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### **Planting A Crop Could Cost Farmers Revenue<sup>1</sup>**

It is too early to determine the level of freeze damage on the winter wheat crop but as insurance companies settle these freeze claims, farmers need to be careful they don't void their free SURE (SUPplemental REvenue) disaster aid coverage from the Farm Service Agency (FSA).

The first step before planting any crop is to get a release from their insurance company. If the insurance company thinks there is a chance for recovery they may require farmers to leave test strips of wheat. It is recommended that revenue insured farmers only consider a second crop on failed wheat acres if the insurance company is willing to appraise the remaining crop and release it without requiring test strips. The reason is because wheat has a very "high" base revenue price of \$8.77. Changing to grain sorghum coverage will have a much lower level of coverage because of the lower base price. Also, many wheat farmers will not have a grain sorghum history and will be required to use "county" yields for their aph. If the test strips recover, farmers may generate lower net revenue because of the reduction in the wheat indemnity payment and that is especially true if the replacement crop fails.

**"Double" Crop Issue.** The issue is farmers who plant grain sorghum (or other crops) on failed wheat acres may eliminate their SURE payments. In many cases, the grain sorghum is considered "double" crop because the wheat will not be released until it heads

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out (maybe the wheat will recover). There is still plenty of time to plant grain sorghum but if it is classified as double-crop it will require farmers to have paid the \$250 NAP fee for double-crop grain sorghum back on March 15. So farmers end up in a Catch 22 because few farmers paid the NAP fee for double-crop grain sorghum by the final date of March 15, 2009 unless double-cropping is part of their normal farming operation. Therefore, farmers planting a replacement crop on failed wheat acres that is classified as a “double” crop without NAP coverage, will not be eligible for SURE payments.

The rules for SURE have not been published, so currently it is impossible to estimate the benefits from SURE. In addition, SURE is settled on the Market Year Average (MYA) price. The marketing year does not end for wheat until May 31, 2010. Because many of these same farmers have grain sorghum or soybeans that have MYA prices ending on August 31, 2010, SURE payments will not be paid until about November of 2010 for 2009 wheat crop loss.

The stimulus package additions to 2008 SURE disaster aid coverage allows farmers a “do over” by paying the NAP/CAT fees on 2008 crops to gain SURE eligibility but this does **not** apply to 2009 crops. The stimulus package also increases the SURE coverage from 115% to 120% on 2008 crops but **not** 2009 crops. The justification argument was that farmers did not know the eligibility rules for SURE in time to meet the 2008 crop insurance/NAP deadlines. The eligibility rules were unknown for the 2009 crop and if FSA does not publish the SURE rules soon, that same argument applies to 2010 winter wheat.

One fix is to just declare any crop planted on failed winter wheat acres to be a ghost crop so that it would not count in the SURE guarantee nor count against the guarantee. Assuming the administration can make this ghost crop determination, farmers will have enough time to plant a ghost crop.

Providing the enhanced SURE coverage available on 2008 crops to 2009 crops will require an act of Congress and will increase budget costs. In any case, this option could not happen fast enough for farmers to plant a crop on failed wheat acres. Only an administrative decision to count the crops planted on failed wheat acres as ghost crops could happen quick enough for farmers to actually plant the crop.

**The 35% Option.** Some Great Plains farmers with freeze damaged wheat may be able to take advantage of the 35% option in their Risk Management Agency (RMA) reinsured crop insurance contract<sup>2</sup>. Farmers with wheat freeze damage have the option to take 35% of their wheat indemnity claim and pay 35% of their wheat premium. Farmers are then allowed to plant a crop on those failed acres and the replacement crop will be insured, if the wheat has not headed, causing the replacement crop to be classified as “double” crop. It is also necessary for those farmers to have listed the replacement crop on their crop insurance policy. For example, farmers that have both winter wheat and grain sorghum

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<sup>2</sup>Disclosure: The author has a financial interest in Oklahoma wheat but it is small compared to the amount the author has lost in the stock market over the past 18 months, especially since the wheat crop was insured.

listed on their crop insurance policy could elect this option. However, if there is chemical carry-over that prevents planting grain sorghum, these same farmers do not have the option to change to soybeans unless soybeans are also on their crop insurance contract. At the end of the growing season, farmers that have no loss on the replacement crop may elect to take the balance of their winter wheat indemnity payment and pay the balance of their wheat premium. They would also owe the premium on the replacement crop.

Complicating matters are crop share rental agreements where one party may not have paid the required NAP fee for “double” crop or listed the replacement crop on their insurance contract. Therefore, if a replacement crop is planted on these failed acres, one of these parties will lose their SURE payments. However, the party that has an incentive to plant could compensate the other party for loss of SURE payments. But currently it is impossible to determine a “fair” compensation for the loss of SURE payments until the SURE rules are published.

An unintended consequence of these complicated USDA rules is it will cause more landlords to change to cash rents. Cash rents increase the risk for the grower and that is the opposite of the stated policy objective for USDA.

**The *de minimis* test.** Small acreage, more likely to be the landlord, might be able to meet the *de minimis* test. If one can meet the *de minimis* test on the replacement crop, then the replacement crop does not require NAP payments or crop insurance. For 2009 the *de minimis* test require the crop to be worth less than \$9,090 (\$3,636 for 2008 crops) or less than 5% of the whole farm crop revenue. A *de minimis* crop does not count in the SURE revenue guarantee nor does any of the *de minimis* crop against the SURE guarantee. A *de minimis* crop is treated the same as a ghost crop. However, the SURE rules have not been published so the question remains what yield and price will be used to determine value of the crop for determination as a *de minimis* crop.

Finally, farmers who failed to pay a require NAP fees or to insure 2008 crops, get a “do over” because they can pay those fees by May 18 and gain eligibility for 2008 SURE payments. However if they are not in a county that has been declared a disaster or a contiguous county for 2008, then there is no reason to pay the fees unless they had a severe yield loss, probably over 30%. However, there is no similar provision for 2009 crop losses. At this point, if farmers missed the deadline for paying the NAP fees and purchasing crop insurance for 2009, they are out of luck on SURE. It is possible that Congress will pass similar legislation to provide reactive signup that was provided on the 2008 crop, but there is no such legislation currently pending.