

Mediation Minute

North Dakota Department of Agriculture

Winter 2003

ADMINISTRATOR'S CORNER...

This issue introduces the Credit Review Board (CRB). Also included is another in a series of mediation case studies published by USDA's Conflict Prevention and Resolution Center. The publication, "Mediation Success Stories: Finding Common Ground in Agricultural and Rural Disputes," consists of actual mediation case studies from certified state agricultural mediation programs. To protect the identities of involved individuals, the names, states, and other identifiers are not included in the publication's stories. However, the stories and experiences are common to most state mediation programs and provide a fair description of and insight into agricultural mediation cases not usually available to the public.



Jeff Knudson

AMS HOLDS DECEMBER TRAINING

In December, the AMS staff met for training in conjunction with the North Dakota Department of Agriculture's (NDDA) annual full staff training. The AMS training included updates on Farm Service Agency (FSA) direct and guaranteed loan programs by state FSA officials. AMS staff also heard from NDDA personnel on work plans and efforts for expansion of the livestock industry in North Dakota.



NORTH DAKOTA CREDIT REVIEW BOARD

The North Dakota Credit Review Board is comprised of six members with two members appointed by each member of North Dakota's Industrial Commission. The Governor and Attorney General each appoint one farmer and one lender and the Agriculture Commissioner appoints two farmers. The CRB establishes policy for the Agricultural Mediation Service (AMS), makes recommendations to the Department of Career and Technical Education regarding the Farm and Ranch Business Management Program and makes recommendations to the Industrial Commission regarding Bank of North Dakota agricultural loan programs.

Credit Review Board Members

Marilyn Aarsvold, farmer, Blanchard

Elwood Barth, farmer, Solen

Paul Burtman, farmer, Wildrose

Russ Erickson, lender, Bremer Bank, Grand Forks

David Rustebakke, farmer, Grand Forks

George Wald, lender, Great Plains National Bank, Dickinson



GUARANTEED LOAN/LOSS CLAIM CASE

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The Farm Service Agency (FSA) regularly guarantees loans that local banks make to farmers on FSA's behalf. When a farmer defaults on the loan, the bank can then apply to FSA for reimbursement of its loss. However, eligibility for reimbursement is forfeited if the lender has not complied with FSA regulations on filing claims and issuing the loan. In the summer of 1999, a bank received a letter from the state FSA office giving notice of the refusal to reimburse the bank on a loan loss claim. The bank's vice president requested mediation in order to discuss face to face with the FSA official the reasoning behind the refusal.

Intervention: Upon receiving the request for mediation from the bank, the state Agricultural Mediation Program staff contacted one of the mediators under contract and set up a mediation session that included the FSA representative, the bank vice president and the mediator. Neither the FSA representative nor the bank vice president had participated in mediation previously. The vice president chose mediation because he wanted to further discuss the "dictum" stated within the refusal letter and because he believed that up to this point, FSA had been unresponsive to his requests for explanation. Although he was aware of FSA regulations regarding loan loss reimbursement, he believed that this reimbursement request fell into a "gray area." Both parties were surprised that they did most of the talking in the mediation session. The mediator saw that they were communicating well and decided to "take a back seat." The FSA representative clarified that the bank had allowed inappropriate use of the funds and had completed the required paperwork incorrectly. He made the reasons for FSA's denial of the reimbursement clearer to the bank vice president.

Outcome: Once the bank vice president understood what had been wrong in the loan processing, he accepted the State office's decision. The two men then decided to meet again, without the mediator, so that the FSA official could coach the vice president on how future guaranteed loans should be completed. This meeting soon followed, which, the bank vice president noted, was "useful for us."

Cost/Benefit: The FSA representative involved does not believe that mediation is always effective, but in this case felt it was necessary, as both men had come to a "hard stand" in their views and positions on the issue. According to the FSA representative, the mediation allowed the dispute to be resolved calmly without further escalation. The bank vice president sensed that before the mediation, he and the FSA representative "did not see eye to eye," but the tenor of his relationship with the FSA representative changed dramatically as a result of the mediation. "When people take the time to sit down one on one there's a lot of respect." Not only was an increasingly tense situation resolved, but also the working relationship between the two men is now on positive, productive footing. The bank in question holds \$4.8 million dollars in guaranteed FSA loans, and its ability to continue making these loans is crucial to the small farming community in which it is located. The bank vice president now feels more assured in going to his board of trustees and urging them to continue making FSA guaranteed loans, and the FSA official feels confident the bank will now adhere closely to FSA regulations. This came at no cost to the FSA office, and involved only two short meetings of the office's director. As a result of the mediation, this FSA office now has a better working relationship with a key partner to its mission to assist farmers. FSA can now better serve its clients with less time spent doing so.

LENDING PROGRAM PROVIDES OPPORTUNITIES FOR RURAL YOUTH

The Farm Service Agency offers loans to individual rural youths for the operation of modest income-producing projects. Projects can be farm/ranch related, however, all feasible business proposals are eligible. The projects must be conducted and supervised through the youth's participation in 4-H clubs, FFA, or other similar organizations approved by FSA.

The project's business plan must be recommended by the applicant's organizational advisor, project sufficient income to repay the loan, and provide the borrower with practical business and educational experience. The project advisor must also agree to provide project supervision.

To meet eligibility requirements, an applicant must:

- be a citizen or permanent resident of the United States;
- be between 10 and 20 years of age;
- live in a town with a population of less than 10,000;
- be unable to receive a loan from other sources; and
- be capable of planning, managing, and operating the project under guidance and assistance from a project adviser.

The maximum loan amount is \$5,000 and can be used to purchase livestock and equipment, rent or lease equipment or tools, and pay project operating expenses. The borrower must sign a promissory note and, in some cases, a co-signer may be required. Collateral may include the products produced for sale and assets purchased with loan funds. The loan repayment schedule is negotiable depending on the nature of the project.

ALTERNATIVE DISPUTE RESOLUTION PROCESSES

Mediation is an interest based process in which a neutral third party (mediator) facilitates discussions to assist parties reach a resolution of their differences. The mediator has no decision-making authority; resolution is mutually agreed to by the parties.

Conciliation is a process in which a third party meets with disputants separately to establish underlying causes of the dispute and promote settlement in a friendly and non- antagonistic manner.

Arbitration is a process in which a third party decision maker holds a hearing of information and issues a decision. Arbitration may be binding or non-binding on the parties.

ONLINE INFORMATION

Online fact sheets and information can be found on these and other programs at the following websites:

FSA Youth Loan Program:

www.fsa.usda.gov

USDA Conflict Prevention and Resolution Center:

<http://www.usda.gov/cprc/>

USDA Agricultural Mediation Programs:

<http://www.fsa.usda.gov/pas/publications/facts/html/mediate03.htm>

ND Agricultural Mediation Service:

<http://www.agdepartment.com/Programs/AMS.html>



CREDIT REVIEW BOARD MEETS IN GRAND FORKS

The Credit Review Board held its regular meeting in Grand Forks on November 20th. In addition to the regular meeting, a roundtable forum of area agricultural lenders and businesses provided an opportunity to review the current ag economy and outlook in the Grand Forks area.

“This provides an opportunity for area lenders and agri-business people to share their thoughts and ideas in an informal, roundtable discussion,” said Woody Barth, Solen, CRB chairman. “We are always interested in their assessment of current farm financial conditions and producer attitudes, as well as their own expectations for the coming year.”

The Credit Review Board periodically holds its meeting and similar forum in different areas of the state.

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