USDA Risk Management Agency
U.S. DEPARTMENT OF AGRICULTURE

IS-15-007

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Date

July 2, 2015

To

All Approved Insurance Providers

All Risk Management Agency Field Offices

All Other Interested Parties

From

Robert Ibarra, Deputy Administrator for Insurance Services

Subject

Prevented Planting and California Water Cut Back Program

On April 1, 2015 California Governor Edmund G. Brown Jr. issued executive order B-29-15 directing the State Water Resources Control Board to implement a mandatory 25 percent water reduction across California, due to the State's severe and ongoing drought conditions. On April 23, 2015, given the low reservoir shortages, existing water supply and the 25 percent water reduction mandate, the State Water Board curtailed post-1914 appropriative water right holders throughout the San Joaquin River watershed and anticipates additional curtailment of pre-1914 appropriative water right holders. The additional curtailments of riparian water rights would occur during the crop growing season (July through September), causing significant uncertainty and disruption for growers and likely reducing the effectiveness of the curtailments. On May 22, 2015, the State Water Board approved a voluntary water cutback program for Sacramento- San Joaquin Delta Riparian Water Rights to voluntarily cut back 25 percent of their water use in exchange for no further curtailments. To be included in the program, growers would have to submit their water conservation plan to the Water Board by June 1, 2015. Reduction can be a result of fallowing 25 percent of the property, reducing diversions of surface water by 25 percent, or a combination of the two. In return, the growers are guaranteed that no additional cuts will be made during the critical growing months of July through September. Growers participating in this program will not receive any financial benefit or gain. Questions have been asked as to whether or not an insured would be eligible for prevented planting coverage if they reduced their acreage to comply with the Governor’s water reduction mandate by participating in the water cut back program.

In accordance with Section 17 of the Basic Provisions, a prevented planting payment may be made for eligible acreage if you are prevented from planting by an insured cause of loss.

If the drought conditions occurred within the prevented planting insurance period, producers would have been faced with the decision to reduce plantings due to the water shortages in the State.

Because growers would not receive any financial benefit or gain, a water cut back program will not be considered a buy-back program under the Loss Adjustment Manual Standards Para. 84 F. There are several factors that Approved Insurance Providers (AIPs) must consider in determining if acreage is physically available for planting for each individual case, in accordance with the applicable Special Provisions. Consequently, if AIPs can reasonably conclude that the drought conditions directly contributed to the reduced water within the prevented planting insurance period and producers need to plant less acreage to comply with the directive of the Governor, the acreage may be determined to be eligible for a prevented planting payment. This Informational Memorandum does not change existing policy or procedure, or existing AIP responsibilities in making prevented planting determinations and insureds must meet all eligibility requirements under the prevented planting policy provisions and handbook procedures.