



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

RISK MANAGEMENT AGENCY
WATERMELON CLAIMS IN
SOUTH TEXAS



Report No.
05601-7-Te
AUGUST 2001



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250



DATE: August 17, 2001

REPLY TO

ATTN OF: 05601-7-Te

SUBJECT: Watermelon Claims in South Texas

TO: Phyllis Honor
Acting Administrator
Risk Management Agency

ATTN: Garland Westmoreland
Deputy Administrator
for Risk Compliance

This report presents the results of our audit of watermelon claims in South Texas. The written responses to the draft report are included as exhibit C with excerpts and the Office of Inspector General's position incorporated into the relevant sections of the report.

Management decisions have not been reached for Recommendations Nos. 1, 2, 3, and 4. The Findings and Recommendations section of the report includes a description of the status of the management decision for each recommendation.

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 a management decision has not yet been reached. Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance, and final action to be taken within 1 year of each management decision. Correspondence concerning final actions should be addressed to the Office of the Chief Financial Officer.

We appreciate the assistance and cooperation provided by your staff during the audit.

/s/ Richard D. Long
RICHARD D. LONG
Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

RISK MANAGEMENT AGENCY WATERMELON CLAIMS IN SOUTH TEXAS

REPORT NO. 05601-7-Te

RESULTS IN BRIEF

This audit was initiated based on eligibility problems noted during a May 1999, meeting conducted by Risk Management Agency (RMA) officials in Edinburg, Texas. During this meeting, it was stated that crop and acreage eligibility requirements to participate in the 1999 watermelon pilot insurance program in Texas were being violated. There were 79 policies, which had \$32,529,272 in crop insurance indemnity payments to producers in the 3 Texas pilot counties during 1999. The counties were Duval, Frio, and Hidalgo, all located in South Texas. The purpose of our audit was to determine if watermelon claims submitted under the 1999 watermelon pilot insurance program were properly adjusted. Specifically, we focused on crop and acreage eligibility requirements.

For the crops to be eligible, the producers had to have histories of growing watermelons in 1 of the previous 3 years. For the acreage to be eligible, the land had to be planted and harvested within 1 of the 3 previous years and meet rotation requirements (acreage could not be planted to a melon crop more than 2 consecutive crop years).

We reviewed 13 of the 79 policies involving 11 producers that filed 18 claims totaling \$20,083,215. Our audit disclosed that 5 of the 18 claims filed by 3 of the 11 producers did not meet eligibility requirements for participation in the 1999 watermelon pilot crop insurance program. Three claims involving two producers did not meet the crop eligibility requirements. The insurance company paid the indemnities after a third party attributed some experience with the crops to the producers. The insurance company area claims supervisor stated that they did not feel they could withhold payment based on this attributed experience provided by the third party. We found that the attributed experience may not have met regulatory requirements. In addition, part of the acreage on two of the claims filed by two producers (one producer also did not meet crop eligibility requirements) did not meet acreage eligibility requirements, as the crop was planted on land that was not insurable. One producer planted watermelons on land that had not been planted and harvested in 1 of the 3 years and the

other producer planted watermelons on land that had been planted to a melon crop for more than 2 consecutive crop years. As a result, the insurance company failed to properly adjust the five claims in accordance with the crop and acreage requirements of watermelon pilot crop provisions that resulted in an overpayment of \$1,506,620 to the three producers.

KEY RECOMMENDATIONS

We recommend that RMA determine if producers A, B, and C met the applicable crop and acreage eligibility requirements for the insured crops to participate in the 1999 pilot watermelon crop insurance program. If not, RMA should collect \$1,506,620 in overpayments, as applicable to these producers

AGENCY RESPONSE

The RMA conditionally concurred with the recommendations (exhibit C). The Director of the Southern Regional Compliance Office (SRCO) will review the audit findings and request the Office of the General Counsel (OGC) to provide an independent opinion regarding the producers' eligibility to participate in the 1999 watermelon pilot crop insurance program. If OGC determines that the producers did not meet the eligibility requirements to participate in the program, SRCO will issue the appropriate findings to the insurance companies to recover the funds in question and civil remedies, as appropriate. The SRCO expects to complete its review and request an OGC opinion no later than December 2001.

OIG POSITION

We agree with the planned corrective action. To reach a management decision, we will need a written response showing the results of the SRCO review to include a copy of the OGC opinion. If an adverse determination is made, we will need documentation showing the amounts owed the Government have been collected or set up as accounts receivable in order to reach management decision.

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INTRODUCTION

BACKGROUND

The Federal Crop Insurance Corporation (FCIC) is a wholly --owned Government corporation created within the United States Department of Agriculture under Title V of the Agricultural Adjustment Act of 1938. As a result of the Federal Crop Insurance Reform and the Department Reorganization Act of 1994, the Farm Service Agency (FSA) administered day-to-day operations of the corporation. This was changed by the Federal Agricultural Improvement and Reform Act of 1996, which authorized the formation of RMA to handle the day-to-day operations of the crop insurance program.

The Federal Crop Insurance Act of 1980 (Act) contained provisions for expanding crop insurance to more crops and to provide coverage in most counties throughout the United States. This Act mandated, to the maximum extent possible, delivery of Federal crop insurance by privately owned insurance (insured) companies and subsidizing of the program by RMA. Insurance companies depend on agents and contracted loss adjusters to aid in selling and administering their policies.

Reinsured companies enter into standard reinsurance agreements with RMA, which contain provisions for the marketing, distributing, servicing, training, and loss adjusting by companies for the crop insurance that they sell. In return for these functions, the companies receive reimbursement of administrative expenses equal to about 24.5 percent of the premium income generated by the policies they sell.

RMA routinely develops, implements, and monitors pilot programs for new crops, new plans of insurance, and new management strategies. Most new programs are developed at the request of farmers, following an in-depth study to determine if an actuarially sound program can be created. The new programs are tested on a pilot basis in selected counties to allow RMA to gain insurance experience and test the programs' components. Most pilot programs operate for about 2 to 3 years before they are made more broadly available or are converted to permanent program status.

The FCIC Board of Directors approved the watermelon pilot program in August 1998 for the 1999 through 2001 crop years in 15 counties in 7 States. The pilot was developed to explore the feasibility of providing insurance protection on crops that were previously covered by the FSA noninsured assistance program (NAP) or ad hoc disaster program payments. On September 13, 1999, RMA suspended the pilot watermelon

crop insurance program effective for the 2000 crop year. Based on feedback received, the program needed to be reworked to make it a more market neutral product.

OBJECTIVE

The objective of our audit was to determine whether claims filed under the 1999 pilot watermelon crop insurance program were properly adjusted in Texas.

SCOPE

There were 386 policies that had a total liability of \$63,723,500 in the 7 states and 15 counties that participated in the 1999 pilot watermelon crop insurance program.

Indemnities in the amount of \$47,833,529 were paid on 241 of these policies. In Texas, there were 79 policies that had \$32,529,272 in indemnities to watermelon producers in the 3 approved counties (Duval, Frio, and Hidalgo). We judgmentally selected 11 producers who filed claims totaling \$20,083,215 (62 percent of indemnity payments in Texas) involving 13 policies. Producers selected for review included four with largest payments and payments to other entities, if the initial selection included members of these entities. For instance, one individual producer selected as receiving one of the largest payments was also a member of four partnerships (producers); therefore, we also selected these four producers for review. We then selected the three producers with the largest spring season watermelon claims and the three producers with the largest fall season nonirrigated watermelon claims. However, three of these producers had already been selected under the largest payments that resulted in only three additional producers being selected under these criteria. (See table below.)

DESCRIPTION	ORIGINAL SELECTION	ADDITIONAL SELECTION (Note 1)	DUPLICATE SELECTION (Note 2)	TOTAL PRODUCERS SELECTED
Producers with largest total payments	4	4		8
Producers with largest spring claims	3		(2)	1
Producers with largest fall nonirrigated claims	3		(1)	2
Totals	10	4	(3)	11

Note 1: One producer in original selection had interest in four other producers (partnerships).

Note 2: Producers were included in the four original selections for producers with largest total payments.

These 11 insured producers filed 18 1999 watermelon claims in these 3 counties and we reviewed all 18 claims. Five of the producers filed claims in Hidalgo, four in Duval, and one in Frio Counties. The remaining producer filed claims in all three counties (three policies). Audit fieldwork was conducted from May 2000 through April 2001.

This audit was conducted in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, the audit included such tests of program and accounting records as considered necessary to meet the audit objectives.

METHODOLOGY

To determine whether watermelon claims were properly adjusted, we focused on insurable crop eligibility and land eligibility as defined in the common crop provisions and watermelon pilot crop provisions. We reviewed loss adjustment claim file documentation maintained by the insurance company which included actual production history (APH) reviews, production and yield reports, correspondence letters with the insured, proof of loss statements, high dollar loss reviews, appraisal worksheets, applications, production records, loss adjustor reports, land acreage certifications, schedule of insurance documents, and other miscellaneous documents. We also reviewed watermelon seed purchase receipts, marketing plans/contracts, fertilizer and chemical purchase receipts, expense reports for labor incurred in planting, maintaining, and harvesting the crops, land lease agreements, irrigation receipts and custom farming agreements to confirm participation in the 1999 watermelon pilot crop insurance program.

The report of acreage (Form FSA-578's) certifications along with aerial slides and county maps were reviewed to determine acreage eligibility at Duval, Frio, Hidalgo, and Jim Wells County FSA Offices. We also interviewed RMA Regional Office (RO) personnel, producers, loss adjustors, insurance company representatives, and other individuals as considered necessary to determine producers' watermelon production history.

FINDINGS AND RECOMMENDATIONS

CHAPTER 1	PROGRAM ELIGIBILITY REQUIREMENTS WERE NOT MET
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Three producers filed five claims in Duval County that did not meet the eligibility requirements for participation in the 1999 watermelon pilot crop insurance program. Three of these claims did not meet the crop eligibility requirements and two did not meet the acreage eligibility requirements. The insurance company failed to properly adjust the five claims in accordance with the crop and acreage requirements of the watermelon pilot crop provisions. As a result, these producers were overpaid \$1,506,620.

FINDING NO. 1

CROP ELIGIBILITY REQUIREMENTS WERE NOT MET

An insurance company paid indemnities on three claims filed by two watermelon producers even though the producers did not meet the crop eligibility requirements. Regulations require the insured crop to be grown by someone with experience in one of the last three years either producing watermelons for commercial sale or managing

a watermelon operation. In this case, two brothers participated in a partnership while one brother also participated as an individual. The insurance company paid the indemnities after a third party attributed some experience with the crops to one of the two brothers that were involved in both farming operations. The insurance company area claims supervisor stated that they did not feel they could withhold payment after the third party provided the attributed experience. We found that the attributed experience may not have met regulatory requirements. As a result, it is questionable whether the two producers met the insured crop requirements and they may have been overpaid \$1,293,524.

In order to insure a crop in the 1999 watermelon pilot crop insurance program, regulations require that the insured crop must be grown by a person who, in at least 1 of the 3 previous crop years, either grew watermelons for commercial sale or participated in managing a watermelon farming operation.¹

¹ 1999 Watermelon Pilot Crop Provisions, section 7(a)4

Producer A Did Not Meet the Crop Provisions

Individual A, participating as producer A, had spring and fall claims. Individual A also participated as a member of producer B (Limited Liability Company) along with his brother, individual B, and had a fall claim. Individual A completed a crop insurance application to participate as an individual (producer A) in the 1999 watermelon pilot crop insurance program on March 9, 1999. On April 16, 1999, individual A received a policy confirmation notice from the insurance company. Based on this policy, individual A filed spring and fall claims. In the spring, individual A received a \$374,668 indemnity payment on 563.2 acres and \$468,981 indemnity payment on 676.6 acres in the fall.

Before payment of the spring claim, the regional claims manager of the insurance company questioned the crop eligibility of individual A to participate as producer A in the 1999 pilot insurance program. In response, individual A requested his mother, uncle, and then subsequently another producer (individual C), to write the insurance company to explain the experience he acquired from participating in a watermelon operation over the last 3 years. After initially determining the spring claim ineligible, the claim was paid based on individual A's experience gained helping individual C with his watermelon operation in 1996. The insurance company area claims supervisor stated that they did not feel they could withhold payment after individual C provided a letter which stated that individual A participated in the management of his watermelon crop in 1996. However, we concluded that this experience did not meet the commonly used definition of management and the intent of the watermelon experience requirement in the pilot watermelon crop provisions. Therefore, it is questionable whether producer A was eligible for the \$843,649 in payments he received. Details of the denial of the claim and subsequent approval follow:

Spring Claim Initially Denied By Insurance Company

On July 21, 1999, producer A's mother wrote to the insurance company and stated that she owned one-third interest in company A. She stated that individual A managed and supervised the farming affairs of company A consisting of watermelons, corn, grain, and cattle since 1984. In addition, individual A owned an undivided interest in the land company A farmed watermelons on in 1996 and 1998.

The regional claims manager of the insurance company mailed a letter to individual A on July 23, 1999, and explained that in order for the insured crop to be eligible for coverage under producer A, he must have either grown watermelons for commercial sale or participated in managing a watermelon

farming operation in a least 1 of the 3 previous crop years, as stated in Watermelon Pilot Crop Provisions. The regional claims manager further stated that they determined that the documentation provided by individual A's mother did not satisfy this requirement. Any new documentation would be reviewed, but if no further documentation were received, the liability on this policy would be denied.

On July 26, 1999, producer A's uncle signed a letter that was sent to the insurance company stating that individual A participated in the production of watermelons which were grown for commercial sale by providing a portion of the land in 1996 and 1998. The letter further indicated that individual A's uncle was unaware of the correct ownership of the land until recently informed by individual A that he was willed the land at the time of his father's death.

In an interview on November 7, 2000, individual A's uncle stated that he did not want to sign the letter dated July 26, 1999. He stated that he did not write the letter but that it was brought to him to sign. At first, he would not sign it but then relented after 3 weeks when a family member put pressure on him to sign it.

The uncle further stated that company A grew the watermelons and producer A's mother has a one-third interest in the company; however, he was the only one responsible for the watermelon operation and individual A was not involved. Also, he did not know about the one-third undivided interest in the land that was willed to individual A until he signed the letter. However, individual A did not participate in the watermelon operation.

Based on the letter submitted by individual A's uncle, the regional claims manager sent individual A a letter on August 9, 1999, informing him that the experience described in the letters did not satisfy the requirement as defined in the watermelon policy provisions and that he was determined ineligible for the 1999 crop year.

During an interview on December 14, 2000, individual A confirmed that he was not involved in the watermelon operations of company A. Individual A stated that his involvement in company A was helping his uncle pick up parts when equipment broke. Individual A also confirmed that his uncle managed the company A watermelon operation.

Watermelon Experience Provided by Individual C

On September 3, 1999, a third letter was sent to the insurance company to provide experience for individual A from another producer (individual C) participating in the watermelon insurance program. In his letter, individual C stated that individual A played a substantial and critical part in his

watermelon operation during 1996. Individual A was responsible for the management of the irrigation for the watermelon crop for the entire spring season. Individual C stated that as part of the management of the irrigation for the 1996 spring crop, individual A personally provided the irrigation pipe and set up the entire irrigation system. He further stated that in addition to managing the irrigation of the spring crop, individual A also assisted in managing other aspects of the operation as necessary throughout the crop year.

We determined that individual C had a business relationship with individual A's partnership (producer B) at the time he submitted this letter to the insurance company. Individual C leased the acreage to producer B for the fall 1999 watermelon crop. Individual C also custom planted the fall watermelon crop for producer B. At the time individual C wrote the letter to the insurance company for individual A, individual C was still owed for the land lease and custom planting expenses. Since individual A was a member of producer B and the crop was planted before individual A received his spring indemnity payment as producer A, individual C had a business interest in producer A receiving the indemnity payment. Producer B reimbursed individual C for the custom farming expenses and land lease after they received payment for their fall claim. In addition, after individual A was paid for his 1999 fall watermelon crop, he made an interest-free loan to individual C of \$100,000 to help individual C with some operating expenses.

Individual C provided additional information in an interview to explain his letter dated September 3, 1999. Individual C stated that individual A worked for him in 1996 on his large watermelon operation. The pivot irrigation system broke after his watermelon plants were approximately a foot long. He stated that it would take a couple of weeks to repair, so he called individual A to install a new irrigation system. Individual A brought his own pipe, set up the sprinkler irrigation system, and irrigated the watermelon crop. Individual A brought his own workers and supervised the irrigation. Individual C stated that he paid individual A's workers for setting up the irrigation system and that individual A did not pay any workers. After supervising the irrigation, individual A also supervised some hoeing and spraying on the spring watermelon crop. He was not the field supervisor directly over the workers, but he was in the area and made sure the work was done.

Individual C stated that there was no agreement on what individual A would be paid for his services related to watering the spring 1996 watermelon crop, but stated that he had paid him something. Initially, individual C stated that he would provide some type of documentation (a cancelled check) to support payment for individual A's services. However, instead of providing documentation of payment for individual A's services, individual C wrote a letter to the Office of Inspector General (OIG) dated November 13, 2000, explaining how individual A was paid. In the letter, individual C stated that

back in 1988 or 1989, he loaned individual A some irrigation pipe for his operation. Then in 1993 or 1994, individual A returned some pipe. However, individual C did not believe the entire pipe was returned. They argued about this until 1996 when individual C's pivot fell down on his spring 1996 watermelon crop. Individual C contacted individual A and asked him to bring his own pipe and set up a sprinkler irrigation on individual C's watermelon crop. By individual A helping him, they settled their disagreement on the missing pipe and on the usage of individual C's pipe for 4 or 5 years.

On December 14, 2000, individual C provided us additional information concerning the letter he wrote to OIG on November 13, 2000. Individual C stated the following: (1) individual A does not believe he lost the pipe, (2) a bill or a letter was never sent to individual A requesting payment, (3) individual A owed him money for putting in producer B's fall crop at the time he wrote the letter for individual A, and (4) the letters by individual A's mother and uncle provided stronger evidence of individual A's watermelon experience than his letter provided.

Interview with Individual A

When questioned about his eligibility, individual A stated that he told the insurance agent that he had a watermelon crop in the fall of 1995 which carried over into 1996. This watermelon crop was grown by producer B, which consisted of 130 acres of fall watermelons. He further stated that he quit farming watermelons after the fall 1995 crop and did not farm watermelons again until participating in the 1999 pilot watermelon crop insurance program in spring of 1999.

He also told the agent that he helped his mother with her share of company A. Based on this experience, he signed up to participate in the program. When it was time to receive his indemnity check, the insurance company questioned his eligibility. When this occurred, he sent in a letter from his mother. The letter stated that he looked after his mother's share of company A. Individual A then went to his uncle to get a letter stating that he worked for company A. His uncle did not want to sign the letter and they had a disagreement. After a few weeks or so, individual A convinced his uncle to sign the letter.

Individual A stated that after the insurance company did not determine him eligible based on letters from his mother and uncle, he tried to remember what other work he might have performed. He remembered helping individual C with his watermelon operation. Individual A stated that in 1996 he helped individual C set up his irrigation system. Individual C's pivot system broke and he needed individual A to help him. The crop was already up and needed watering. Individual A stated that he and his foreman went over and set up the sprinkler irrigation system. Producer A also believes that he helped individual C spray the crop once or twice.

Individual A stated that he did not owe individual C for any missing pipe and that he did not receive payment for helping individual C with his 1996 crop. He stated that he knew individual C since they were children and that his dad taught individual C how to raise watermelons. Individual A stated that there was not an agreement on paying individual C for the pipe at the time they borrowed it. They were just helping each other out.

Eligibility Determination

The former regional claims supervisor for the insurance company that originally denied the eligibility based on a letter from individual A's mother and uncle, stated that he did not approve individual A to participate as producer A in the watermelon program based on his third letter signed by individual C. He stated that he does not remember seeing the third letter signed by individual C. He stated that he went on a 2-week vacation on August 15, 1999, and when he came back on September 4, 1999, he turned in his resignation and left that same day. He stated that he did not approve individual A for participation based on the letter received from individual A's uncle because it was his understanding that individual A performed bookkeeping duties. The second letter from individual A's uncle also did not provide the experience necessary to make individual A eligible.

We initially contacted the compliance manager with the insurance company, who referred us to the current regional claims supervisor. However, the current regional claims supervisor stated that he did not hold this position when this claim was approved and referred us to the area claims supervisor. The insurance company area claims supervisor stated that they did not feel they could withhold payment after individual C provided a letter which stated that individual A played a critical part in the management of his spring 1996 watermelon operation by managing the irrigation of the crop. He stated that individual A also assisted in managing other aspects of the operation as necessary throughout the crop year. He further stated that they did not obtain a Wage and Tax Statement (IRS Form W-2), cancelled check, or any other documentation to determine that individual A actually worked for individual C in 1996.

After being informed of the watermelon experience in the third letter, the former regional claims supervisor stated that he did not believe that the experience gained working for individual C in 1996 qualified individual A to participate in the 1999 pilot insurance program for watermelons. However, he was no longer at the insurance company when the decision to pay the producer was made.

Since individual A did not grow watermelons for commercial sale, he tried to

qualify as participating in management of a watermelon operation. The only statement concerning prior watermelon management history was in the pilot watermelon policy, which required the insured crop to be grown by a person who, in at least 1 of the 3 previous years, grew watermelons for commercial sale or participated in managing a watermelon farming operation. The special provisions for Duval, Frio, and Hidalgo Counties in Texas, and the watermelon pilot loss adjustment standards handbook did not more strictly define participation in management of a watermelon operation. An Office of the General Counsel (OGC) attorney stated that in the absence of a program definition for management, program law would revert to the most common used definition. The dictionary states that to manage was to exert control over. According to OGC, this would include control of planting, along with control of all growing decisions to include fertilization, watering dates, cultivation practices, and harvesting methods and dates. A RMA compliance official stated that the intent of the management experience language in the pilot watermelon crop insurance policy was that the producer would have been active in making all the planting decisions and other cultural practices for the production of watermelons.

Summary for Producer A

In summary, the letters from individual A's mother and uncle did not provide evidence that he grew watermelons for commercial sale or participated in managing a watermelon operation. Based on this, the former regional claims manager of the insurance company determined that individual A did not satisfy the crop eligibility requirement. The third letter received from individual C stated that individual A supervised his irrigation and other aspects of his operation during the crop year. Based on a commonly used definition of management and the watermelon experience requirement in the pilot watermelon crop provisions, it is questionable whether irrigation qualifies as management experience, and the letter did not specifically state what other aspects of the watermelon operation individual A supervised.

In addition, the insurance company did not request any documentation to substantiate that individual A actually worked for individual C after originally denying him eligibility. When questioned about payment to individual A, individual C first stated that he had paid him something, but later stated that payment was for the use of pipe over 5 years ago, even though a bill was never sent requesting payment. Individual A on the other hand did not believe he was paid, and that he worked on individual C's 1996 watermelon operation as a friend with no agreement to receive compensation. It was also determined that producer A owed individual C money at the time the insurance company received the letter. Based on these letters and interviews, it is questionable whether the insurance company should have reversed their original decision that individual A operating as producer A

did not meet the crop eligibility requirements to participate in the 1999 pilot watermelon crop insurance program.

Producer B Did Not Meet The Crop Provisions

In addition to filing spring and fall claims as producer A, individual A also participated as a member of producer B which submitted a fall claim. Producer B consisted of individual A and individual B. As previously stated, we could not substantiate that producer A met the crop eligibility requirements to participate in the 1999 pilot watermelon crop insurance program. Therefore, individual B needed a history of growing watermelons for commercial sale or participating in management of a watermelon farming operation during 1 of the 3 previous crop years. However, individual B had not raised watermelons since participating as a member of producer B in 1995 and, therefore, was not eligible. As a result, we could not determine that producer B, consisting of individual A and individual B, met the requirements to participate in the 1999 watermelon insurance program.

Individual A, acting as president of producer B, completed a crop insurance application for producer B to participate as a corporation in the 1999 pilot watermelon crop insurance program on March 9, 1999. On April 16, 1999, producer B received a policy confirmation notice from the insurance company. Based on this policy, producer B filed a fall claim and received a \$449,875 indemnity payment on 600 acres.

Individual B did not meet the crop eligibility requirements as stated in the 1999 Pilot Watermelon Crop Provisions. Individual B stated that he quit farming in 1995 and the only reason he participated in 1999 was because of crop insurance. He stated that his brother, individual A, participated in the 1999 pilot watermelon crop insurance program in the spring and asked him to participate in the fall 1999 watermelon crop. Individual B stated that he told his brother he did not have the time because he was busy with his other company, but that he could use their equipment and farm it as producer B. Individual B stated that he was not involved in the watermelon operation and he just let his brother handle all the activities.

Since individual B was not involved, individual A's watermelon experience obtained from individual C, as stated above, was used to qualify producer B. Since the same documentation was used to establish the insurable crop history for both producers A and B, producer B did not meet the insurable crop requirements for participation in the 1999 pilot watermelon crop insurance program.

RECOMMENDATION NO. 1

The RMA should determine if producers A and B met the crop eligibility requirements to participate in the 1999 pilot watermelon crop insurance program.

RMA Response

The RMA conditionally concurred with the recommendation (exhibit C). The SRCO will review the audit findings and request OGC to provide an independent opinion regarding the producers' eligibility to participate in the 1999 watermelon pilot crop insurance program.

OIG Position

We agree with the planned corrective action. However, in order to reach management decision, we will need a written response showing the results of the review to include a copy of the OGC opinion.

RECOMMENDATION NO. 2

If an adverse determination is made for Recommendation No. 1, RMA should collect \$1,293,524 (\$158,592 of this amount is included in finding 2) in overpayments to

producers A and B from the insurance company and pursue any civil remedies that may be appropriate.

RMA Response

The SRCO will review the audit findings and request OGC to provide an independent opinion regarding the producers' eligibility to participate in the 1999 watermelon pilot crop insurance program. If OGC determines that the producers did not meet the eligibility requirements to participate in the program, SRCO will issue the appropriate findings to the insurance companies to recover the funds in question and civil remedies, as appropriate. The SRCO expects to complete its review and request an OGC opinion no later than December 2001.

OIG Position

We agree with the planned corrective action. If OGC determines that the producers did not meet the eligibility requirements to participate in the program, we will need documentation showing the amounts owed the Government have been collected or set up as accounts receivable to reach management decision.

FINDING NO. 2
ACREAGE WAS NOT
INSURABLE

Two producers in Duval County received improper insurance indemnities on three claims because the crop was planted on land that was not insurable. One producer planted watermelons on land that had not been planted and harvested on 1 of the 3 previous years and the other producer planted watermelons on

land that had been planted to a melon crop for more than 2 consecutive crop years. This occurred because the insurance company's loss adjuster did not properly determine acreage eligibility when processing these three claims. As a result, \$371,688 (\$158,592 of this amount is also included in finding no. 1) in ineligible crop insurance indemnities was paid to producers A and C on a total of 530.4 acres of non-insurable watermelons.

The common crop insurance basic provisions state acreage must have been planted and harvested within 1 of the 3 previous crop years for crops planted on that acreage to be eligible for insurance. This requirement was reinforced to the insurance companies on July 8, 1999, when RMA issued manager's bulletin number MGR-99-025.² The insurance adjuster is responsible for determining whether all of the insured requirements under the provisions of the policy have been met. In addition to the basic provisions, the crop provisions for watermelons further state that any acreage of the insured crop that: (a) does not meet the rotation requirements shown in the special provisions (actuarial table for the specific county) will not be insured.³ The special provisions of Insurance 1999 and succeeding crop years for Duval County state that insurance will not attach to any acreage planted to a melon crop (watermelon, cantaloupe, etc.) more than 2 consecutive crop years.⁴

Producer A's Spring 1999 Claim

Producer A's 1999 CY claims were on 563.2 acres of spring watermelons and 676.6 acres of fall watermelons. We determined 237.7 of the 563.2 acres in the spring were not insurable. Of the 237.7 ineligible acres, 123.2 were planted in one field on farm no. 1 while the remaining 114.5 ineligible acres were planted on two separate fields on farm no. 2. See exhibit B for details.

Farm no. 1 was administered at the Jim Wells County FSA Office. Our review of the aerial slides at the county office showed that the land was fallow from June 1996 through June 1998. In addition, individual B (brother of the producer) stated that nothing was grown on this field during 1996 through 1998. The land was idle during the last 3 years until it was planted to

² Common Crop Insurance Policy (99-BR), section 9(a)(1)

³ 1999 Watermelon Pilot Crop Provisions, section 8(a)

⁴ 1999 County Actuarial Table for Watermelons in Duval County, Texas

watermelons in 1999. Producer A stated that hay grazer was planted on one of the fields (which was identified as field 6 on farm number 1) during 1 of the last 3 years but could not remember which year. Since the 123.2 acres of watermelons were planted on land that was not planted and harvested within 1 of the 3 previous crop years, these acres were not insurable.

A review of the acreage certifications for farm no. 2 identified that coastal grass was certified on both fields for 1995 through 1998. Since the coastal grass was planted in 1995, it did not meet the requirements for the land to be planted or harvested during 1 of the 3 previous crop years. An official with the RMA Compliance Office stated that if coastal remained on the field from 1995 until plowed up in 1999 for watermelons, the land would not be eligible for crop insurance. Therefore, the 114.5 acres certified in coastal grass were not eligible for crop insurance on watermelons. As a result, the 237.7 acres were not eligible for insurance, and producer A received an overpayment of \$158,592.

During our review of producer A's claim file, we determined that the adjuster reviewed the acreage and the insurance company requested and obtained documentation to verify the acreage on farm no. 2. However, the land was not determined ineligible because it was not planted or harvested within 1 of the 3 previous crop years. There was a Multi Peril Crop Insurance (MPCI) Adjustor Field Review form in the claim file that was signed by the adjuster on June 24, 1999. Question 15 on this form stated, "Was the acreage verified and/or accurately measured." This question was answered, "yes" by the adjuster.

In addition to the adjuster's review, a insurance company official requested documentation on the acreage history on farm no. 2 from both the insurance agent and the Duval County FSA Office. A review of the maps received from the insurance agent on July 14, 1999, indicated that coastal grass was on fields 1 and 2 of farm no. 2 for 1995 through 1998. Additionally, the land histories obtained on July 14, 1999, indicated that coastal grass was on fields 1 and 2 for the 4 years prior to planting the 1999 watermelon crop.

Producer C's Spring 1999 Claim

During crop year 1999, producer C filed a claim on 1,836.8 acres in the spring and another claim on 1,481.6 acres in the fall. Our review disclosed that 242.7 of the 1,836.8 acres in the spring and 50 of the 1,481.6 acres in the fall were not insurable. For producer C's 1999 spring crop, 156 of the 242.7 ineligible acres were planted in two separate fields on farm no. 3. One field contained 76 insured acres and the other field contained 80 insured acres. The remaining 86.7 ineligible acres (242.7 – 156) were planted in one field on farm no. 4. (See exhibit B for details.)

A review of one form FSA-578 for these farms revealed that the fields were not planted and harvested during 1996 through 1998, as required by the common crop provisions. As a result, the producer received an overpayment of \$184,416 based on the 242.7 (156 + 86.7) acres that were not eligible.

Producer C's Fall 1999 Claim

The 50 ineligible acres insured by producer C in the fall were planted in two fields on farm no. 5. These acres were ineligible because special crop provisions, which state that the acres cannot be planted to a melon crop more than 2 consecutive crop years, were not followed. The acres were planted to a melon crop for 3 consecutive crop years (1997, 1998, and 1999). One field consisted of 38.8 acres of which 18.7 were planted to melons in all 3 years. The other field had 31.3 acres planted to melons in all 3 years.

The insurance adjustor did not find the ineligible acres when reviewing the spring and fall claims. The MPCFI Field Inspection/Field Review/Spot Check form had a question related to verifying the acreage. Question 8 on this form stated, "All acreage is insurable. (Unrated ground; land was planted and harvested within 1 of the 3 previous crop years; rotation requirement observed)." The answer to this question was checked "yes" for the reviews of both the spring and fall claims. In addition, the insurance company did not find the ineligible acres during their high claims review for the policy year. Question 25 on this review form stated, "all acreage was verified as insurable." The answer to this question was checked "yes."

RECOMMENDATION NO. 3

The RMA should determine if producers A and C met the acreage eligibility requirements for the insured crop to participate in the 1999 pilot watermelon crop insurance program.

RMA Response

The RMA conditionally concurred with the recommendation (exhibit C). The SRCO will review the audit findings and request OGC to provide an independent opinion regarding the eligibility to participate in the 1999 watermelon pilot crop insurance program.

OIG Position

We agree with the planned corrective action. However, in order to reach management decision, we will need a written response showing the results of the review to include a copy of the OGC opinion.

RECOMMENDATION NO. 4

If an adverse determination is made for Recommendation No. 3, RMA should collect \$213,096 (\$371,688 - \$158,592 of this amount is included in finding 1) in overpayments to

producers A and C.

RMA RESPONSE

The SRCO will review the audit findings and request OGC to provide an independent opinion regarding the eligibility to participate in the 1999 watermelon pilot crop insurance program. If OGC determines that eligibility requirements were not met, SRCO will issue the appropriate findings to the insurance companies to recover the funds in question and civil remedies, as appropriate. The SRCO expects to complete its review and request an OGC opinion no later than December 2001.

OIG POSITION

We agree with the planned corrective action. If OGC determines that eligibility requirements were not met, we will need documentation showing the amounts collected or set up as accounts receivable, or justification for not collecting, in order to reach management decision.

GENERAL COMMENTS

This audit was initiated to review the crop and acreage eligibility requirements of producers that participated in the 1999 pilot watermelon crop insurance program. During this review we determined that 5 of the 18 claims filed by 3 of the 11 producers did not meet eligibility requirements for participation in the 1999 watermelon pilot crop insurance program.

During this review, it came to our attention that there were other issues with the 1999 pilot watermelon crop insurance program that needed to be examined. First, there was concern that fall coverage under the pilot watermelon crop insurance program should not have been offered in South Texas. Several experts in the watermelon production areas we reviewed communicated this to OIG. We will review the viability of fall watermelon crop insurance coverage in South Texas under audit number 05601-08-Te.

Secondly, our review disclosed that a share problem may have existed with a large fall claim in which a producer insured over 6,600 acres and received an indemnity payment of over \$5.5 million. This producer cash leased all the acreage and hired 19 custom farmers with little or no prior watermelon experience to farm the crop. Although we made numerous requests for information, we have not been able to obtain the necessary documentation to verify the producer's share on this claim. In addition, an apparent conflict of interest may have existed between the insurance agency that sold the policy on this fall claim and the producer. The individual that signed up the 19 custom farmers for the producer was the son of the partner in the insurance agency. As a result of identifying this during our review, we established audit number 05601-09-Te to further review the insurable share and conflict of interest situation on this fall claim.

EXHIBIT A – SUMMARY OF MONETARY RESULTS

FINDING NUMBER	RECOMMENDATION NUMBER	DESCRIPTION	AMOUNT	CATEGORY
1	2	Crop Eligibility Requirements Were Not Met	\$1,293,524	Questioned Costs, Recovery Recommended
2	4	Acreage Was Not Insurable	\$ 213,096	Questioned Costs, Recovery Recommended
TOTAL			\$1,506,620	

EXHIBIT B – SUMMARY OF INELIGIBLE ACRES

Producer	Farm	Tract Number	Field Number	Claim	Insured Acres	(A) Acreage Did Not Meet Basic Provisions	(B) Acreage Did Not Meet Special Provisions	Total Ineligible Acres
A	1	1	1	Spring	123.2	(C) 123.2		
		2	1a	Spring	57.0			
		2	2a	Spring	57.5			
								237.7
C	3	3	5a	Spring	76.0	76.0		
		3	7c	Spring	80.0	80.0		
		4	1a	Spring	86.7	86.7		
								242.7
C	5	5	2	Fall	18.7		18.7	
		5	3	Fall	31.3		31.3	50.0

(A) The basic provisions require the insured crop to be planted on acreage that has been planted and harvested within 1 of the 3 previous crop years.

(B) The special provisions for Duval County state that insurance will not attach to any acreage planted to a melon crop more than 2 consecutive crop years.

(C) Acreage was not certified during crop years 1996 through 1998. Aerial slides showed land was fallow from June 1996 through June 1998.

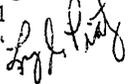
EXHIBIT C – RMA’S RESPONSE TO THE DRAFT REPORT



United States Department of Agriculture
Farm and Foreign Agricultural Services
Risk Management Agency

15 August 2001

TO: Ernest M. Hayashi
Director, Farm & Foreign Agricultural Division
Office of Inspector General

FROM:  Garland D. Westmoreland
Deputy Administrator
Office of Risk Compliance

SUBJECT: OIG Audit Official Draft Report 05601-7-Te – Watermelon Claims in South
Texas, dated July 12, 2001

In response to your letter dated July 30, 2001, I have re-examined the subject report and conditionally concur with the findings and do not desire an exit conference. The Director of the Risk Management Agency's Southern Regional Compliance Office (SRCO) has requested a copy of the audit working papers from your Temple Office. The SRCO will review the information provided and request the Office of General Counsel (OGC) provide an independent opinion if the producers cited in the official draft report met the eligibility requirements to participate the 1999 watermelon pilot crop insurance program. If OGC determines that the producers did not meet the eligibility requirements to participate in the program, SRCO will issue the appropriate findings to the insurance companies to recover the funds in question and civil remedies as appropriate. The SRCO expects to complete its review, and request OGC to review the issue no later than December 2001.

If you have any questions, please contact Rich Steffens at (202) 720-0929.



•1400 Independence Ave., SW-Stop 0801•Washington, DC 20250-0801

The Risk Management Agency Administers and Oversees
All Programs Authorized Under the Federal Crop Insurance Corporation

An Equal Opportunity Employer

ABBREVIATIONS

Act	
The Federal Crop Insurance Act of 1980.....	1
APH	
actual production history	3
FCIC	
Federal Crop Insurance Corporation.....	1
FSA	
Farm Service Agency.....	1
MPCI	
Multi Peril Crop Insurance	14
NAP	
non-insured assistance program.....	1
OGC	
Office of General Counsel	10
OIG	
Office of Inspector General	7
RMA	
Risk Management Agency	i
RO	
Regional Office.....	3