

Mediation Minute

North Dakota Department of Agriculture

Summer 2003

ADMINISTRATOR'S CORNER...

Welcome to the Mediation Minute. The North Dakota Agricultural Mediation Service (AMS) has been around for several years, and through those years we have



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seen many changes in the business of agriculture. However, one constant in production agriculture continues to be the financial risk that goes along with raising crops and livestock. Adverse weather, volatile markets, and complex federal farm programs all cause financial problems or disagreements between producers and others.

Unresolved conflict can be extremely costly, both financially and emotionally. The AMS specializes in helping parties resolve their mutual problems through facilitated informal and confidential communication. Mediation allows parties to analyze problems, identify issues, explore options, assess risks, and focus on possible solutions that avoid formal and costly legal actions.

Agricultural mediation is a specialized area of alternative dispute resolution that is cost-effective and improves working relationships. From sixteen state programs in 1989, the program's success and popularity has led to the current number of twenty-nine USDA-certified state agricultural mediation programs.

This issue provides a brief history of the AMS. In the next issue, we will introduce you to the AMS staff and ND Credit Review Board. If you have any questions about the AMS or our services, please do not hesitate to call us.

AG MEDIATION SERVICE: ALL ABOUT US

The North Dakota Agricultural Mediation Service (AMS) is one of twenty-nine USDA-certified state agricultural mediation programs. State agricultural mediation programs are state and federal partnerships with a common goal of resolving problems and disputes between agricultural producers, their lenders, and other state and federal agencies providing rural programs and services.

About the AMS: The AMS originated in 1984 with the establishment of the Farm Credit Counseling program. In response to the farm credit crisis of the 1980's, the program was developed to assist farmers with their financial problems and help keep struggling farms operating through the period, which was characterized by level to lower government farm program support, record high interest rates, and the deflation of farm real estate and asset values. The program's success led the 1985 Legislature to continue and fund the program.

In 1987, Congress passed the Agricultural Credit Act. A provision of the Act provided federal matching funds to help states with the development and operation of agricultural loan mediation programs that met USDA certification requirements. The 1989 Legislature changed the name of the Farm Credit Counseling program to the North Dakota Agricultural Mediation Service, authorized the program to receive and expend federal funds, allowed for fees to be charged for services, and provided for confidentiality of mediation communications and records.

The success of agricultural loan mediation prompted subsequent federal legislation that expanded the scope of USDA-certified mediation issues beyond agricultural loans. Currently, issues designated as allowable for federal cost-share by state mediation programs include wetlands determinations, compliance with farm programs, agricultural credit, rural water loan programs, grazing on National Forest land, pesticides, and other issues the Secretary of Agriculture considers appropriate.

Because USDA-certified mediation programs are developed and administered by each state, program services and structure vary among the state programs. In North Dakota, the Farm Service Agency and Farm Credit Services are required to offer and participate in mediation of delinquent loans if requested by the borrower. The Bank of North Dakota also offers and participates in mediation of delinquent loans. Mediation is voluntary for all other agricultural

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lenders. The Farm Service Agency and several other USDA agencies also offer and participate in mediation of adverse farm program decisions as part of each agency's appeal process. Any party may request mediation in North Dakota as long as one of the involved parties is a farmer as defined by state law.

Mediation allows parties to negotiate and arrive at a mutually acceptable agreement or agree to disagree in an informal and confidential forum. The self-developed resolutions of mediation are generally more satisfying and less costly than formal appeals or litigation where a decision-maker imposes an evidence-based decision on the parties.

As a proven, cost effective, and preferred method for resolving problems and disagreements, mediation and other forms of alternative dispute resolution have been rapidly expanding within the public and private sectors over the past several years.

Other Services: In addition to mediation services, the AMS provides assistance in a number of areas including beginning farmer financing and farm diversification efforts. AMS also provides referrals in specialized areas such as legal services, mental health services, social services, accounting and tax, farm management, and alternative financing.

ONLINE INFORMATION



USDA Conflict Prevention and Resolution Center - www.usda.gov/cprc

USDA Agricultural Mediation Programs - www.fsa.usda.gov/pas/publications/facts/html/mediate03.htm

ND Agricultural Mediation Service - www.agdepartment.com/Programs/AMS.html

ND AMS HOLDS SUMMER TRAINING SEMINAR

The AMS held its 2003 summer training seminar July 22-24 in Bismarck. Representatives from the North Dakota Farm Service Agency, Bank of North Dakota, and the NDSU Extension Service provided presentations and training sessions.

The Credit Review Board also held its July meeting in conjunction with the seminar. The Credit Review Board is comprised of six members with two members appointed by each member of the state's Industrial Commission. In addition to other duties, the Credit Review Board establishes policy for the operations of the AMS.

ND AMS WORKLOAD STEADY IN 2003

AMS clients totaled 460 during fiscal year 2003, which ended on June 30th. During the previous

fiscal period, the AMS worked with 461 farm clients. Agreement rates for mediation cases were 83 percent in 2003.

COALITION OF AGRICULTURAL MEDIATION PROGRAMS (CAMP) HOLDS ANNUAL MEETING

The 2003 annual meeting of the Coalition of Agricultural Mediation Programs (CAMP) was hosted by the New York State Agricultural Mediation Program on June 16-18 in Saratoga Springs, New York.

The conference included state program introductions and descriptions, orientation for new programs, presentations by USDA Farm Service Agency officials, a workshop on ethical principles in mediation practice, and other discussions on topics of common interest.

CAMP is comprised of the 29 USDA-certified state agricultural mediation programs.

NEW BANK OF NORTH DAKOTA LOAN GUARANTEE PROGRAM

A new farm real estate loan guarantee program became available on August 1, 2003. The 2003 Legislature authorized the Bank of North Dakota (BND) to guarantee real estate loans made by lead lenders. The program is designed to assist farmers with the purchase of agricultural real estate or the restructuring of agricultural real estate loans.

BND may provide a lender with a 75 percent guarantee of total loans, not to exceed \$400,000 to an individual borrower. The guaranteed loan may not exceed 80 percent of the appraised value of the real estate, and the term of the guarantee may not exceed five years.

BEGINNING FARMER LOAN PROGRAMS

Farm Service Agency (FSA): The 2002 Farm Bill included improvements to the FSA's Beginning Farmer Downpayment Loan Program. The program is designed to assist beginning farmers and ranchers with the downpayment on agricultural real estate purchases. Prior to the Farm Bill amendments, the program could provide up to 30 percent of the lesser of the purchase price or appraised value with a maximum repayment schedule of 10 years.

The program can now provide up to 40 percent of the lesser of the purchase price or appraised value with repayment of up to 15 years at a fixed interest rate of 4 percent. The borrower must provide 10 percent of the financing in cash. The remaining balance of the purchase loan can be obtained from a commercial lender or private party. The FSA can provide a guarantee of up to 95 percent of a commercial lender's portion of the financing. The maximum combined loan under the program may not exceed \$250,000.

Additional information can be found on the FSA website at: www.fsa.usda.gov

Bank of North Dakota (BND): BND Beginning Farmer Loan programs include the First Time Farmer Finance Program, the Farm Real Estate Program, and the Chattels Program.

BND
Bank of North Dakota
banknd.com

The First Time Farmer Finance Program is a federal tax incentive program generically known as "aggie bonds." The BND administers the program.

The Beginning Farmer Real Estate Loan Program is a direct loan program of the BND for the purchase of agricultural real estate. The maximum loan amount is \$150,000 with the interest rate fixed at one percent below the Bank's base rate (maximum of 6 percent) for the first five years, adjusted annually to one percent below the Bank's base rate for each of the second five years, and floating at the Bank's base rate for the remainder of the loan term. Loans may not exceed 75 percent of the appraised value of the property. Net worth and previous land ownership restrictions apply for loan eligibility.

The Beginning Farmer Chattel Loan Program is a participation loan program established by the 2001 Legislature. BND participation in the loan must range from 50 percent to 80 percent of the total loan with the remaining financing being provided by a commercial lender. The program may be used by eligible borrowers for the purchase of farm equipment and/or livestock. The interest rate on the BND share of the loan is the same as BND's Beginning Farmer Real Estate Program. The lead lender's market interest rate is "bought down" by five percent on the lead lender's share of the loan. Net worth and other "beginning farmer" definition restrictions apply for program eligibility.

Additional information can be found on the BND website at: www.banknd.com

CONGRESS EXTENDS CHAPTER 12 BANKRUPTCY

Congress has passed legislation to extend Chapter 12 bankruptcy until January 1, 2004. The legislation is pending the signature of President Bush. Chapter 12 was first made available in 1986 as a temporary family farm bankruptcy provision. Chapter 12 has since been extended six times and is being considered for permanent authorization in overall bankruptcy reform legislation.

CROP INSURANCE/RISK MANAGEMENT

USDA's Risk Management Agency (RMA) issued the final rule on the basic provisions for its Common Crop Insurance Policy. The rule was published in the Federal Register on June 25, 2003. The rule is **effective for the 2004 crop year for crops with a contract change date of June 30, 2003, and later**. A number of additional changes to the Basic Provisions were proposed but not implemented in this final rule. The additional proposed changes will be addressed in a subsequent final rule and will not be effective until the 2005 crop year.

RMA's Second National Outreach Conference, "Survival Strategies for Small and Limited Resource Farmers and Ranchers," will be held in San Diego on October 6-9. The conference is designed for public and private individuals and organizations that work with small and limited resource farmers and ranchers to help them identify, develop and promote successful risk management strategies for the rapidly changing agricultural environment. Several workshops, one of which includes the agricultural mediation program, are part of the conference agenda.

Additional information can be found on the RMA website at: www.rma.usda.gov/

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