

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

Natural Resources Conservation Service
Emergency Watershed Protection
Program
1999 Arizona Drought Emergency



Report No.
10099-01-SF
February 2001



UNITED STATES DEPARTMENT OF AGRICULTURE



OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250

DATE: February 20, 2001

REPLY TO
ATTN OF: 10099-01-SF

SUBJECT: Emergency Watershed Protection Program, 1999 Arizona Drought Emergency

TO: Pearlie S. Reed
Chief
Natural Resources Conservation Service

ATTN: Steve Probst
Acting Director
Operations Management and Oversight Division

This report presents the results of our audit of the Emergency Watershed Program in the State of Arizona. Your written response to the draft report is included as exhibit D of this report. Excerpts from your response and our position on the response are incorporated into the relevant sections of the report.

Based on your response, we accepted your management decision for Recommendation Nos. 1, 2, 3, and 6. In order to reach management decision for Recommendation Nos. 4 and 5, please refer to the relevant OIG Position sections of the report.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days. Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from date of report issuance.

The Office of the Chief Financial Officer (OCFO), U.S. Department of Agriculture, has responsibility for monitoring and tracking final action for the findings and recommendations. Please note that final action on the findings and recommendations should be completed within 1 year to preclude listing in the Semiannual Report to Congress. Please follow your agency's internal procedures for forwarding final action correspondence to OCFO.

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

/s/

JAMES R. EBBITT
Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

EMERGENCY WATERSHED PROTECTION PROGRAM 1999 ARIZONA DROUGHT EMERGENCY AUDIT REPORT NO. 10099-01-SF

RESULTS IN BRIEF

We performed a review of the Emergency Watershed Protection (EWP) Program in the State of Arizona in response to a whistleblower complaint. The whistleblower believed that the Arizona Natural Resources Conservation Service (NRCS) State office did not have adequate support for its request for EWP funds and was disbursing those funds to individuals and organizations that did not qualify for EWP assistance. Our objectives were to evaluate the validity of the whistleblower's complaint and to determine if the Arizona NRCS State office implemented the EWP Program in accordance with regulations.

For work to be justifiable under the EWP, the cost of repairing the watershed should not exceed the potential damage from runoff. To establish these costs, local NRCS offices complete Damage Survey Reports (DSR) that identify the work needed to repair the watershed and the damage that could occur if the repairs were not made. As the result of a Statewide drought, NRCS declared the entire State of Arizona an emergency area and submitted DSR's with that understanding.

Because the whistleblower was concerned only with State office actions, we focused on the State's administration of the EWP and did not determine the extent to which controls at the National office level contributed to any questionable actions regarding program management.

We determined that the whistleblower's concerns were substantially correct. For the 1999 Arizona drought emergency, DSR's were not adequate to support the implementation of the EWP Program, and program participants were not always completing the agreed-upon watershed protections:

- DSR's submitted by the Arizona NRCS State office did not identify the extent of damages that would have been prevented by implementing the proposed work. Without an adequate economic defensibility justification, we question whether the Arizona State office acted properly in approving payments of over \$11 million in EWP funds.

- The Arizona State office allowed two participants to remain in the program even though they violated contract requirements. One of the participants falsely certified on a payment application that the terms of the EWP contract were being fulfilled. Rather than imposing penalties for false certification, the State office modified the contract to cover only the practices to which the participant certified correctly. The State office believed that modifying a participant's contract was a fair and reasonable solution to a participant's failure to comply with contract requirements. However, given the circumstances, we believe that terminating the participants from the program would have been the appropriate course of action.
- The Arizona State office paid two participants under the EWP Program to implement deferred grazing even though the purpose of this practice would have been accomplished under existing Environmental Quality Incentives Program (EQIP) contracts with the same participants. According to the field office representative, they were under time constraints to implement the EWP Program and did not have the opportunity to review case files to look for duplicate participants. We concluded that the State office should not have paid the program participants \$15,283 under their EWP contracts.

We learned that the Arizona State office had proposed the EWP Program for the year 2000. The NRCS National office sent a disaster assistance response team to Arizona in June 2000 to provide the State office with technical assistance and to evaluate the 1999 program. Its evaluation of the 1999 program identified concerns, some of which were the same issues we are disclosing in this report. For example, the NRCS National office was concerned about the adequacy of defensibility of individual sites and the adequacy of one DSR for program implementation. As of June 7, 2000, the National office had not received a request for EWP assistance from Arizona.

During our audit we also became aware of some questionable activities in the Farm Service Agency's American Indian Livestock Feeding Program (AILFP). OIG has opened a criminal investigation to look into these activities.

KEY RECOMMENDATIONS

The NRCS State office in Arizona needs to specifically identify in the DSR what is at risk and what the potential damages are in order to ensure that the cost of implementing the measures is less than the anticipated damages. We also recommended that the Arizona NRCS State office terminate participants A and B from the program and de-obligate the remaining funds scheduled for payment.

In addition, we also recommended that the Arizona NRCS State office collect the \$15,283 in EWP overpayments made to two participants who were paid for grazing practices on the same acreage and during the same time period under two separate conservation programs.

AGENCY RESPONSE

In its January 19, 2001, written response to the draft report, the NRCS National office agreed with our findings. The response included NRCS' actions taken to address the recommendations.

Applicable portions of NRCS' response are incorporated, along with our position, in the Findings and Recommendations sections of this report. The full text of NRCS' response is included as exhibit D of the report.

OIG POSITION

We accept NRCS' management decisions on the recommendations in this report, except for Recommendations 4 and 5.

In order to reach management decision on these recommendations, please provide us with copies of the bills for collection or the demand letters for the amounts questioned.

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INTRODUCTION

BACKGROUND

The EWP Program was authorized by Congress to respond to emergencies resulting from natural disasters. This program provides technical and financial assistance to relieve imminent hazards to life and property caused by floods, fires, windstorms, and other natural occurrences. Individuals are not eligible for EWP assistance unless represented by a project sponsor—a State government or a political subdivision of a State, such as a city, county, tribal organization, general improvement district, or a conservation district. Sponsors are responsible for providing land rights, for securing permits, for furnishing the local cost share, and for operation and maintenance of the practice installed.

The program is authorized by section 216 of the Flood Control Act of May 17, 1950 (P.L. 81-516; 33 U.S.C. 701b-1) and by section 403 of Title IV of the Agricultural Credit Act of 1978, (P. L. 95-334), as amended by section 382 of the Federal Agricultural Improvement and Reform Act of 1996 (P. L. 104-127 16 U.S.C. 2204). NRCS regulations implementing the EWP Program are set forth in 7 Code of Federal Regulations (CFR) 624.

The EWP Program is designed to reduce threats to life and property while being economically, environmentally, and socially defensible and technically sound. For example, the EWP practice can include removing debris from stream channels, road culverts, and bridges; reshaping and protecting eroded banks; correcting damaged drainage facilities; repairing levees and flood control structures; reseeding damaged areas; and purchasing floodplain easements. Practices implemented under the EWP Program are not limited to any one set of prescribed measures. Under current policy, NRCS may bear up to 75 percent of the construction cost of the emergency measures. The remaining cost must come from local sponsors and can be in the form of cash or in-kind services.

Current regulations require NRCS to review each emergency situation and determine if that situation is eligible for emergency assistance. A DSR presents the method of documenting all requests and collecting data for eligibility determinations. The DSR includes a description of the threats to life and/or property, the number of beneficiaries, and the

cost of the emergency work. Attachments to the DSR include an analysis on the social/economic defensibility of the project, a cost estimate, and an environmental evaluation.

On June 25, 1999, the Governor of Arizona issued a Statewide Drought Proclamation. The proclamation along with a letter requesting a determination of drought was sent to the Secretary of Agriculture for implementation of emergency disaster programs. On July 16, 1999, the Arizona State Emergency Board determined that a drought emergency existed under regulations promulgated to carry out sections 401 and 402 of the Agricultural Credit Act of 1978 (P. L. 95-334). On July 19, 1999, the NRCS State Conservationist declared a drought emergency existed throughout the State and planned to make the Emergency Watershed Protection Program available to assist the local ranchers in recovery.

The State of Arizona used the EWP Program as the main measure to maintain and restore vegetative cover primarily on rangeland. In order to participate in the program, each applicant submitted an application form certifying that he/she met the eligibility requirements. The field office and the applicant determined the total acreage and the authorized number of animals on the ranch. Once the applicant made a final decision on the number of acres to defer in the program, the agency and the applicant entered into a EWP contract. A map showing the affected area and conservation plan detailing the proposed measure(s) were part of the file.

The State office approved deferred grazing as the main measure, at a monthly rate of \$.56 per acre. The State office paid participants 75 percent of this cost or \$.42 an acre. The remaining 25 percent or \$.14 per acre was a cost absorbed by the participant to meet the cost share requirement. The participant certified monthly on an application for payment that the acres in the program had been deferred in accordance with contract specifications and the local field offices conducted spot checks for compliance. The field office forwarded the payment application to the contracting officer at the State office for payment.

On December 10, 1999, we were informed by a whistleblower that the EWP Program in Arizona was not being administered in accordance with program rules and regulations. A subsequent followup with the whistleblower disclosed that the whistleblower was concerned that (a) DSR's were not being completed in accordance with the regulations, (b) the EWP Program was used for a purpose other than what was originally intended, (c) program participants were not completing the agreed upon measures, and (d) the State office was not following program requirements. Because we had not conducted fieldwork in the EWP Program in the State of Arizona and because the whistleblower raised concerns about that program, we elected to review it.

OBJECTIVES

The objectives of the audit were to review the implementation of the EWP Program in the State of Arizona and determine if the whistleblower's complaints were valid.

SCOPE

On July 23, 1999 a drawing account was established in national headquarters at the request of the State Conservationist, thus committing funds to the recovery work.

Applications for EWP assistance were accepted at field offices beginning August 19, 1999. Program payments were made to eligible recipients on a monthly basis from September 1999 through April 2000. Consequently, the scope of our review covered the period August 1999 to April 2000.

The Arizona NRCS State office obligated over \$11 million for EWP. As of April 25, 2000, the Arizona NRCS State office had disbursed \$8.1 million for 332 contracts.¹ We judgmentally selected six EWP contracts throughout the State for review based on their geographic location, size, and the whistleblower concerns. The six program participants were originally obligated \$770,789. We reviewed four additional EWP contracts at the San Carlos field office to determine if the participants received funds under the EQIP program for a similar grazing practice. The audit fieldwork was conducted from April through June 2000.

The review was conducted in accordance with generally accepted government auditing standards.

METHODOLOGY

To accomplish the overall objectives of the audit, we performed the following procedures:

- At the Arizona NRCS State office, we reviewed program regulations; obtained the universe of EWP contracts, interviewed staff, and reviewed records to determine the operating procedures and program policies.
- At the Phoenix, Chinle, Moenkopi, San Carlos and Douglas NRCS field offices, we interviewed staff and reviewed the selected contract files to evaluate the field offices' administration of the EWP Program. We reviewed conservation plans, maps, permits,

¹ Of the 332 contracts, only 8 were for cropland protection. We consequently focused on rangeland contracts, which were the target of the whistleblower's concerns.

and compliance notes. We also solicited input from the field office staff regarding any potential problem areas. In addition, we reviewed five EQIP contracts at the San Carlos field office.

- We reviewed office files and interviewed agency personnel at the Farm Service Agency field office in Holbrook, Arizona, to obtain information on the EWP Program and the AILFP payments.
- We interviewed San Carlos Apache tribal members to obtain documentation and information about the EWP Program and the AILFP Program.
- We spoke with National office personnel to obtain their understanding of the implementation of the EWP Program in Arizona in FY 1999 and the ongoing efforts to implement the program in Arizona in FY 2000.

FINDINGS AND RECOMMENDATIONS

CHAPTER I	ARIZONA NRCS STATE OFFICE DID NOT SUPPORT THE USE OF EWP MEASURES
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FINDING NO. 1

The Arizona NRCS State office was unable to support the economic defensibility of the EWP Program measures in accordance with program requirements. The two DSR's covering the State's rangeland and cropland failed to show that the cost of emergency measures were less than the anticipated damages (see exhibits B and C). State office representatives said they proved the main measure was economically defensible by evaluating the benefit that accrued to the rancher if he/she implemented the measure. However, regulations require the State office to defend each measure not by evaluating how much the participants gain from the measure but by determining the cost of the damage that could occur in the absence of the measure. The failure to meet the regulatory requirements brings into question whether there was a real threat to life or property and the need for \$11,154,008 for EWP contracts and technical assistance agreements.

The CFR² requires the State Conservationist to immediately investigate the emergency situation to determine if the EWP Program is applicable. The manual requires that a DSR be concise and adequate to support the need for and eligibility of emergency assistance.³ Regulations also require that a DSR include information on the economic defensibility of the proposed measures.

Regulations⁴ state that, generally the expected value of imminent damages (amount of damages multiplied by the near-term probability of their occurrence) must exceed the cost of emergency measures to be economically defensible. Regulations also require that information provided in the request for emergency funds to support economic defensibility of the measures must include: (i) what was at risk; (ii) what the estimated damages would be if the threat were realized; and (iii) what

² 7 CFR Part 624, section 624.10 (a), dated January 1, 1999.

³ National Watersheds Manual, part 509, section 509.22 (b), dated December 1992.

⁴ 7 CFR Part 624, section 624.6 (b)(i-iv), dated January 1, 1999.

events must occur for the threat to be realized and the estimated probability of their occurrence. For example, if runoff from a damaged watershed could threaten several structures, a DSR should show that the cost of planting grass cover on the watershed to avoid runoff did not exceed the value of the potential damage to those structures.

In Arizona, the State Conservationist's review of the damage was performed on a statewide level and included reviewing rainfall data and production loss in pastures. According to State office personnel, they determined that the EWP measure of deferred grazing was economically defensible by evaluating the benefit that accrued to the rancher if the rancher implemented the practice. The practice of deferred grazing would result in an increase to a ranch's carrying capacity, which would allow a rancher to carry more cattle in the future. The increased number of cattle translated to more income for the rancher. The State office, by making certain assumptions on the acceleration of carrying capacity and the sales price of cattle, determined that a rancher would realize a benefit of \$86.24 per head of cattle over a 4-year period (see exhibit B).

The rationale used by the State office to support the measure was not in conformance with regulatory requirements. A DSR, which is used to support the economic defensibility of a measure, was designed to allow State's to specifically identify what properties were at risk and what the potential damages would be to those properties. The failure to meet these regulatory requirements brings into question whether there was a real threat to life or property and the need for \$11,154,008 for EWP contracts and technical assistance agreements.

In June 2000, the National office sent a disaster assistance response team to Arizona to evaluate the EWP Program. The response team was also concerned that the State of Arizona used only one DSR to support the implementation of the program and that this DSR did not show how the program was economically defensible at individual sites. The response team recommended, for consideration in the 2000 program, that the State office set up and establish priority areas and perform DSR's in these areas. The National office needs to ensure that future requests from Arizona for EWP assistance are supported with DSR's that comply with program requirements.

RECOMMENDATION NO. 1

Ensure that future DSR's from Arizona comply with program requirements, specifically identify in any EWP Program DSR what is at risk and what the potential damages are in order to ensure that the cost of implementing the measures is less than the anticipated damages.

Agency Response

In its written response, dated January 19, 2001, the NRCS National office stated that during the DART team's review of the situation on June 7-8, 2000, it suggested to Arizona NRCS State office staff ways to improve their documentation efforts. Subsequent work on the 2000 drought has demonstrated that the Arizona NRCS State office staff has corrected their deficiencies and made it clear that only those areas where off-site damages occur will be eligible for consideration.

OIG Position

We accept management decision for this recommendation.

CHAPTER II	ARIZONA NRCS STATE OFFICE DID NOT TERMINATE PARTICIPANTS WHO VIOLATED THEIR CONTRACTS AND/OR FILED A FALSE CLAIM
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FINDING NO. 2

The Arizona NRCS State office modified EWP contracts for two participants who violated contract requirements; one of the participants subsequently filed a false claim.

This occurred because the State office believed that modifying the contracts was a fair and reasonable solution. However, given the circumstances, we believe that terminating the participants from the program would have been the appropriate course of action. As a result of the contract modifications, the State office continued to obligate program funds for participants whose failure to complete their contracts and whose lack of good faith undermined the program's intended objectives. As of the date of our review, one of the participants had received over \$29,000 in EWP funds.

Section 404.74 of the NRCS General Manual on long-term contracting states that applications for cost-share payments for practices or components not carried out or that do not meet required specifications constitute false applications. Participants filing false or fraudulent applications are subject to a fine or imprisonment.

Participant A, a grazing association, entered into an agreement on August 30, 1999, to defer grazing on 17 fields totaling 150,214 acres from September 1999 through April 2000. This acreage comprised nearly 30 percent of the participant's total acreage. In return, the State office agreed to pay the participant \$504,719 over an 8-month period, or \$63,089 per month. The participant was responsible for certifying that grazing on the acreage was deferred and requesting payment by submitting a payment application every month. The field office was responsible for verifying that the practice of deferred grazing was implemented by performing spot checks. Under the terms of the EWP contract, all fields had to be deferred to prevent the participant from being in violation of the contract. The field office would forward the payment application to the State office for payment after the spot checks were completed.

In the participant's first month under contract, the field office found cattle and horses grazing on the acreage deferred under the EWP contract. Field office personnel informed the participant in September 1999 that it was in violation of the EWP contract. However, on October 4, 1999, the

participant submitted a payment application certifying that the practice of deferred grazing was implemented for the month of September in accordance with contract specifications. The field office also performed multiple site visits in October 1999 and determined that the participant did not remove all animals from the deferred areas. On November 5, 1999, the participant submitted a payment application falsely certifying that the practice was carried out for October. The field office informed the State office that the participant was having problems removing cattle from contract acreage. In November 1999, the field office also found animals on the contracted acreage.

In December 1999, the State office and the participant agreed to modify the contract by deleting the fields that were out of compliance. This first modification removed nine fields from the contract between September 1999 and January 2000 totaling 135,952 acres (90 percent of the original contract acreage). The participant agreed to place three of the nine fields totaling 20,520 acres under contract again between February and April 2000.

The State office allowed the participant to remain in the program after the participant requested payment for implementing a practice it did not complete. The participant did not keep cattle off the deferred acreage, and if the noncompliance had not been detected, the participant would have received a fraudulent payment. The modification, removing 90 percent of the original contract acreage, brings into question whether there was a threat to life or property and whether there was a true need to implement this practice to relieve the threat.

According to the procedures in effect, violations are caused by filing a false application for cost-share payment and by being in noncompliance. Noncompliance includes a failure to carry out the long-term contract as scheduled, failure to meet specifications for establishing practices, or a failure to satisfactorily complete or maintain all contract items. If the violation is not resolved, the contracting officer is to determine if a violation or noncompliance did occur and if the violation was of such a nature that a penalty of forfeiture, refund, payment adjustment, or termination is necessary.

As of May 11, 2000, participant A had received \$29,946 out of its original \$504,719 EWP obligation. After all contract payments and contract modifications had been made, the State office still retained an obligated balance of \$26,795 for this participant for acreage deferred after January 2000.

We believe the appropriate course of action should have been termination. The participant falsely certified on payment applications that

the acreage was deferred in accordance with the terms of the contracts. Also, the repeated violations on 90 percent of the contracted acreage demonstrated that the participant was not able to comply with contract requirements throughout the life of the contract.

Participant B had agreed to defer two fields from January through April 2000. The participant was in violation on both fields for the month of January. A contract modification was executed and payment was not made for January. A second modification was executed when inspections completed in February and March by the field office disclosed that the second field was out of compliance. Since participant B did not meet the contract requirement of 3 consecutive months of deferment, the participant would not be eligible to receive a payment for this field. We also found evidence in the participant's file that first field was also in violation in April.

Accordingly, the first field would not meet the required 3 consecutive months of deferment since the participant was in violation for 2 out of the 4 months that the field was under contract. As of April 25, 2000, a payment had not been made to this participant. However, the State office obligated \$54,732 for this participant.

Participant B should have been terminated from the program for failure to defer acreage in the program. According to the contract provisions, the contract will be terminated if 3 consecutive months of deferment is not attainable.

RECOMMENDATION NO. 2

Terminate participant A from participating in the EWP Program based on the submission of false claims. Also, instruct the Arizona NRCS State office to de-obligate the

remaining \$26,795.

Agency Response

In its written response, dated January 19, 2001, the NRCS National office stated that participant A will be removed from the program, provided his/her appeal rights, and the balance of the funds will be deobligated and returned to the National Program Manager's Account. The National office further stated that a letter was sent to the participant indicating the agreement was closed effective December 11, 2000.

OIG Position

We accept management decision for this recommendation.

RECOMMENDATION NO. 3

Terminate participant B from participating in the EWP Program for failing to meet the required 3 months of deferment. Also, instruct the Arizona NRCS State office to deobligate the remaining \$54,732 for this participant.

Agency Response

In its written response, dated January 19, 2001, the NRCS National office stated that participant B will be removed from the program, provided his/her appeal rights, and the balance of the funds will be deobligated and returned to the National Program Manager's Account. The National office further stated that a letter was sent to the participant indicating the agreement was closed effective December 11, 2000.

OIG Position

We accept management decision for this recommendation.

CHAPTER III	SIMILAR GRAZING PRACTICES WERE IMPLEMENTED ON THE SAME FIELDS UNDER SEPARATE NRCS PROGRAMS
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FINDING NO. 3

The Arizona NRCS State office paid two participants for deferred grazing under the terms of their EWP contracts even though the purpose of deferred grazing was already accomplished under existing EQIP contracts. According to the field office employee, he did not have the opportunity to review case files to look for duplicate payments because he was under time constraints to implement the EWP Program. As a result, the State office issued duplicate benefits of \$15,283.

Payment applications submitted under the EWP require participants to certify that the application does not contain a duplication of payment under any other program of the U.S. Department of Agriculture. NRCS also has the responsibility to ensure that duplicate payments are not being made to a program participant.

The grazing practices implemented under EWP and EQIP were deferred grazing and prescribed grazing. The following table lists the primary reasons for which these practices are applied. Our review disclosed that deferred grazing serves the same purposes as prescribed grazing.

PURPOSES FOR APPLYING:	
Deferred Grazing	Prescribed Grazing
Promote natural revegetation by increasing the vigor of the forage stand and permitting desirable plants to produce seed.	Improve or maintain the health and vigor of selected plant(s) and to maintain a stable and desired plant community.
Provide a feed reserve for fall and winter grazing or emergency use.	Provide or maintain food, cover and shelter for animals of concern
Reduce soil loss and improve water quality	Maintain or improve water quality and quantity
Improve the appearance of range having inadequate cover	Reduce accelerated soil erosion and maintain or improve soil condition for sustainability of the resource.
	Improve or maintain animal health and productivity.

We identified five EWP participants at the San Carlos field office who had EWP and EQIP contracts. Two of the five participants signed EQIP contracts to implement prescribed grazing on the same field(s) and during the same time period that were under contract for EWP.

Participant C agreed to implement prescribed grazing on one field from July through October 1999 under an EQIP contract. The same field was also enrolled under EWP from September 1999 through April 2000. During the months of September and October 1999, the participant was required to perform both prescribed grazing and deferred grazing on the same field.

Given that both grazing practices are applied to address the same purposes, we concluded that the State office should not have paid participant C \$8,400⁵ for deferred grazing under EWP.

Participant D agreed to implement prescribed grazing on five fields from October 1999 through January 2000 under an EQIP contract. These same fields were also enrolled under EWP from January 2000 through April 2000 where the participant agreed to implement deferred grazing. For the month of January 2000, the participant agreed to perform prescribed grazing and deferred grazing on the same fields. The five fields totaled 16,388 acres. We concluded that the State office should not have paid participant D \$6,883.⁶

RECOMMENDATION NO. 4

Instruct the Arizona NRCS State office to collect the duplicate benefit of \$8,400 paid to participant C.

Agency Response

In its written response, dated January 19, 2001, the NRCS National office stated that the State Conservationist for Arizona has begun the process of recovering the duplicate payment from participant C using standard federal procedures. The State Conservationist anticipated completing this recommendation by June 30, 2001; this also includes any follow-up action such as appeals.

⁵ \$8,400 = 10,000 acres * \$.42/acre * 2 months

⁶ \$6,883 = 16,388 acres * \$.42/acre * 1 month

OIG Position

To reach management decision for this recommendation, OIG needs to receive a copy of either a bill for collection or demand letter for the amount questioned.

RECOMMENDATION NO. 5

Instruct the Arizona NRCS State office to collect the duplicate benefit of \$6,883 paid to participant D.

Agency Response

In its written response, dated January 19, 2001, the NRCS National office stated that the State Conservationist for Arizona has begun the process of recovering the duplicate payment from participant D using standard federal procedures. The State Conservationist anticipated completing this recommendation by June 30, 2001; this includes any follow-up action such as appeals.

OIG Position

To reach management decision for this recommendation, OIG needs to receive a copy of either a bill for collection or demand letter for the amount questioned.

RECOMMENDATION NO. 6

Instruct the Arizona NRCS State office to identify any other participants who were paid under the EWP Program for deferred grazing and under EQIP for prescribed grazing and determine the amount of the overpayment. Require the State office to collect the duplicate benefit made to these participants.

Agency Response

In its written response, dated January 19, 2001, the NRCS National office stated that the State Conservationist has initiated the necessary study to recover any duplicate payments made by USDA. The State Conservationist anticipated completing this recommendation by June 30, 2001.

OIG Position

We accept management decision for this recommendation.

EXHIBIT A – SUMMARY OF MONETARY RESULTS

RECOMMENDATION NUMBER	DESCRIPTION	AMOUNT	CATEGORY
1	State Office Did Not Support the Use of EWP Measures	\$11,154,008	FTBPTBU, Management or Operating Improvements/Savings
4	Similar Grazing Practices Were Implemented on Same Fields Under Separate NRCS Programs	\$8,400	Questioned Cost, Recovery Recommended
5	Similar Grazing Practices Were Implemented on Same Fields Under Separate NRCS Programs	\$6,883	Questioned Cost, Recovery Recommended

EXHIBIT B - COPY OF ECONOMIC EVALUATION FOR RANGELAND SUBMITTED TO NATIONAL OFFICE⁷

DSR (page 2)	DSR No: _____			
ECONOMIC EVALUATION				
County: <u>AZ-State</u>	Date: <u>7/22/99</u>	Completed by: <u>rjh</u>		

Properties	Replace cost or Value (\$)	Repair cost or Damage (\$)	Damage Factor (%)	Near Term Dam. Red.
1. Properties Protected (private)				
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
2. Properties Protected (public)				
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
3. Business Losses				
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
4. Other				
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
5. TOTAL NEAR TERM DAMAGE REDUCTION		\$86.24 benefit per head \$26.24 net benefit/head		
REMARKS: For example: <u>A section of rangeland normally supports 200 head. The range in its current condition is capable of supporting 100 head. Continued grazing in this growing season will damage range condition and reduce productive capacity for the next 3 years. With one seasons deferral of grazing, range plants will recover at a rate of 25% in year 1 (after the drought), 50% in year 2, and reach 100% in year 3. The number of animals grazed will be at 50% of capacity in year 1, 70% of capacity in year 2 and 85 percent in year 3 and 100% of capacity in year 4. This assumes that in both the WOP and WP condition the drought will end and the next five years will be at normal precipitation rates.</u>				

⁷ We did not remove any information from the exhibits for purposes of confidentiality. They are copies of the State's economic defensibility justification as submitted to the National Office.

EXHIBIT C - COPY OF ECONOMIC EVALUATION FOR CROPLAND SUBMITTED TO NATIONAL OFFICE⁸

DSR (page 2)	DSR No: _____			
ECONOMIC EVALUATION				
County: <u>AZ-State</u>	Date: <u>7/22/99</u>	Completed by: <u>rft</u>		

Properties	Replace cost or Value (\$)	Repair cost or Damage (\$)	Damage Factor (%)	Near Term Dam. Red.
1. Properties Protected (private)				
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
2. Properties Protected (public)				
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
3. Business Losses				
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
4. Other				
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>	<u>XXXXXXXXXX</u>
5. TOTAL NEAR TERM DAMAGE REDUCTION approx. \$230/ac.				
REMARKS: <u>With the increase in irrigation efficiency there will be additional water available to irrigate either additional acreage or acreage which is currently not receiving enough water. Measures to protect the soil surface will reduce erosion and downstream sediment impairments. Management practices are the primary practices (but not always the only practices) utilized in this drought emergency for the protection of cropland. These practices provide the needed resource protection and the benefits always exceed the costs.</u>				

⁸ We did not remove any information from the exhibits for purposes of confidentiality. They are copies of the State's economic defensibility justification as submitted to the National Office.

EXHIBIT D - NRCS WRITTEN RESPONSE TO THE AUDIT REPORT


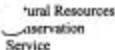
	United States Department of Agriculture		Natural Resources Conservation Service	P.O. Box 2890 Washington, D.C. 20013	Original previously mailed 1/11/01
JAN 19 2001					
SUBJECT:	Official Draft -Emergency Watershed Protection (EWP) Program, State of Arizona - NRCS Reply				
TO:	Mr. James R. Ebbitt Assistant Inspector General for Audit Office of the Inspector General	File Code:	390-14		
ATTN:	10099-01-SF				
We have reviewed the subject report and have the following comments:					
Key Recommendations: "The State of Arizona needs to specifically identify in the DSR what is at risk and what the potential damages are in order to ensure that the cost of implementing the measures is less than the anticipated damages. We also recommended that the Arizona NRCS State office terminate participants A and B from the program and de-obligate the remaining funds scheduled for payment. In addition, we also recommended that the State of Arizona collect the \$15,283 in EWP overpayments made to the two participants who were paid for grazing practices on the same acreage and during the same time period under two separate conservation programs."					
Agency Response: See Agency response to Number 1, 2, 3, 4 and 5.					
Recommendation No. 1: "Ensure that future DSR's from Arizona comply with program requirements, specifically identify in any EWP program DSR what is at risk and what the potential damages are in order to ensure that the cost of implementing the measures is less than the anticipated damages."					
Agency Response: The State Conservationist (STC) requested the EWP Disaster Assistance Recover Training (DART) Team to provide training and assistance. The team reviewed the situation with the Arizona State Office staff and suggested ways to improve their documentation efforts. This was accomplished on June 7-8, 2000. Subsequent work on the 2000 drought has demonstrated Arizona STC has corrected their deficiencies and made it clear that only those areas where off-site damages occur will be eligible for consideration. We consider this item completed.					
Recommendation No. 2: "Terminate participant A from participating in the EWP program based on the submission of false claims. Also instruct the Arizona NRCS State office to de-obligate the remaining \$26,795."					
Agency Response: Participant A will be removed from the program, provided his/her appeal rights, and the balance of the funds will be de-obligated and returned to the National Program Manager's Account. A letter was sent to the participant indicating the agreement was closed effective 12/11/00. The STC will de-obligate the remaining balance.					
The Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service, is an agency of the Department of Agriculture					
An Equal Opportunity Employer					

EXHIBIT D - NRCS WRITTEN RESPONSE TO THE AUDIT REPORT

James R. Ebbitt
Page 2

Recommendation No. 3: "Terminate participant B from participating in the EWP program for failing to meet the required 3 months of deferment. Also, instruct the Arizona NRCS State Office to de-obligate the remaining \$54,732 for this participant."

Agency Response: Participant B will be removed from the program, provided his/her appeal rights, and the balance of the funds will be de-obligated and returned to the National Program Manager's Account. A letter was sent to the participant indicating the agreement was closed effective 12/11/00. The STC will de-obligate the remaining balance.

Recommendation No. 4: "Instruct Arizona NRCS State office to collect the duplicate benefit of \$8,400 paid to participant C."

Agency Response: The STC for Arizona has begun the process of recovering the duplicate payment from participant C using standard federal procedures. Anticipated completion by June 30, 2001, including any follow-up action such as appeals.

Recommendation No. 5: "Instruct Arizona NRCS State office to collect the duplicate benefit of \$6,883 paid to participant D."

Agency Response: The STC for Arizona has begun the process of recovering the duplicate payment from participant D using standard federal procedures. Anticipated completion by June 30, 2001, including any follow-up action such as appeals.

Recommendation No. 6: "Instruct the Arizona NRCS State office to identify any other participants who were paid under the EWP Program for deferred grazing and under EQIP for prescribed grazing and determine the amount of overpayment. Require the State office to collect the duplicate benefit made to these participants."

Agency Response: The STC has initiated the necessary study to recover any duplicate payments made by USDA. Anticipated completion by June 30, 2001.

Thank you for the opportunity to discuss and review your findings. If you have any questions regarding our comments, please contact Vic Cole, Resource Conservationist, Watersheds and Wetlands Division, at (202) 690-4575.



THOMAS A WEBER
Deputy Chief for Programs

ABBREVIATIONS

AILFP	
American Indian Livestock Feeding Program.....	ii
CFR	
Code of Federal Regulations	1
DSR	
Damage Survey Report.....	ii
EQIP	
Environmental Quality Incentives Program.....	ii
EWP	
Emergency Watershed Protection Program.....	i
NRCS	
Natural Resources Conservation Service	i