

Goshen Gering-Ft. Laramie Irrigation Tunnel Collapse and Crop Insurance - 2022 Crop Year

The Topeka Regional Office and Billings Regional Office have received several questions concerning irrigated prevented planting eligibility due to reduced water deliveries or allocations in Nebraska and Wyoming. Below are **Frequently Asked Questions** with associated answers. Please note that procedural guidance can also be found in the 2022 Crop Insurance Handbook and 2022 Prevented Planting Standards Handbook. Additional questions and answers may be provided as more information becomes available.

We have been informed that there may be reduced water availability for irrigation. What are our alternatives for insuring the crop for the 2022 crop year?

Under current crop insurance policies and procedures, to insure your crop as irrigated, you must apply the quantity of water needed at the appropriate time to produce, at a minimum, the yield used to determine the production guarantee or amount of insurance. The yield used to determine the production guarantee is also known as your Actual Production History (APH) yield.

If you intend to apply less water than the minimum needed to establish your irrigated practice APH yield on the irrigated acreage planted to the insured crop, regardless of the reason, you have the following options:

- Apply the amount of water needed to produce the irrigated APH yield on a reduced number of acres and report the remaining acres as non-irrigated; if coverage is available for a non-irrigated practice of the crop;
- Apply less water to the total acreage than used to establish your irrigated APH yield and report the total acreage as non-irrigated, if coverage is available for a non-irrigated practice of the crop; or

- Apply the amount of water needed to produce the irrigated APH yield on a reduced number of acres and leave the remaining acres idle and report them as prevented planting, if eligible.

I historically plant 1/3 of my acres to irrigated sugar beets, 1/3 to irrigated corn, and 1/3 to irrigated dry beans. Am I required to distribute water at the same rate and acreage for the 2022 crop year?

You have the flexibility to rotate to a lower water use crop and insure that crop under an irrigated practice if you can demonstrate you have enough water to allow the crop to make normal progress toward maturity and produce the APH yield. In the example above, you can plant more acres of dry beans and distribute the saved water to sugar beets or corn. As long as you can prove you had enough water to meet the definition of irrigated practice, you can insure all the acres as irrigated.

How can I qualify for a prevented planting payment?

In order to qualify for a prevented planting payment, an insurable cause of loss must have occurred within the prevented planting insurance period. For carryover insureds (producers who had insurance for the 2021 crop year on the crop), the prevented planting insurance period begins on the sales closing date for the previous crop year (2021).

For example, the corn sales closing date is March 15, 2022, for the 2022 crop year. An insurable cause of loss, such as drought occurs on or after March 15, 2021, and negatively affects irrigation water availability for the 2022 crop year. If all other prevented planting eligibility requirements have been met, the insured could receive a prevented planting payment.

For new insureds, the prevented planting insurance period begins on the sales closing date for the insured crop in the county for the crop year the producer's application is accepted. For example, the corn sales closing date is March 15, 2022, for the 2022 crop year. The insured completes a corn application for the 2022 crop year on March 1, 2022. An insured cause of loss, such as drought occurs on or after

March 15, 2022, and prevents the insured from planting corn by the final planting date. The new insured could be eligible for a prevented planting payment. If an insurable cause of loss occurred prior to March 15, 2022, this cause of loss would be outside the prevented planting insurance period, and the new insured would not be eligible for a prevented planting payment.

What records should I keep to support my prevented planting claim?

You must keep and provide all documentation to your crop insurance company (Approved Insurance Provider) as requested regarding the amount of water you will receive for the crop year and any justification provided for any reduced water allocation.

Documentation of water shortfalls must be verified from information provided by local irrigation authorities responsible for water allocations, State Departments of Water Resources, the U.S. Bureau of Reclamation, the U.S. Army Corps of Engineers, Cooperative Extension Service, Natural Resources Conservation Service or other sources responsible for collection of water data or regulation of water resources. These sources are also used to document whether all or a portion of the acres could be irrigated if average precipitation had occurred within the prevented planting insurance period.

My irrigation canal system had a partial tunnel collapse on July 17, 2019. The company that repaired the tunnel installed ribs in the tunnel (supports) for employee safety. Those ribs will be removed after the remaining tunnel repair work is completed. The tunnel ribs reduce the canal water flow. Is the loss of delivery capacity due to these ribs an insurable cause of loss for prevented planting eligibility for the 2022 crop year?

If the irrigation system failed due to an insurable cause of loss and the failure occurred in the insurance period, the affected acres could be eligible for a prevented planting indemnity. However, this particular tunnel collapse occurred outside the

insurance period for the 2022 crop year. Consequently, the repair work to the tunnels would no longer be an insurable cause of loss in this case, and the acreage would not qualify for a prevented planting payment.

I timely planted all my irrigated annual spring crop acres. I planted the number of acres that I could adequately irrigate based on the information provided to me by my irrigation district and the government agency that manages the irrigation water source. After I planted all my acres, my irrigation district notified me that the government agency had reduced its forecasted irrigation water availability. How does my crop insurance policy address this post-planting reduction in irrigation water availability?

AIPs are to provide a copy of the Irrigated Practice Guidelines (See Exhibit 52, Document and Supplemental Standards Handbook) to all insureds for whom the irrigated practice may apply. The guidelines are provided to enable insured to properly report planted or perennial acreage insured under an irrigated practice consistent with their crop insurance policy. Regarding water supply, the guidelines indicate:

Adequacy of Irrigation Facilities— Irrigation facilities are considered adequate if it is determined that, at the time insurance attaches, they will be available and usable at the times needed and have the capacity to timely deliver water in sufficient quantities to carry out a good irrigation practice for the acreage insured under the irrigated practice.

Irrigation Water Supply - *The water source and means for supplying irrigation water, not including equipment or facilities. This includes the water source and dams, canals, ditches, pipelines, etc., which contain the water for movement from the water source to the acreage that (1) are not under the control of the insured; or (2) routinely deliver water to acreage in addition to that which is owned or operated by the insured.*

Reasonable Expectation of Adequate Water – *The insured had no reason to know at the time coverage began the amount of irrigation water may be limited or reduced. No reasonable expectation exists if the insured knew, or had reason to know, the amount of irrigation water may be reduced before coverage begins.*

Water Source – *The source from which water is made available. This includes wells, lakes, reservoirs, streams, aquifers, etc.*

In the case stated in the question, the producer had a reasonable expectation of adequate water for irrigation at the time insurance attached. Insurance is considered to have attached at the time the crop is planted. Therefore, the producer must report those acres as irrigated practice, even if the irrigation water supply is subsequently reduced. Any production loss due to failure of the irrigation water supply would be covered. Any indemnity would be based on the guarantee for the irrigated practice.

As the growing season progresses, I find that I cannot adequately irrigate all the acres I appropriately reported as irrigated practice, because of the reduction in the irrigation water supply. What can I do to mitigate the potential production loss?

The Loss Adjustment Manual Standards Handbook (LAM) indicates, in part:

Acreage properly insured under an IRR practice, which suffers a water shortage during the insurance period, must be managed consistent with GFPs (Good Farming Practices) to produce the best possible yield under the circumstances. Insureds must take appropriate actions to seek the best possible yields by utilizing farming practices which mitigate, as much as possible, the adverse impacts of insufficient irrigation.

The LAM also allows a producer to divert the irrigation water away from a portion of the irrigated acreage to save the crop on the remainder of the irrigated acreage. A producer should contact his/her insurance provider prior to diverting water if possible. The insurance provider will review the circumstances and:

Verify that a water shortage exists or whether wind and extreme heat conditions have caused evaporation of the irrigation water before the water can reach all areas of the crop, thus, creating a need to irrigate only a portion of the crop that initially was being irrigated (e.g., instead of irrigating the entire pivot which is not receiving enough water to survive, irrigate only half of the crop so that at least this part will survive). Also, verify whether recommendations from local CES or NRCS (or other source recognized by CES, or NRCS to be an expert in this area) agree with the insured's intentions or actions taken.

I find at harvest that I have suffered a production loss due to a reduction in irrigation water availability. What additional information must I gather to file a notice of loss for failure of irrigation supply?

Insureds who obtain evidence of decreased water allocation due to an insurable cause after insurance attaches may report losses due to failure of the irrigation water supply in accordance with the policy provisions.

The reduction in irrigation water availability must be due to an insured cause of loss that occurred within the insurance period. The insured must provide documentation that the government agency reduced its forecasted irrigation water availability due to a natural weather cause.