
15141 52st. SE.  
Leonard, ND 58052

Dear Mr. Olson,

I received your March 31<sup>st</sup> letter regarding the City of Fargo's diversion study for the Red River. In your letter you stated that ultimately the project will divert and stage water up stream on to agriculture land adjacent to the river. Also, farmers in the affected area are questioning if they would qualify for insurance coverage on this acreage and what the limitations might be.

The Common Crop Insurance Policy Basic Provisions states the following in Section 12, Causes of Loss:

Insurance is provided only to protect against **unavoidable, naturally occurring events**. A list of the covered naturally occurring events is contained in the applicable Crop Provisions. All other causes of loss, including but not limited to the following, are NOT covered:

- (a) Any act by any person that affects the yield, quality or price of the insured crop (e.g., chemical drift, fire, terrorism, etc.);
- (b) Failure to follow recognized good farming practices for the insured crop;
- (c) **Water that is contained by or within structures that are designed to contain a specific amount of water, such as dams, locks or reservoir projects, etc., on any acreage when such water stays within the designed limit** (however, if the producer planted on acreage that was above the designated staged elevation and additional moisture causes flooding of acreage above that level, any damage to such acreage would be covered as an insurable cause of loss).

The same Basic Provisions state in the definition of Prevented Planting - Failure to plant the insured crop by the final planting date designated in the Special Provisions for the insured crop in the county, or within any applicable late planting period, **due to an insured cause of loss that is general to the surrounding area** and that prevents other producers from planting acreage with similar characteristics. Failure to plant because of uninsured causes such as lack of proper equipment or labor to plant acreage, or use of a particular production method, is not considered prevented planting.

The Basic Provisions in Section 17, Prevented Planting also state "However, if it is possible for you to plant on or prior to the final planting date when other producers in the area are planting and you fail to plant, no prevented planting payment will be made....." Therefore, if the producer is delayed planting due to the water diversion while other producers are planting and when the land is finally dry enough to plant is then prevented from planting due to normal rain; **no prevented planting coverage is available on this**

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**acreage.** Since the delay in timely planting the acreage by the final planting date would not be an unavoidable, naturally occurring event, prevented planting coverage is not available.

However, if the acreage that contains diverted water can still be timely planted to an insurable crop according to University recommended good farming practices, **insurance coverage will attach.** If the crop is planted after the end of the final planting date and in the late planting period the following reductions apply:

The production guarantee or amount of insurance for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date.

(b) Acreage planted after the late planting period (or after the final planting date for crops that do not have a late planting period) may be insured as follows:

- (1) The production guarantee or amount of insurance for each acre planted will be determined by multiplying the production guarantee or amount of insurance that is provided for acreage of the insured crop that is timely planted by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;
- (2) Planting on such acreage must have been prevented by the final planting date (or during the late planting period, if applicable) **by an insurable cause** occurring within the insurance period for prevented planting coverage; and
- (3) All production from insured acreage as specified in this section will be included as production to count for the unit.

I hope this information is helpful in responding to producer concerns that might arise from this situation; if you have any additional questions, please contact our office.

Sincerely,

Doug Hagel  
Director