

RAIN AND HAIL INSURANCE)	AGBCA No. 99-157-F
SERVICE, INC.)	
(Dunwoodie Farms),)	
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Bruce B. Green)	
Willson & Pechacek, P.L.C.)	
P.O. Box 2029)	
Council Bluffs, Iowa 51502)	
)	
Representing the Government:)	
)	
Janet Hubbard Safian)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
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1400 Independence Avenue, S.W.)	
Washington, D.C. 20250)	

DECISION OF THE BOARD OF CONTRACT APPEALS

November 22, 1999

OPINION BY ADMINISTRATIVE JUDGE EDWARD HOURY

The appeal arose from a 1995 Standard Reinsurance Agreement (SRA) between the Federal Crop Insurance Corporation (FCIC), a wholly-owned Government corporation within the U. S. Department of Agriculture, and Rain and Hail Insurance Service, Inc. (RHIS) of West Des Moines, Iowa (Appellant). Under the SRA, Appellant sells and administers Multi-Peril Crop Insurance (MPCI) policies in furtherance of FCIC crop insurance program.

The appeal also relates to FCIC Manager’s Bulletin 93-020 (MGR 93-020) which allows reinsurers such as Appellant to recoup certain litigation expenses incurred administering crop insurance policies, if the conditions in MGR 93-020 are met. These conditions include the requirement that litigation could establish a legal precedent detrimental to the crop insurance program.

Appellant extended insurance on land that could not be planted because of flooding caused by structural problems with a levee drain and the drain gate. The flooding because of the structural problems was unique to a particular insured's land.¹ Other farmers in the area were not prevented from planting their crops.

The insured filed a "prevented planting" claim that Appellant denied on the grounds that the flooding was due to problems with the levee, and that such flooding was not covered under the MPCI. The insured sought arbitration to resolve the claim. Appellant incurred expenses associated with the arbitration that Appellant requested recoupment of pursuant to MGR 93-020. Appellant's request was denied by FCIC on the basis that the arbitration was not litigation and accordingly, could not have established a legal precedent detrimental to the crop insurance program.

Appellant filed a timely appeal. The Board has jurisdiction pursuant to 7 C.F.R. part 24 and 7 C.F.R. § 400.169(d). The pleadings and Rule 4 File² were filed. Appellant supplemented the Rule 4 File and the Government filed a Motion for Summary Judgment. The parties began negotiating to settle and Appellant requested a stay pending completion of the negotiations.

Appellant advised that FCIC had reimbursed the requested expenses and that the appeal should be dismissed with prejudice.

DECISION

The appeal is dismissed as settled.

EDWARD HOURY
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
November 22, 1999

¹ The insured was Art Dunwoodie.

² 7 C.F.R. § 24.21, Rule 4.