

STATEMENT OF JOHN ZIPPERT

on behalf of the

**FEDERATION OF SOUTHERN COOPERATIVES/
LAND ASSISTANCE FUND**

and the

**BOARD OF DIRECTORS AND MEMBERSHIP
of the RURAL COALITION/COALICIÓN RURAL**

to the

**Committee on Agriculture
United States Senate**

**Washington, DC
September 12, 2000**

For More Information Contact:

Rural Coalition/Coalición Rural

**1411 K Street NW Suite 901
Washington, DC 20005
202-628-7160
ruralco@ruralco.org**

**Federation of Southern Cooperatives/
Land Assistance Fund**

**PO Box 95
Epes, Alabama
205-652-9676**



The Rural Coalition
Presents

www.SuperMarketCoop.com

*Preserving Rural Communities and a Just Food System
through Technology and Collaboration*



Participants in the SuperMarket Project at the April, 1999 Kick-off in Epes, Alabama.

**Buy our small farm products and join us in creating a
just and sustainable food system!**

Shop at www.supermarketcoop.com

The SuperMarket is a project of the Rural Coalition/Coalición Rural, a regionally and culturally diverse alliance of organizations who seek to build a more just and sustainable food system—one which provides fair returns to minority and other small farmers, just and fair working conditions for farmworkers, and safe and healthy food to consumers, and protects the environment.

My name is John Zippert. I am Program Director of the Federation of Southern Cooperatives/Land Assistance Fund and Chair person of the Rural Coalition. I personally have worked on promoting equity in poor rural communities for more than 35 years, starting in St. Landry Parish Louisiana with the Congress of Racial Equality. I have never met a black farmer who was not discriminated against, and believe the same is true for most of the minority farmers represented within the Rural Coalition.

We appreciate this opportunity to speak candidly to you on behalf of both of these organizations to address the question: ***"why are things not improving at USDA with respect to civil rights and service to minority producers."*** The organizations I represent, are uniquely qualified to answer this question. Due to the short time provided both to prepare and present this statement, compared to the years of work we have invested on this subject, we request permission to revise and extend our statement and submit additional materials. Here are our views:

1. USDA in general, and Farm Service Agency and the National Outreach Office in particular, have failed to work appropriately and strategically with the groups that are the legitimate representatives of its underserved constituents, and create partnerships with them to assure fair and equitable service is provided in all USDA programs.

Collaboratively and for many years, the organizations I represent today have served as the primary and often only source of technical assistance and support to a significant proportion of the minority farmers in this nation.

The **Federation of Southern Cooperatives/Land Assistance Fund** has for more than 30 years worked with African-American farmers and landowners in some of the poorest counties in the nation. Our membership includes over 75 cooperatives and credit unions. Through our outreach program, we provide land and agriculture-related assistance to over

12,000 rural families.

The Federation implements its various programs throughout the southeast but is concentrated primarily in Alabama, Mississippi, South Carolina, Georgia and north Florida. Over the years, we have worked one on one with minority farmers and their cooperatives to develop new enterprises. A great deal of our work has had to be focused on saving black-owned farms and assisting their owners to fairly access farm credit and other farm programs and services. We have assisted hundreds of farmers in seeking redress for discrimination, and recently, in responding to the class action settlement in *Pigford v. Glickman*. Of necessity, we have also sought legal and legislative remedies to assure fair and equitable service to minority producers, including the Minority Farmers Rights Act, which passed as part of the 1990 Farm Bill.

The *Rural Coalition*, of which the Federation is a founding member, is an alliance of over 80 culturally and regionally diverse rural community-based organizations in the US and Mexico which has served minority and other limited resource producers for two decades. The members of our Coalition include some of the most diverse and experienced minority farm organizations including the *Intertribal Agriculture Council*, which represents 84 Indian tribes; the *Rural Advancement Fund*, which has worked with African American producers for more than 50 years; as well as the *Washington Association of Minority Entrepreneurs*, and the *Hmong American Community*, who serve the growing population of new Latino and Asian-American farmers.

In recent years, for example, we have worked actively to develop new methods with our members to help USDA fill service gaps. In 1996 and 1997, in collaboration with USDA, we trained our members on the roles and election procedures for FSA county committees, and have held two outreach trainings to help our members better understand the purposes and eligibility requirements of a wide range of USDA programs. Our collaborative legal and legislative work included the 1987 Agriculture Credit Act, the 1990 Farm Bill, the 1994

Agriculture Reorganization Act, and the Waiver of the Statute of Limitations.

With the support of the Department of Commerce and private funders, the Coalition and its members have also created the Supermarket On-line electronic marketing project which links our many cooperatives online to provide a virtual electronic warehouse of goods and services. Our new retail website, Supermarketcoop.com, links our member cooperatives to accomplish together what none of us could do alone: to accept and process on-line orders and develop new markets for the goods of some of the poorest farmers in the poorest counties in the nation. Up until the recent commitment of technical support by the Rural Cooperative Business Service, this project, rejected in every USDA grant round to which it has been submitted, has been accomplished entirely without the support of the Department of Agriculture. Largely without the support of the "people's department" we have helped minority farmers cross the digital divide and seek new markets for their goods.

Collectively, the Federation, and the Rural Coalition and its members, have assisted thousands of farmers with the intricacies of their dealings with USDA. We have attempted on many occasions to see that USDA was held accountable for its discriminatory practices that we have observed, and to seek structural change both administratively and in policy. We have written letters and proposed policy changes, including an entire Minority Farmers Rights Act, portions of which were instituted into law in the 1990 Farm Bill.

In the past several years, we have supplied reams of documents, analysis and testimony to the Civil Rights Action Team, the National Small Farms Commission, the US Congress and the US Civil Rights Commission. A half dozen of us served on the National Small Farms Commission, and we have also participated on other committees and in many sessions with the Secretary and the staff of the Department.

We have provided numerous proposals to the Department to upgrade its operations to serve minority farmers better. The results even of these efforts to have been very slow

and impeded repeatedly by a bureaucracy that seems to resist change and to lack respect for our clients. The services are still not the way we would like them to be, and the Department still seems unwilling to deal directly with groups like ours who most directly represent minority farmers.

If the Department were really committed to reaching and serving its underserved customers, than why is it so unwilling to work with the Rural Coalition and its members, the organizations who most directly represent its underserved population, as it sets in place its National Outreach Office, the Outreach Office and the many other entities it is now establishing?

In recent months, the existing projects and contracts the Rural Coalition and its member organizations including the Intertribal Agriculture Council and others had negotiated with USDA agencies have not been renewed. We have spent countless hours in fruitless attempts to resolve these issues. Continual bureaucratic barriers have been constructed and cited as reasons to cease the work, and lack of funding continually cited. At the same time, USDA and its agencies have awarded contracts to other for profit entities to accomplish services we have provided in the past. At least two of the successful awardees subsequently sought our unfunded assistance, citing the necessity of our experience to provide for the Department the services they are being paid to deliver.

In addition, USDA agencies who have expressed a desire to work with the Rural Coalition and its members in order to accomplish the missions of their programs have been thwarted in their attempts to enter into contracts and cooperative agreements with community based organizations. Other agencies have expressed fear of retaliation were they to continue working with us. Their inability or fear of entering into contracts with community based organizations including the Rural Coalition and its members is presently severely impeding the ability of USDA agencies to fairly accomplish the missions of their congressionally authorized and mandated programs.

Recommendations

We recommend that Congress direct the Secretary to immediately delegate necessary authority to all mission areas and agencies of the Department to enter into contracts, grants and cooperative agreements with community based organizations with demonstrated experience in serving limited resource and minority producers to accomplish the missions of any and all USDA programs which serve farmers or rural communities.

We further recommend that the Secretary delegate specific authority to the National Outreach Office to enter into contracts, grants and cooperative agreements with community based organizations as cited above to accomplish the missions of multiple programs from multiple agencies of USDA, using the funds authorized by Congress for those respective missions. This general authority for cooperative agreements with experience community based organizations should specifically not be limited to either the appropriated funding level nor the specific mission of the Section 2501 Minority Farm Outreach Program.

The Secretary should be directed to report to the Congress within 90 days on how he has delegated such authority, and should call to the attention of Congress any statutory limitations that would impede him for accomplishing this goal, and how such limitations could be removed.

2. The USDA Leadership has failed to a) redress and remove vestiges of past discrimination, b) create a system which rewards or does not undercut or punish those agencies and individuals who are making changes, and c) hold top level managers accountable for the performance of their subordinates.

It would be patently unfair for us to report to this committee that nothing has changed at USDA. Far more change has occurred under this administration, and in particular since the end of 1996, than under any administration in many years. The

admission by USDA that it had discriminated, followed by the assignment of the Civil Rights Action Team and the production of their landmark report, have assured this issue will never again be hidden from public view.

While the full implementation of the CRAT report is still incomplete, many agencies, employees and leaders have made important strides in changing the climate of USDA agencies with respect to minority customers. The Intertribal Agriculture Committee has reported on the vast improvement in attitudes and action by the Natural Resources and Conservation Service to root out the many discriminatory practices which long impeded its work with Indian Tribes. For most of our members, the NRCS leadership has been continually accessible, and its staff reach out to consult with and seek assistance to make additional necessary improvements in program and services and to develop better programs to serve small farmers. In addition, there are numerous other people in programs at the national level who are much more proactive than in the past in reaching out to, consulting with, and including representatives of minority farmers in their work.

Redressing Wrongs: Pigford v. Glickman

USDA has admitted past wrongs in its practices. The court has ruled on the Pigford v. Glickman case. Mr. Glickman should instruct Farm Services Agency in particular to stop denying that they did something wrong, and to cease interfering in the implementation of the settlement.

At the present time, the injustice facing black farmers is being compounded at the taxpayers expense by allowing USDA employees, and particularly FSA county employees any role in responding to the court in the Pigford case. We have also learned that USDA employees are also assisting in appealing decisions of the arbitrator that are favorable to the farmers. We find it abhorrent and a misuse of the public trust that those reviewing cases and answering the courts are the same people who caused the problems in the first place.

Congress should consider it retaliation and a violation of the "zero-tolerance policy that FSA county employees have any role at all in Pigford response, and order this interference to cease immediately.

After the court ruled, the agencies responsible are still using our taxpayer money to fight against and deny this discrimination, saying it did not happen, and even exerting pressure to deny rulings made in favor of the farmers. Extremely high paid individuals continue to argue against cases they have already lost, actively subverting the entire justice process at taxpayer expense. In our interactions with FSA staff, we continue to encounter blatant denial that anyone every did anything wrong.

The fact is that discrimination did happen, both in credit programs and in the old ASCS programs, where farmers rarely gained enough access to the programs to generate complaints. Unless that reality is accepted and addressed, it is highly unlikely that forward progress can be made in creating a system that serves all farmers fairly.

Pigford vs. Glickman Concerns

As of August 15, 2000, according to a report of the Court Monitor, there were a total of 20,675 eligible claims filed in the case. Of these 187 are Tract B and 20,488 are in Tract A. There may be some additional late claims accepted since this date and other late claims are being sent in until the September 15, 2000 deadline for those claims based on extraordinary circumstances.

Of the 20,488 eligible Tract A claims, 18,062 (88%) have been adjudicated; 2,426 (12%) are still being processed. Of the 18,062 adjudicated claims, 10,931 (61%) have been approved and 7,131 (39%) have been denied.

Of the 10,931 approved, 6,601 (60.3%) have been paid and 4,333 (39.7%) have not

been paid. A year and a half since the settlement (two farming seasons) less than a third of the total class has been paid for their claim of discrimination.

We have a number of grave concerns with the process in this Black farmer class action lawsuit, that Congress can help illuminate and correct, among them are:

- The process in this settlement has been too complicated and difficult for farmers to follow and comply with, which has reduced the full number of people joining the class

- There was insufficient outreach to Black farmers to explain the settlement, during the original sign-up period, which resulted in many eligible farmers being eliminated from the class

- The claim denial rate of almost 40% has been inordinately high and does not reflect the actual record of discrimination by the USDA. Many farmers are being denied based on recommendations and records of USDA "task-force employees" who were involved in the original record of discrimination and should not be involved in the process. We suggest Congress direct USDA and USDOJ to pay all eligible claims in this case, including those denied by adjudicators based on questionable information from the government.

- The process of paying the farmers is entirely too slow. The claims facilitator recently sent farmers a letter saying there would be additional delays in issuing and sending checks because "ten times as many people filed claims as had been expected" and they did not have enough staff to issue checks! Why don't they hire sufficient staff to process these checks?.

- The government has been placing holds on some of the checks authorized by the adjudicators, because it plans to request that the Monitor in the case "reconsider" these claims. The farmers have not been informed of these holds, so they are going to the mailbox

each day looking for a check that will not come anytime soon! We question whether the USDA (government) should be trying to overturn findings of discrimination by third party independent adjudicators and we urge Congress to instruct the USDA and USDOJ to drop these efforts at reconsideration of legitimate claims of discrimination against the government.

- The deadline for submitting reconsideration petitions for the 7,131+ claimants who were denied, is now November 13, 2000. This deadline must be extended by at least 60 days to allow everyone to file a petition. Any farmer who requests a reconsideration by November 13, should get an extension of up to six months to file their petition, especially if the government files and records on which the adverse decision was made are not made available by the November deadline. A better solution as recommended above is to reverse these decisions and pay all eligible claimants in the class, which was our initial understanding of the settlement.

- The claims of some Black farmers who were discriminated against for "program benefits", i.e., conservation benefits, disaster livestock feed, adverse acreage decisions; and not credit claims, have not been paid under the settlement because the government cannot agree on how much to pay. These claimants have a finding of discrimination by the independent adjudicators and they should be paid the full \$50,000 settlement amount.

- There remain farmers who did not get full debt relief under the settlement, even though a previous act of discrimination may impede their ability to pay subsequent debt. They should receive full payment.

Finally we note that injunctive relief provided in the settlement has not been clearly translated in federal regulations. Moreover, the injunctive relief requested and provided failed to address the many changes USDA still needs to make to prevent future problems for recurring.

Because it is in the national interest of the US, we believe that Congress should do everything in its power to fully resolve and lay to rest the injustices committed by a federal department in its failure to fairly implement its mission.

Just because claims are denied, it does not mean that discrimination did not occur. We urge Congress in particular to revisit and terminate the provisions in the 1996 Farm bill which deny farmers who have had any loan restructured from seeking new credit in the future.

The policies Congress has adopted are more stringent than those in the private credit industry and further lends credibility to the belief of farmers that the government charged with protecting them is more interested in punishing them.

We believe many other changes are needed if farm programs, and especially credit programs are to fairly serve and advance the viability of small farmers. The Small Business Administration has a much more substantive program for low-doc loans. We look forward to supply substantive recommendations on credit and access to farm programs to this committee as the Farm Bill consideration begins.

Creating a system which rewards or does not undercut or punish those agencies and individuals who are making changes

We hope to make clear as well to the Congress that entities such as county committees which serve farmers well in many regions of the country, may operate very differently in other places. Because we represent a diverse group of farmers we are well aware that county committees are viewed very differently in Ohio or Minnesota, for example, than they are in Alabama, Mississippi or North Carolina.

But even in regions where service was poor before, we are seeing changes. Within Farm Services Agency, state directors in Montana, Wyoming, North Dakota, Arizona, Oregon