**Property/Crop Damage**

**Compensation & Calculation Workbook**

**(To be Completed and Submitted by DISTRICT Staff)**

****

Addendum to Buying Section of Real Estate Manual

Revised 11/2018

****

TABLE OF CONTENTS

[CROP DAMAGE PROCEDURE 2](#_Toc405271072)

[Determining if crop damage procedures apply](#_Toc405271073)

[Using this Packet](#_Toc405271074)

[crop damage Claim Documents](#_Toc405271075)

[Crop Damage Checklist](#_Toc405271076)

[Report of Crop Damage Sample](#_Toc405271077)

[Report of Crop Damage](#_Toc405271078)

[Compensation Calculation Guide](#_Toc405271080)

[Release and Agreement for Payment of Crop Damage Statutory Right of Entry](#_Toc405271081)

[Release and Agreement for Payment of Crop Damage Breach of Contract](#_Toc405271082)

CROP DAMAGE PROCEDURE

The Real Estate Manual states:

If crops are damaged before they can be harvested, a claim can be pursued through the District offices.

This addendum clarifies and updates the procedure for District personnel to follow through with a Crop Damage investigation.

Determining if crop damage procedures apply

The procedures described in this booklet apply only to claims that fit in one of the following categories:

1. Crops acquired upon acquisition of a parcel: Sometimes, we will acquire crops when we take title to a parcel. We pay for these crops in the same manner as we acquire any interest real estate.
2. Survey and Inspection: INDOT has a right-of-entry onto property to conduct surveys and inspections before a parcel is acquired during the condemnation process. IC 8-23-7-28 provides for the process for paying people that have crops damaged when we undertake those activities. This category may only be used for damage caused during planning phases of a project and only when INDOT or a contractor/consultant enters onto property in order to conduct a survey or other investigation. It shall not be used for damage caused after construction begins.
3. Breach of Contract: Sometimes, a right-of-entry, easement, right-of-way grant or other document will provide that INDOT will pay crop damages in certain cases. In this case, the claim should be processed as a breach of contract claim and INDOT will pay the claim.

If the damaged property does not fit the categories described above, the claim must be resolved through the tort claim process. Common tort claims may include damages suffered from chemical spraying by INDOT or flooding caused by INDOT design or construction errors. The required Tort Claim Notice can be found at <http://www.in.gov/indot/2351.htm>. The claimant should submit the completed form to the Office of the Attorney General at the address shown on the form. **INDOT is not authorized to pay any crop damages when a tort claim should be filed.**

Using this Packet

This packet is designed to provide all the necessary paperwork to submit a damage claim, with the exception of the Claim Voucher, which will be generated via LRS for State projects, or on the Local Agency’s approved voucher form for LPA projects. Following this introduction, the Crop Damage Checklist will ensure that all necessary steps have been taken.

**For LPA use**: If an LPA requests that the forms be branded differently in the header and/or footers, please complete all the form fields, then follow the instructions available at <http://www.in.gov/indot/3260.htm>, entitled “Modifying State Forms for LPA Use” to remove INDOT/State of Indiana branding. Please be sure to “lock” the form again after modifying the branding so that all form fields will continue to function properly.

|  |  |
| --- | --- |
| DES: |  |
| Code: |  |
| Parcel: |  |

crop damage Claim Documents

Crop Damage Checklist

*\*\* These instructions assume the damage is due to a State project. For LPA projects, your contacts, tort claim process and the voucher will differ, but the basic process should be the same. Please contact the LPA for specifics. \*\**

Determine if INDOT may handle the crop damage or if the claimant must file a [Tort Claim](http://www.in.gov/indot/2351.htm).

If a Notice of Tort Claim must be filed, provide claimant with a link to the claim form (<http://www.in.gov/indot/2351.htm>) and proceed no further. If no Notice of Tort Claim must be filed, proceed with the following steps.

Obtain a completed Vendor Information (W-9) from the claimant and complete Report of Crop Damage. The report will need to be printed to add a sketch of the damaged area and sign the form.

Scan and e-mail the W-9 to INDOT Real Estate Finance. It is important this is submitted as soon as possible so that payment will not be delayed. The Auditor will accept a scanned copy.

Obtain 3 estimates from co-ops or verifiable buyers (ex.: Grain Elevators or early contract-out price for Bio Fuel / Ethanol Plants).

Submit Report of Crop Damage, estimates and Compensation Calculation to the Buying Supervisor (currently Pat Moore [pmoore@indot.in.gov](mailto:pmoore@indot.in.gov)) to obtain Legal approval of the claim.

Once the claim is approved, e-mail INDOT Real Estate Finance (currently Cindy Gorman [cgorman@indot.in.gov](mailto:cgorman@indot.in.gov)) with the DES, Code and Parcel numbers, and the dollar amount of the claim so that State funds can be set up in advance.

District personnel will be responsible for creating the Claim Voucher in LRS under the Project tab, not the specific Parcel tab. This will be a Property Damage voucher type.

Send Cover Letter, Claim Voucher, appropriate Crop Damage Agreement (Statutory Right of Entry or Breach of Contract), and self-addressed envelope to claimant for signatures. If an owner and a tenant are involved, obtain signatures from all parties, even if there is only one claimant.

Obtain District Deputy Commissioner’s (DDC) approval signature on Agreement and Claim Voucher after the claimant signs. **Do not** send the Agreement signed by the DDC to the claimant.

Send original Claim Voucher, marked “CROP DAMAGE” and **copies** of all executed documents to INDOT Real Estate Finance for payment processing. INDOT Real Estate will send payment and copies of all executed documents to claimant.

Obtain proof of payment from Property Management and retain with all **original** documentation for recording and audit purposes.

Report of Crop Damage Sample

Please use the following example to fill out the blank form on the next page.



Report of Crop Damage

| **DES** | |  | | | | | | **Code** | |  | | | | | | | | **Parcel** | | |  | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Contract** | |  | | | | | |  | | | |  | | | |  | | | | | | |  | |
| **Owner** | |  | | | | | | | | | **Tenant** | |  | | | | | | | | | | | |
| **ress** | |  | | | | | | | | | **Address** | |  | | | | | | | | | | | |
|  | |  | | | | | | | | |  | |  | | | | | | | | | | | |
| **Phone** | |  | | | | | | | | | **Phone** | |  | | | | | | | | | | | |
| **Email** | |  | | | | | | | | | **Email** | |  | | | | | | | | | | | |
|  | |  | | | | | | | | |  | |  | | | | | | | | | | | |
| **Location** | | | | | **Area**  **in Acres** | | | | **Nature**  **of Crop** | | | | | **Date**  **Planted** | | | | | | | | **Date**  **Damaged** | | |
| **Station** | **to** | | | **Station** |
|  |  | | |  |  | | | |  | | | | |  | | | | | | | |  | | |
|  |  | | |  |  | | | |  | | | | |  | | | | | | | |  | | |
|  |  | | |  |  | | | |  | | | | |  | | | | | | | |  | | |
| **TOTALS** | | | | |  | | | |  | | | | |  | | | | | | | |  | | |
|  | | | | | | | | | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | | | | | | | | | |
| **Sketch Area(s) Involved in the Above Description. Include Measurements. All Entries Must be Legible.** | | | | | | | | | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | | | | | | | | | |
| *Verified by Owner/Tenant: The undersigned hereby reports actual or anticipated crop damage on the described property.* | | | | | | | | | | | | | | | | | | | | | | | | |
| **Signature and date:** | | | | | |  | | | | | | | | | | | | | | **Date** | | | |  |
|  | | | | | | (Owner/Tenant Signature) | | | | | | | | | | | | | | | | | | |
| **Reviewed in the District Office by:** | | | | | | | | | | | | **Prepared and Submitted by:** | | | | | | | | | | | | |
| Name | | |  | | | | | | | | | Name | | |  | | | | | | | | | |
| Title | | |  | | | | | | | | | Title | | |  | | | | | | | | | |
| Section | | |  | | | | | | | | | Company | | |  | | | | | | | | | |
| Department | | |  | | | | | | | | | Address | | |  | | | | | | | | | |
| Date | | |  | | | |  | | | | | Phone / Email | | | | |  | | | | | | | |
|  | | |  | | | |  | | | | | Date Submitted | | | | | | |  | | | | | |
|  | | | | | | | | | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | | | | | | | | | |
| This report to be submitted in duplicate to the District Engineer for review and transmittal to the Engineer of Construction for each property where crop damage is or will be involved. If additional sketches are required to describe the areas involved in this report, attach to this form. | | | | | | | | | | | | | | | | | | | | | | | | |

Compensation Calculation Guide

|  |  |
| --- | --- |
| DES: |  |
| Code: |  |
| Parcel: |  |

Step 1

CALCULATE USING MARKET DATA FROM ACTUAL DATE DAMAGE OCCURED

Acres Damaged:       (from Report of Crop Damage worksheet) (IC 662)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Name of Co-op/Buyer #1 |  | # of bushels per AC. |  |  | Price when damaged: | $ |
| Name of Co-op/Buyer #2 |  | # of bushels per AC. |  |  | Price when damaged: | $ |
| Name of Co-op/Buyer #3 |  | # of bushels per AC. |  |  | Price when damaged: | $ |
|  |  | Use HIGHEST estimate per acre |  |  | Calculate AVERAGE  Price per bushel | $ |

Step 2 CALCULATE

|  |  |
| --- | --- |
|  | **BUSHELS per Acre** |
| **x** | **# of Acres Damaged**  (from Report of Crop Damage worksheet) (IC 662) |
| = | **# of BUSHELS Damaged** |
| **x** $ | AVERAGE Price per bushel |
| **=** $ | **Amount Owed to Property Owner** |

Claimant Name is eligible to receive **=** $       as compensation for crop damage.

|  |  |
| --- | --- |
| DES: |  |
| Code: |  |
| Parcel: |  |

(Claimant Name & Address)

Dear \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

This letter is in regard to the damage to your crops by (insert the reason for the project and damage) around (Damage Date/Damage Time). In order to process payment in a timely way, the state requests that a W-9 form be completed as soon as possible. Also enclosed you will find an Agreement for Payment of Crop Damage, and a Claim Voucher showing the determined payment amount is **=** $ .

Please sign and return both documents in the enclosed envelope. If you have any questions, please feel free to contact me.

Sincerely,

|  |
| --- |
|  |
| (Signature of INDOT Representative)  Name:  Phone:  Email: |
|  |

Cc:File

|  |  |  |
| --- | --- | --- |
| **STATE OF** **:** | DES: |  |
| **COUNTY OF**  **:** | Code: |  |
|  | Parcel: |  |
|  | Road |  |
| Crop Damage Agreement - ROE | Owner of Crop |  |
| Revised 11/2018 | Page | 1 of \_\_\_\_\_ |

Release and Agreement for Payment of Crop Damage  
Statutory Right of Entry

**WHEREAS**, the State of Indiana, by and through       entered the property described on **Exhibit A**, attached hereto and made a part hereof (the “**Property**”) pursuant to IC 8-23-7-26, et seq., for a purpose described in IC 8-23-7-26; and,

**WHEREAS**,       is required to compensate for damage to growing crops on the Property pursuant to IC 8-23-7-28; and,

**WHEREAS**, damage has resulted in the agreed amount of **= $** to the crops owned by       (Insert Owner/Tenants Name Here) on the Property.

**NOW THEREFORE**, it is mutually agreed by all parties by signing this agreement, that in consideration of the payment of the above said sum,       has fully satisfied all claims, present and future, for crop damage within the limits of the Property. The undersigned do hereby release, acquit and forever discharge the       and their respective officers, agents, employees, and agencies from any and all actions, causes of action, claims and demands, damages, costs, loss of services, expenses and compensation on account of, or in any way growing out of any incident or event that occurred at, on, about, or around the Property on or before       (collectively, the “**Settled Matters**”).

(INSERT JURAT HERE IF APPLICABLE OR **delete this line if NOT applicable**)

|  |  |  |
| --- | --- | --- |
|  | DES: |  |
|  | Code: |  |
| Crop Damage Agreement - ROE | Parcel: |  |
| Revised 11/2018 | Page | 2 of \_\_\_\_\_\_ |

It is expressly warranted by the undersigned that no promise or inducement has been offered except as herein set forth; that this Agreement is executed without reliance upon any statement or representation of the parties or persons released, or their representatives, concerning the nature and extent of the injuries, damages and/or legal liability therefore; that acceptance of the consideration set forth herein is in full accord and satisfaction of disputed claim for which liability is expressly denied.

The undersigned represent and warrant that they are the owners of the aforesaid growing crops and that no other person has any interest in or lien on such growing crops.

WE HAVE READ THIS RELEASE AND Agreement for Payment of Crop Damage CAREFULLY AND UNDERSTAND: that it now and forever discharges any obligation, liability or duty the      , its agencies (including, without limitation,      ), agents, officers and employees may have toward me as a result of or relating in any way to the Settled Matters, that the aforesaid parties admit no liability by this payment and that this Agreement is binding upon our heirs, executors, administrators, assigns and successors in interest.

This agreement is not binding until accepted by      .

(Insert COMPANY NAME here)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | (Seal) | |  | (Seal) | |
| Signature |  | | Signature |  | |
|  |  | |  |  | |
|  | |  |  | |  |
| Printed Name/Title |  | | Printed Name/Title |  | |
|  | (Seal) | |  | (Seal) | |
| Signature |  | | Signature |  | |
|  |  | |  |  | |
|  | |  |  | |  |
| Printed Name/Title |  | | Printed Name/Title |  | |

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The above agreement is hereby accepted:

|  |  |  |
| --- | --- | --- |
|  | (Seal) | |
| Signature |  | |
|  |  | |
| NAME OF DDC, District Deputy Commissioner | |  |
| Printed Name, Title, and Agency |  | |

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_.

|  |  |  |
| --- | --- | --- |
| **STATE OF** **:** | DES: |  |
| **COUNTY OF**  **:** | Code: |  |
|  | Parcel: |  |
|  | Road |  |
| Crop Damage Agreement - BOC | Owner of Crop |  |
| Revised 11/2018 | Page | 1 of 2 |

Release and Agreement for Payment of Crop Damage  
Breach of Contract

**WHEREAS**, the State of Indiana, by and through      , entered the property described on **Exhibit A**, attached hereto and made a part hereof (the “**Property**”) pursuant to to that certain describe contract here by name of document, date, and parties the (“**Contract**”); and,

**WHEREAS**,       is required to compensate for damage to growing crops on the Property pursuant to the Contract; and,

**WHEREAS**, damage has resulted in the agreed amount of **= $** to the crops owned by      , on the Property.

**NOW THEREFORE**, it is mutually agreed by all parties by signing this agreement, that in consideration of the payment of the above said sum,       has fully satisfied all claims, present and future, for crop damage within the limits of the Property. The undersigned do hereby release, acquit and forever discharge the      ,      , and their respective officers, agents, employees, and agencies from any and all actions, causes of action, claims and demands, damages, costs, loss of services, expenses and compensation on account of, or in any way growing out of any incident or event that occurred at, on, about, or around the Property on or before       (collectively, the “**Settled Matters**”).

<< insert jurat(s) here - otherwise delete >>

|  |  |  |
| --- | --- | --- |
|  | DES: |  |
|  | Code: |  |
| Crop Damage Agreement - BOC | Parcel: |  |
| REV 11/2018 | Page | 2 of 2 |

It is expressly warranted by the undersigned that no promise or inducement has been offered except as herein set forth; that this Agreement is executed without reliance upon any statement or representation of the parties or persons released, or their representatives, concerning the nature and extent of the injuries, damages and/or legal liability therefore; that acceptance of the consideration set forth herein is in full accord and satisfaction of disputed claim for which liability is expressly denied.

The undersigned represent and warrant that they are the owners of the aforesaid growing crops and that no other person has any interest in or lien on such growing crops.

WE HAVE READ THIS RELEASE AND Agreement for Payment of Crop Damage CAREFULLY AND UNDERSTAND: that it now and forever discharges any obligation, liability or duty the      , its agencies (including, without limitation,      ), agents, officers and employees may have toward me as a result of or relating in any way to the Settled Matters, that the aforesaid parties admit no liability by this payment and that this Agreement is binding upon our heirs, executors, administrators, assigns and successors in interest.

This agreement is not binding until accepted by      .

(insert Company Name here)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | (Seal) | |  | (Seal) | |
| Signature |  | | Signature |  | |
|  |  | |  |  | |
| , | |  | , | |  |
| Printed Name/Title |  | | Printed Name/Title |  | |
|  | (Seal) | |  | (Seal) | |
| Signature |  | | Signature |  | |
|  |  | |  |  | |
| , | |  | , | |  |
| Printed Name/Title |  | | Printed Name/Title |  | |

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_.

The above agreement is hereby accepted:

|  |  |  |
| --- | --- | --- |
|  | (Seal) | |
| Signature |  | |
|  |  | |
| NAME OF DDC, District Deputy Commissioner | |  |
| Printed Name, Title, and Agency |  | |

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_.