

HEARING TO CONSIDER THE NOMINATIONS  
OF JOE LEONARD JR., KATHLEEN A.  
MERRIGAN, AND JAMES W. MILLER  
TO THE U.S. DEPARTMENT OF AGRICULTURE

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HEARING  
BEFORE THE  
COMMITTEE ON AGRICULTURE,  
NUTRITION, AND FORESTRY  
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

APRIL 1, 2009

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# CONTENTS

	Page
HEARING(S):	
Hearing to Consider the Nominations of Joe Leonard Jr., Kathleen A. Merrigan, and James W. Miller, to the U.S. Department of Agriculture .....	1

**Wednesday, April 1, 2009**

## STATEMENTS PRESENTED BY SENATORS

Harkin, Hon. Tom, U.S. Senator from the State of Iowa, Chairman, Committee on Agriculture, Nutrition, and Forestry .....	1
Chambliss, Hon. Saxby, U.S. Senator from the State of Georgia .....	6
Cochran, Hon. Thad, U.S. Senator from the State of Mississippi .....	3
Conrad, Hon. Kent, U.S. Senator from the State of North Dakota .....	11
Leahy, Hon. Patrick J., U.S. Senator from the State of Vermont .....	3
Kilpatrick, Hon. Carolyn C., a Representative in Congress from the State of Michigan .....	8

## Panel I

Leonard, Joe, Jr., of the District of Columbia, Nominee to be Under Secretary for Civil Rights, U.S. Department of Agriculture .....	9
Merrigan, Kathleen A., of Massachusetts, Nominee to be Deputy Secretary, U.S. Department of Agriculture .....	4
Miller, James W., of Virginia, Nominee to be Under Secretary for Farm and Foreign Agricultural Services, U.S. Department of Agriculture .....	12

## APPENDIX

PREPARED STATEMENTS:	
Cochran, Hon. Thad .....	30
Grassley, Hon. Charles E. ....	33
Leonard, Joe, Jr. ....	34
Merrigan, Kathleen A. ....	37
Miller, James W. ....	40
DOCUMENT(S) SUBMITTED FOR THE RECORD:	
Committee questionnaire and Office of Government Ethics Executive Branch Personnel Public Financial Disclosure Report filed by Joe Leonard, Jr. ....	44
Committee questionnaire and Office of Government Ethics Executive Branch Personnel Public Financial Disclosure Report filed by Kathleen A. Merrigan .....	59
Committee questionnaire and Office of Government Ethics Executive Branch Personnel Public Financial Disclosure Report filed by James W. Miller .....	82
QUESTION(S) AND ANSWER(S):	
Harkin, Hon. Tom:	
Written questions to Kathleen Merrigan .....	104
Written questions to Joe Leonard, Jr. ....	105
Written questions to James W. Miller .....	106
Baucus, Hon. Max:	
Written questions to Kathleen Merrigan .....	107

## IV

	Page
Baucus, Hon. Max—Continued	
Written questions to Joe Leonard, Jr. ....	107
Written questions to James W. Miller .....	108
Chambliss, Hon. Saxby:	
Written questions to Kathleen Merrigan .....	110
Written questions to James W. Miller .....	110
Cochran, Hon. Thad:	
Written questions to Kathleen Merrigan .....	112
Written questions to James W. Miller .....	113
Grassley, Hon. Charles E.:	
Written questions to James W. Miller .....	114
Written questions to Kathleen Merrigan .....	114
Written questions to Joe Leonard, Jr. ....	115
Roberts, Hon. Pat:	
Written questions to Kathleen Merrigan .....	116
Written questions to James W. Miller .....	116
Leonard, Joe, Jr.:	
Written response to questions from Hon. Tom Harkin .....	117
Written response to questions from Hon. Max Baucus .....	118
Written response to questions from Hon. Charles E. Grassley .....	118
Merrigan, Kathleen A.:	
Written response to questions from Hon. Tom Harkin .....	120
Written response to questions from Hon. Saxby Chambliss .....	122
Written response to questions from Hon. Max Baucus .....	123
Written response to questions from Hon. Thad Cochran .....	124
Written response to questions from Hon. Pat Roberts .....	126
Written response to questions from Hon. Charles E. Grassley .....	127
Miller, James W.:	
Written response to questions from Hon. Tom Harkin .....	129
Written response to questions from Hon. Saxby Chambliss .....	130
Written response to questions from Hon. Max Baucus .....	130
Written response to questions from Hon. Thad Cochran .....	132
Written response to questions from Hon. Pat Roberts .....	132
Written response to questions from Hon. Charles E. Grassley .....	133
ADDITIONAL MATERIAL(S) SUBMITTED FOR THE RECORD:	
Various organizations, letters of endorsement for Joe Leonard, Jr. ....	136
Various organizations, letters of endorsement for Kathleen A. Merrigan ...	139
Various organizations, letters of endorsement for James W. Miller .....	185

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**Wednesday, April 1, 2009**

U.S. SENATE,  
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,  
*Washington, DC*

The Committee met, pursuant to notice, at 2:02 p.m., in room SH-216, Hart Senate Office Building, Hon. Tom Harkin, Chairman of the Committee, presiding.

Present: Senators Harkin, Leahy, Conrad, Casey, Chambliss, Cochran, Roberts, and Thune.

**STATEMENT OF HON. TOM HARKIN, U.S. SENATOR FROM THE  
STATE OF IOWA, CHAIRMAN, COMMITTEE ON AGRICULTURE,  
NUTRITION, AND FORESTRY**

Chairman HARKIN. The Senate Committee on Agriculture, Nutrition, and Forestry will come to order.

We have a joyous occasion today. We are here to do some really good things this afternoon, and that is to hopefully get through three eminently well-qualified individuals to carry on the responsibilities and functions of the Department of Agriculture.

First would be the Deputy Secretary of Agriculture. This is a very demanding role, spanning the entirety of USDA's responsibilities. The person in that role must, of course, be capable of carrying out the job and also understand the range of food, agriculture, and rural issues and be committed to serving all of the people who rely on the Department of Agriculture. Kathleen Merrigan is certainly no stranger to this Committee. We welcome her today, and I will yield shortly to Senator Leahy for purposes of introduction.

The Under Secretary of Agriculture for Farm and Foreign Agricultural Services, responsible for essential functions of USDA, the farm commodity and income support programs, farm loans, crop insurance, disaster assistance, the Conservation Reserve Program, commodity operations, also include the overseas marketing information and development programs, including export assistance and foreign food assistance. Jim Miller has an extensive and strong background and experience from a working farmer on to very capable work in helping us craft the Food, Conservation, and Energy Act of 2008. And, again, we congratulate him on his nomination to this key Under Secretary position, and I will hold the record open

at this point for introductions by Senator Conrad, but he is chairing the budget debate on the floor right now.

The Assistant Secretary for Civil Rights may well be the toughest job anyone will take on at the Department. Stretching back many decades, USDA has run up a string of documented failures, abject failures, in respecting civil rights of both the employees and USDA customers. The most visible manifestation of these failures is the consent decree in the Pigford v. Glickman case under which USDA has thus far paid out nearly \$1 billion to settle racial discrimination claims of African American farmers.

The Pigford v. Glickman consent decree by no means cures all of the sad record of civil rights and neglect in that Department. Native Americans, Hispanic female farmers, are all currently suing the Department for program discrimination. African American farmers continue to file and to seek to settle cases involved in the Pigford litigation. And USDA has a vast backlog of race discrimination claims from employees as well.

So we congratulate and welcome to the Committee Dr. Joe Leonard, Jr., as nominee for Assistant Secretary for Civil Rights. He has a long history of working in key roles in civil rights issues. We look to him to draw upon that experience to turn around a very troubling civil rights situation at USDA.

Again, I will hold open the record at this point for a more formal introduction by Congresswoman Kilpatrick from Michigan, who I understand is on the floor at this time.

I will also hold the record open at this time for an opening statement by our Ranking Member, Senator Chambliss.

Before I turn to Senator Leahy, I have an obligation to ask you all to rise and take an oath. If you would please raise your right hand, do you swear to tell the truth, the whole truth, and nothing but the truth?

Ms. MERRIGAN. I do.

Mr. MILLER. I do.

Mr. LEONARD. I do.

Chairman HARKIN. Second, do you agree—you can lower your hands, but do you agree that, if confirmed, you will appear before any duly constituted member of the Congress if asked? Dr. Merrigan?

Mr. MILLER. Yes, I do.

Chairman HARKIN. Dr. Leonard?

Mr. LEONARD. Yes.

Chairman HARKIN. Jim Miller?

Mr. MILLER. I do.

Chairman HARKIN. Thank you very much. Please be seated.

I just want everyone to know that the Leader has informed us that we will start voting at 3 o'clock, and there will be a long series of votes, so it will not be the kind of thing where we can go and come back. And so we are going to try to conduct this and finish by 3 o'clock.

With that, I will yield to our former distinguished Chairman of the Committee, Senator Leahy.

**STATEMENT OF HON. PATRICK J. LEAHY, U.S. SENATOR FROM  
THE STATE OF VERMONT**

Senator LEAHY. Thank you very much, Mr. Chairman, and thank you for the opportunity to make a couple comments.

First off, you have three excellent people here in Dr. Merrigan, Dr. Leonard, and Mr. Miller, and I can assure you all three will have my support, both in the Committee and on the floor. And it is nothing against Dr. Leonard or Mr. Miller if I refer to Dr. Merrigan, who used to work for me on the Committee of Agriculture and has been a great friend throughout both to my wife and myself. She was my senior adviser in science and technology issues. She worked on a wide range of things—the Organic Foods Production Act, developing international pesticide legislation, the emerging field of biotechnology. I have relied on her both as Chairman and as Ranking Member.

She had firsthand knowledge of the inner workings of the Department of Agriculture. She was Administrator of the Agriculture Marketing Service, a \$1.2 billion agency, over 10,000 employees, oversaw food grading and certification and research promotion programs. Most recently, she has spent the past 7 years at Tufts educating the future leaders in agricultural policy, has a long and impressive resume. She understands rural America. She understands all the various— I will not say much more if we are going to have—

[Laughter.]

Senator LEAHY. I do not know if this is some kind of a thing. I will put the full statement in the record, and just have it noted for the record that the lights dimmed briefly. I do not know if it is a sign from above, but, Kathy, I am so happy you are here. I am so happy your husband and your two absolutely wonderful children are here, and I congratulate you.

Thank you, Mr. Chairman.

Chairman HARKIN. Thank you, Senator Leahy.

I yield to Senator Cochran for a statement.

**STATEMENT OF HON. THAD COCHRAN, U.S. SENATOR FROM  
THE STATE OF MISSISSIPPI**

Senator COCHRAN. Mr. Chairman, thank you very much. People think we are operating in the dark up here sometimes, and they are right.

Well, I am glad to join you and other colleagues on the Committee in welcoming the nominees to the Committee. We appreciate your willingness to serve at high and important positions of responsibility at the Department of Agriculture, and we look forward to working with you as you assume these duties.

I have a statement that I would like to have printed in the record, Mr. Chairman. Otherwise, we look forward to your testimony.

Chairman HARKIN. Thank you very much. Without objection.

[The prepared statement of Hon. Thad Cochran can be found on page 30 in the appendix.]

Chairman HARKIN. This is the order in which we will proceed: Dr. Merrigan, Dr. Leonard, then Mr. Miller.

Dr. Merrigan, again, I just want to join in welcoming you back to the Committee in this capacity. And as I said, these are joyous occasions, and if you have family members with you, I would appreciate it if you would introduce them, and maybe they could stand and be recognized.

Ms. MERRIGAN. Senator Harkin, thank you. I have with me my husband, Michael Selmi; and my children, Fiona and Seamus Selmi.

Chairman HARKIN. Very good. Welcome. Glad to have you here. [Applause.]

Chairman HARKIN. Seamus? And who is the other one?

Ms. MERRIGAN. Fiona. My husband is Italian. They have his last name. And so my people needed to be represented.

[Laughter.]

Chairman HARKIN. Very good. Welcome.

I will say this at the outset: All of your statements will be made a part of the record in their entirety. If you would want to sum them up, we would be most appreciative. And there go the lights again. What is happening here, anyway?

Ms. MERRIGAN. It has something to do with April Fool's, I guess.

Senator COCHRAN. It is automatic. Maybe we are going to have an automatic committee.

Chairman HARKIN. Can someone—

Senator COCHRAN. We will not even have to show up.

Chairman HARKIN. Oh, man.

[Laughter.]

Chairman HARKIN. It is one way or the other. It is all or nothing around here.

Please go ahead, Dr. Merrigan.

**STATEMENT OF KATHLEEN A. MERRIGAN, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY, U.S. DEPARTMENT OF AGRICULTURE**

Ms. MERRIGAN. Thank you. Mr. Chairman, members of the Committee, it is a great honor to have been nominated by President Obama to the position of Deputy Secretary. I am honored by Secretary Vilsack's confidence in me and his invitation to join him in leading the People's Department.

I appreciate Senator Leahy's generous introduction. He has been an inspirational leader, a wonderful boss, and a true friend to me and my family over the years.

Mr. Chairman, thank you for a very warm, kind introduction in a return to the flock here. I have recognized my husband and my children who accompany me here today.

I am grateful for the opportunity and privilege to appear before you, to return home to the Committee where I worked with many of you, and your able staff, to craft legislation and oversee USDA operations. During my 6 years as a staff member for this Committee, I came to understand firsthand how essential it is for members of the Committee to receive timely, robust, and honest assessments from the administration on issues before the Committee. For this reason, I want to begin my testimony pledging that, if confirmed, I will always prioritize answering the Committee's questions and calls for input. It would be an honor to join you in the



common cause of improving the lives of all Americans because whether they understand it or not, each and every citizen needs U.S. agriculture to thrive.

It was from a distance, in my role as a college professor, that I watched as the 2008 farm bill took shape. It is a masterful piece of legislation, with its 15 titles, 600 provisions, and creative new ventures. As someone who cares deeply about American agriculture, I am grateful for the hard work Committee members and staff devoted over a period of years to bring about this historic law.

During the 1990 farm bill deliberations, I worked to help Senator Leahy realize his vision for a national organic food standards program, which was included in that omnibus bill. My excitement, however, soon turned to frustration once we began waiting for the law to be implemented, which took nearly 12 years. I do not want similar tales to be told about the 2008 farm bill. I understand that farmers and ranchers need certainty. In some areas of the country, farmers have already begun or are about to begin planting, and they need to fully understand the programs that they will be utilizing. If confirmed, I understand that it will be my job to assist the Secretary and other leaders of the Department to ensure that this law is implemented as Congress intended and as quickly as possible.

The last time I appeared before this distinguished Committee 2 years ago, it was during the shaping of the 2008 farm bill. I testified on ways to improve what is now the Conservation Stewardship Program—CSP—a jewel among many wonderful USDA programs. What I like about CSP program—your program, Mr. Chairman—is that it recognizes farmers as environmental stewards and rewards their contributions to healthy food, land, water, and wildlife. If confirmed as Deputy, one of my priorities will be to communicate the important contributions made by farmers in protecting and enhancing our natural resources, such as mitigating climate change. As Secretary Vilsack has so ably articulated, we must harness our research enterprise to find ways to expedite the next generation of biofuels, develop new and market-worthy crop rotations, and advance the use of agroforestry and biomass strategies.

I teach at a graduate school of nutrition science and policy, where understanding the paradox of childhood obesity and hunger is central to our mandate. As Administrator of the USDA Agricultural Marketing Service, I spearheaded efforts to purchase commodities for our national school lunch and breakfast programs. If confirmed as Deputy, I will seize the opportunity to work with the Committee to assist your efforts to reauthorize the Child Nutrition Reauthorization Act this year. It is my goal and my passion to improve access and delivery of nutritious foods—particularly fresh fruits and vegetables—to our Nation's children. It is something we can do; it is something we must do.

I will ask that the rest of my statement be entered into the record because I know time is short. I just want to conclude, Mr. Chairman, by saying I look forward to this opportunity. I stand ready to serve, and I appreciate your kind consideration.

[The prepared statement of Ms. Merrigan can be found on page 37 in the appendix.]

Chairman HARKIN. Thank you very much, Dr. Merrigan, for your testimony and also for all your past help on this Committee going back many, many years.

And now I would like to recognize our distinguished Ranking Member, Senator Chambliss.

**STATEMENT OF HON. SAXBY CHAMBLISS, U.S. SENATOR FROM  
THE STATE OF GEORGIA**

Senator CHAMBLISS. Well, thank you, Mr. Chairman, and thank you for holding this important hearing to consider the nominations of Joe Leonard, Jr., Kathleen Merrigan, and Jim Miller for key positions with USDA.

I would like to welcome each of you to the hearing today and certainly am glad you have all your families with you there. It is nice to see what great support you have.

After several years of input and development, the Food, Conservation, and Energy Act of 2008 was enacted last summer. A tremendous amount of work remains for successful implementation of this legislation. Today's hearing is a step toward filling important roles at the Department, and we look forward to hearing how these nominees will contribute to timely and proper implementation.

It is my pleasure to welcome and congratulate Joe Leonard, Jr., as the nominee for Assistant Secretary for Civil Rights at USDA. Based on your extensive background and your experience with civil rights issues, it is no mystery why you sit here today before this Committee.

USDA is a vast agency that has an impact on the lives of every American. In your capacity as the Assistant Secretary for Civil Rights, you will be tasked to ensure that all USDA customers and employees are able to fully participate in USDA programs and employment.

Indeed, one of the first things you will encounter is the ongoing effort at USDA to resolve the many Pigford claims which resulted from past USDA actions. Although the 2008 farm bill provides an additional \$100 million to resolve these cases, it also authorized additional claimants. I am hopeful that you will be able to resolve these claims as expeditiously as possible. And as the former Executive Director of the Congressional Black Caucus and the Black Leadership Forum, you bring a unique perspective, Mr. Leonard, to these issues and, if confirmed, I certainly look forward to working with you to bring about a conclusion to this particular issue.

Ms. Merrigan, I have reviewed your testimony, your written articles, as well as statements that you have made, and I appreciate your passion and enthusiasm for the things that you believe in—organic production, sustainable agriculture, agricultural research, and human nutrition. However, as I stated to you in person, I do have some concerns that in promoting your passion for organic production and sustainable agriculture, that you tear down other types of agricultural production for those with different points of view.

For example, you wrote in an article in *Nutrition Today* that “the production of raw farm products is the stage of food production that entails the greatest potential environmental damage, water pollution, wildlife destruction, soil erosion, loss of biodiversity, and global climate change. It may also cover processing, which can entail

toxic effluents, water pollution, and solid waste.” And I would simply remind you that farmers and ranchers are the best environmentalists that we have in America because they make their living off of the land and they do everything they can to seek to protect it.

I know that perhaps if you had a chance to clarify this statement—and you will have that opportunity today—you might say it a little differently or more moderately.

I think it is the lack of balance in your views and your writings that concerns me the most. No one denies there are environmental challenges with production agriculture. But how fortunate we are as Americans to have the financial resources, ability, and commitment to ensure we have an agricultural sector that produces an enormous variety of safe and abundant food in an environmentally friendly manner.

In 2003, you wrote in an open letter to Senators that was published in *Catholic Rural Life Magazine*, stating that, and I quote: “We must preserve a diverse farm base.” While you were not necessarily referring to agriculture generally, you unintentionally make my case. There are 922 million acres of farmland in this country. We have so many different crops, climatic conditions, soil types, cultural practices, and producers that there is no logic to believing that any one method of production is better than another. Within our system of government, there is not one of us that gets to decide what constitutes a diverse farm base or how agricultural products should be produced.

These issues that you are passionate about are very important, but the Department of Agriculture handles a myriad of important issues. As many arguments as there are for organic production, there are just as many arguments against it. So please keep a special place in your heart for organic production. Don’t let that be diminished. But, also, be open to other types of production which gives all farmers options. As Deputy Secretary at USDA, your job will not be to focus on your personal interests or promote one type of agriculture at the expense of the other. Your job will be to help run the Department and its programs so that they work for all producers and consumers, all Americans.

I think you know this, and I hope you plan to implement this, and if confirmed, I look forward to working with you on behalf of all of agriculture.

And to my good friend Jim Miller, it is a pleasure to welcome you to the Committee in this capacity, Jim. As to filling the need for Under Secretary of Agriculture for Farm and Foreign Agricultural Services, you bring a lot of experience, knowledge, and common sense to the Committee, and we are glad that you are willing to come to the Department and continue to be a public servant in this capacity. Given your hands-on farm experience, your leadership roles in the agriculture community, and your advisory role to my dear friend Kent Conrad, we have great expectations for you.

In reviewing materials provided to the Committee, I learned that Jim was President of the National Association of Wheat Growers during the 1980’s, a very challenging time for agriculture. In news articles provided, I was pleased to read about the confidence that

he maintained in the American farmer through those difficult times, and certainly they were difficult.

My experience with Jim Miller is that he is a hard worker. He is a fair-minded individual. He is certainly blessed with intellect about agricultural policy, and during the farm bill discussions and debate last year, there is nobody that I had more confidence in or felt was blessed with more integrity than Jim Miller, and you are to be commended for that.

Mr. Chairman, we certainly face challenges in agriculture today—thankfully, not to the degree of the 1980's. Through these uncertain times, we must support the American farmer and rancher. They supply this Nation, and many others, a safe, abundant, and affordable food and fiber supply. The Congress and the U.S. Department of Agriculture must stand by our agricultural producers and provide them an environment in which they can prosper. Decisions related to the budget, commodity policy, risk management, trade, and conservation policy all play a role in creating such an environment.

Congratulations again to each of you as nominees, and I look forward to visiting with you today.

Chairman HARKIN. Thank you very much, Senator Chambliss.

I was just getting ready to introduce Dr. Leonard myself, but we are joined by our distinguished colleague from the House side, the Honorable Congresswoman Kilpatrick from Detroit, who has come here for the purpose of an introduction.

We welcome you to the Committee, and we now yield to you for the purpose of introducing Dr. Leonard.

**STATEMENT OF HON. CAROLYN C. KILPATRICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Ms. KILPATRICK. Thank you, Mr. Chairman and Ranking Member and members of the Committee. Forgive our tardiness. As always happens, the bells ring, we have five votes, and I am yielding two of them to be here with my good friend and assistant, who is an outstanding gentleman.

I come today to recommend and to highly support Dr. Joe Leonard to be the next Assistant Secretary for Civil Rights within the United States Department of Agriculture. As Chairperson of the Congressional Black Caucus in the 110th session, Dr. Leonard served as the best Executive Director I have worked with in my 31 years of public service—tenacious, intelligent, coalition builder, and one who understands the body politic as well as why we build and must have a strong Department of Agriculture.

Dr. Leonard hails from the city of Austin, Texas, is a renowned author, historian. He also lived some part of his time in New Orleans, and as Chairperson of the Congressional Black Caucus in the 110th, Dr. Leonard helped me steer our 43 members from 26 States. We represented over 300 million Americans in those States, and he to a person was the reason why our 110th session was so important.

It is important that we come to today, and I want to commend the President's administration, President Obama's administration for nominating such a fine gentleman. I have worked with him.

Our caucus highly regards you, sir. We will miss you tremendously. We know of your civil rights history, your Ph.D. from Howard University, your under grad, well learned, historian on his feet, Chairman Harkin, and he will be an asset to these United States of America.

It is my honor and privilege to recommend highly and to put forward the name of Dr. Joe Leonard as Assistant Secretary for the Department of Civil Rights in the Department of Agriculture. He will serve our country tremendously.

Thank you very much.

Chairman HARKIN. Well, thank you very much, Congresswoman.

Dr. Leonard, I notice that you have family here too, and would you please introduce your family members who are here? Push the button.

Mr. LEONARD. Seated to my left is, if you don't mind standing up, Cole Edward Leonard, and my wife of 15 years, Dr. Natasha Cole-Leonard.

[Applause.]

Chairman HARKIN. Welcome to the Committee. As I said, this is a great day for all of us, and especially for all the families who are here.

I just wanted to add, Congresswoman, that reading over Dr. Leonard's bio and stuff, I read that his great-great- great-grandfather fought at the Alamo.

Mr. LEONARD. That is correct.

Chairman HARKIN. I hope those genes are passed on.

[Laughter.]

Chairman HARKIN. You are going to need that at the Department of Agriculture, I think.

Mr. LEONARD. They have been.

Chairman HARKIN. Well, Dr. Leonard, welcome very much. Your statement will be made a part of the record in its entirety, and please proceed.

**STATEMENT OF JOE LEONARD, JR., OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY FOR CIVIL RIGHTS, U.S. DEPARTMENT OF AGRICULTURE**

Mr. LEONARD. Thank you, Chairman Harkin, Ranking?

Member Chambliss, members of the Senate Committee on Agriculture, Nutrition, and Forestry. It is an honor to appear before you today. I would like to thank Chairman Harkin and Ranking Member Chambliss for their longstanding commitment and dedication to the principles of civil rights while serving on this Committee. I would also like to thank Representative Carolyn Cheeks Kilpatrick for her warm introduction and to indicate to her what an honor and privilege it has been to work with her during the 110th Congress and as a senior advisor on your staff. Thank you very much, Congresswoman.

I would also like to thank the Executive Director of the Black Leadership Forum who is here for his friendship, long-time friendship, and that is Mr. Gary Flowers.

It is a sincere honor and privilege to be selected by President Obama to serve as Assistant Secretary for Civil Rights at the United States Department of Agriculture during this critical period

in American history. As a historian, I am mindful of the challenges that have been associated with this office. USDA has recorded a turbulent history in civil rights since the establishment of the Office of Equal Employment in 1971. Initially, the total civil rights program experienced an almost revolving door situation with its leadership, and for several years it averaged one director a year. Furthermore, unfortunately, the allocation of resources—both human and monetary—did not match its needs.

The suspension of investigations and compliance reviews in the early 1980's and the associated reduction in the budget left a crippling legacy. The establishment of the Office of the Assistant Secretary for Civil Rights in 2003, through language included in the 2002 farm bill by this Committee, was a step in the right direction, but the challenges of addressing a ballooning inventory of complaints and complex class action complaints has not allowed it to fully address the many functions under its jurisdiction.

The Department has also been confronted with complex legal issues related to program discrimination complaints. USDA must acknowledge its past mistakes and discrimination, correct its errors, and move forward into a new era of transparency and accountability that provides equal employment, equal access, and equal treatment to all employees and customers.

It is important for me right now actually, before I get into the rest of my statement, to thank my parents, Joe and Shirley Leonard, for their support, sacrifice, and teaching of what we refer to in my family as "stickability." It is also very important, as I look at this august body, for me to invoke the names of past Leonard men—Jose, Levy, Charles, Dave, and Joe Sr.—all of whom endured slavery or segregation so I might have better opportunities today. I am confident that, if confirmed, I, along with the staff that Secretary Vilsack is putting together at the Department, will be able to tackle these longstanding challenges and implement the requirements of the 2008 farm bill as you intended.

Mr. Chairman, Ranking Member Chambliss, and members of the Committee, if confirmed, I will do my best of my abilities to reinvigorate the Office of Civil Rights. Specifically, I will:

- Initiate preparations for the construction of a single accurate data base for customer complaints and a separate data base for employee complaints;

- Take immediate steps to analyze this information to ensure that the provisions of the farm bill on suspension of foreclosures are being properly implemented;

- Work to streamline the process for filing complaints for USDA customers;

- Work within USDA to employ full-time investigators, encourage onsite investigations, and hire staff qualified to support and assist the investigators and adjudicators in processing USDA claims;

- Conduct analysis at the points of service delivery to pinpoint barriers to providing equitable access and treatment, and develop solutions to overcome these barriers, including providing tools to our customers to achieve intensive grassroots effects;

- Increase alternative dispute resolution and mediation efforts to resolve complaints at the local and State level;

And review the overall organization of the Office of the Assistant Secretary of Civil Rights to ensure optimal information flow, cooperation, coordination.

When Secretary Vilsack was before you, he reaffirmed his commitment to resolving longstanding civil rights claims at USDA. I am equally committed to that end and hope that my career is a testament to that.

This Committee plays a vital role in overseeing the operations of USDA and the Office of Civil Rights, and, if confirmed, I look forward to working with you to ensure that you and your staff are fully informed of the work of this office.

Last, I conclude by expressing my gratitude to President Obama for the confidence he has placed in me to take on this honorable responsibility and to you Mr. Chairman and Ranking Member Chambliss and the members of the Committee for the opportunity to appear before you today.

Thank you.

[The prepared statement of Mr. Leonard can be found on page 34 in the appendix.]

Chairman HARKIN. Dr. Leonard, thank you very much for an excellent statement, and right on time.

I would yield to my great friend and distinguished Chairman of the Budget Committee and a senior member of the Agriculture Committee for the purposes of introducing Jim Miller.

**STATEMENT OF HON. KENT CONRAD, U.S. SENATOR FROM THE STATE OF NORTH DAKOTA**

Senator CONRAD. Thank you, Mr. Chairman, and this really is a proud moment to be here to strongly support the nomination of Jim Miller to be USDA Under Secretary for Farm and Foreign Agricultural Services.

I think everybody on this Committee knows Jim very well already. He was my lead negotiator during the farm bill negotiation, served on the Budget Committee on my staff from 2004 to 2008, did an absolutely superb job in every capacity—no more so than during the difficult farm bill negotiations. I think every member grew to respect his knowledge. He has truly an encyclopedic knowledge of agriculture policy.

In addition, he knows the numbers. Jim has a remarkable gift for not only understanding the substance of policy, but of also knowing the numbers. In fact, we often used his projections while we were awaiting more formal scoring because we knew Jim's numbers were right on track.

In addition to that, there are very few people I have encountered in my life that have a greater character or quality than Jim Miller. He is just an exceptional person, able to get along with virtually everyone, extremely hard-working, and somebody that truly cares about farm and ranch families across America. And he does not just care about the ones in North Dakota or the ones in Washington State where he has farming operations. He cares about farm and ranch families all across America, and precisely the kind of person that we need in this posting. I am so pleased that President Obama recognized Jim Miller for this position.

I just want to say to my colleagues, I strongly support Jim Miller for this position. I would support Jim Miller for any position. He is simply the best.

I am delighted to be here. Thank you, Mr. Chairman, for this time.

Chairman HARKIN. Thank you very much, Senator Conrad.

I will add a couple of things. I had suggested to Secretary Vilsack, I said, "Well, Jim is going to come in this position, but anytime you got any problems with your budget, go see Jim." And I hope he does when he is working out the numbers and everything.

I might also add just one other thing that I am very proud of Jim Miller about, and that is, all the work that you have done with the Farmers Union for all these years. Great farm organization, one that I have been very close to for all the years, 35 years, not this one, but the Ag Committees in the House and the Senate. And so I appreciate all the leadership you have provided to the National Farmers Union for so many years.

So welcome and, again, you have family here, and since this is a great day for you and your family, could you introduce your family to us, Jim?

Mr. MILLER. Thank you, Mr. Chairman. It is a pleasure to be back at the agriculture Committee. I would like to introduce my family.

Next week, my wife, Sandy, and I will be celebrating our 35th wedding anniversary.

Chairman HARKIN. Congratulations.

Mr. MILLER. So I would like to Sandy to stand up. Obviously, she has a great deal of patience and understanding.

[Applause.]

Mr. MILLER. Also, my oldest son, Matt, and his wife, Alison, are here; as well as my youngest son, Adam, and his wife, Amber, who came in from Phoenix to participate.

[Applause.]

Chairman HARKIN. Oh, please stand up.

Mr. MILLER. I am certainly happy they were able to be here today.

Chairman HARKIN. Oh, that is wonderful. That is wonderful.

Well, again, your statement will be made a part of the record in its entirety, and please proceed as you desire, Jim.

**STATEMENT OF JAMES W. MILLER, OF VIRGINIA, TO BE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES, U.S. DEPARTMENT OF AGRICULTURE**

Mr. MILLER. Thank you, Chairman Harkin, Ranking Member.

Chambliss, and members of the Senate Committee on Agriculture, Nutrition, and Forestry. It is a real pleasure to be able to appear before you today, and in particular, I want to thank my friend and mentor Senator Kent Conrad for his kind introduction and just to say how much I truly enjoyed working for him as a member of his Senate Budget Committee staff for 4 years. It was just a wonderful experience, and, Senator, again, thank you very much for being here. It means a lot to me.



Mr. Chairman, it is truly an honor and a privilege to be nominated by President Obama to serve as Under Secretary for Farm and Foreign Agricultural Services at the Department of Agriculture during this very critical period. I am very mindful of the responsibilities of this position and the importance of its mission areas to our farmers, ranchers, and communities, as well as to the American taxpayer and our consumers, both here and abroad.

The mission areas for the Under Secretary position for which I have been nominated include the Farm Service Agency, the Foreign Agriculture Service, and the Risk Management Agency. Each of these agencies is staffed with professionals who work very hard to provide the highest level of service to their customers and to their stakeholders.

If confirmed, it will be a great honor to work shoulder-to-shoulder with these fine public servants to carry out the policies and responsibilities that the Congress and the Obama administration have identified for each of these agencies.

Today the American people are faced with historic economic challenges. Farmers, ranchers, and rural communities are not immune from this crisis. Tremendous uncertainty exists throughout production agriculture because of weaker commodity prices, high input costs, and increased difficulties when it comes to financing farm operations. And, as is always the case, farmers and ranchers must also cope with the weather.

I am under no illusion about the difficulties our producers are facing this year. Furthermore, I recognize that USDA must quickly make up ground in implementing the 2008 farm bill to ensure the safety net that was promised in the legislation is, in fact, delivered.

I am keenly aware of the extraordinary effort made by this Committee last year to produce a historic farm bill. If confirmed, I will regularly consult with members of the Senate Agriculture Committee and your colleagues in the House to move as quickly as possible to implement the many provisions of the Food, Conservation, and Energy Act of 2008 as well as the provisions of the American Recovery and Reinvestment Act that fall within the FSA, FAS, and RMA mission areas.

If confirmed, I pledge to work with all my energy to implement these programs in a way that is consistent with the intent of Congress and fair and equitable to those who participate in these programs.

Specifically, I will:

Conclude the departmental review of the 2008 farm bill regulations promulgated by the previous administration and press to issue the regulations pertaining to the 2009 commodity programs as well as other important provisions such as the Conservation Reserve Program and the Biomass Crop Assistance Program as soon as is practical;

I will ascertain the status and expedite the process of developing the regulations to implement the disaster provisions of the 2008 farm bill as amended by subsequent legislation;

Examine the tools available to help alleviate the crisis conditions that exist within specific sectors of production agriculture such as dairy;

Review the public comments and initiate the process to promulgate the rules pertaining to the payment limitation provisions for the 2010 commodity program year;

Work to ensure the agriculture export programs supported by the Foreign Agriculture Service continue to meet the needs of their stakeholders and to expand agriculture sales abroad and help alleviate hunger overseas;

I will implement the modifications to the Federal crop insurance program as prescribed by the 2008 farm bill and initiate preparations for the upcoming round of negotiations of the Standard Reinsurance Agreement between USDA and its private sector insurance partners.

I also pledge to work within the Department and with Congress to develop a realistic and workable plan to modernize the information technology at USDA.

In addition, Mr. Chairman, I want to emphasize my commitment to a statement Secretary Vilsack made during his confirmation hearing. The Secretary stated he would work hard to resolve outstanding civil rights claims in program and employment practices and would not tolerate discrimination in any form at USDA. I, too, am committed to turning this page at the Department. Discrimination in any form will not be tolerated in the agencies over which I have responsibility.

Let me conclude by once again expressing my gratitude to President Obama for the faith and confidence he has placed in me to take on this important responsibility and to you, Mr. Chairman, Senator Chambliss, and members of the Committee, for the opportunity to appear here today.

Thank you.

[The prepared statement of Mr. Miller can be found on page 40 in the appendix.]

Chairman HARKIN. Thank you very much, Jim.

Well, we will begin a round of questions here, just 5 minutes each. We have some time here before 3 o'clock.

Dr. Leonard, if I might just start my round of questioning with you, at his confirmation hearing Secretary Vilsack promised this Committee that he would resolve once and for all, all the U.S. Department of Agriculture's longstanding problems with discrimination within the agency, and here is what he said, and I quote: "If I am confirmed, the message will be clear. Discrimination in any form will not be tolerated in this Department."

Then he made a commitment to clear the backlog civil rights complaints leveled against the agency. In addition, the Government Accountability Office, GAO, after conducting a careful investigation of USDA's history of discrimination, recommended that the agency immediately "obtain an expert, independent, and objective legal examination of the basis, quality, and adequacy of USDA's investigation of and decisions on civil rights complaints along with suggestions for improvement." That is from GAO.

Do you know whether the agency has followed the GAO's recommendations and hired such a legal expert? Or do you know if they are going to do so shortly?

Mr. LEONARD. The first conversation that I had with Secretary Vilsack was about Pigford and settling Pigford.

The second conversation that I had with him was regarding the back-up, the large number of cases. The GAO report also had three data bases. There is no accurate number on how many complaints there are. I am confident, especially given—I saw that report to the Committee. I also saw articles of interviews that he did with USA Today and the National Journal very early on. I am confident that he will do whatever is necessary in the stalemate of complaints. I am very confident.

To be frank with you, I had another option. I wanted to come here and work with him in settling these cases.

Chairman HARKIN. I appreciate that. Again, having been on the House and Senate committees all these years, when all of this started coming to light—oh, gee, this has been over a dozen years ago, almost 15 years ago now—and hoping that things would change and happen, but it seems to me that whenever it was done internally, it never got done.

And so, again, that is why we asked the GAO to do this study, and the GAO has basically said that they should obtain an independent expert, objective analysis of all of this, along with suggestions for what they do. And I would just ask you: Do you agree with GAO's recommendation that the Department's persistent failure to resolve its history of discrimination against its employees and program participants has created a need for the Department to immediately obtain an independent and objective legal examination?

Mr. LEONARD. Well, without having talked to Secretary Vilsack, if confirmed, I am sure that he will do all that is necessary to respond to the GAO report. I am looking forward to working with people like Lloyd Wright in order to find these numbers. Those individuals have not been put in play, I think, because if he would have worked on this long enough, there would be a good number and the GAO report would not be needed. But I believe that, if confirmed, working with individuals, with the stuff of these individuals that are there that I have been able to meet the last week, I believe—and possibly working with an outside entity, I think that we will not have to revisit this in the next farm bill. And I welcome any additional resources that you would like to assist in giving us in order to—so that you will not have to revisit. You have been doing this a long time, and I can understand anything—another individual coming to you saying, "Give me time." So I welcome any additional resources so that we can put this ugly chapter to bed.

Chairman HARKIN. I appreciate that. I appreciate that. Well, it is just something that we just cannot—we just continue to kick the ball down the field. We cannot kick it down anymore. And Secretary Vilsack I know feels very strongly that way also.

Well, my time is up. I just want to ask you, Jim, about the computer system, about RMA, but I will do that on my second round.

I will yield now to our distinguished Ranking Member Senator Chambliss.

Senator CHAMBLISS. Thanks, Mr. Chairman.

Dr. Leonard, as you know, USDA is an extremely large governmental Department with a number of agencies and offices, well over 100,000 employees. The Office of Assistant Secretary for Civil Rights mission is, and I quote, "to provide leadership and direction

for the fair and equitable treatment of all USDA customers and employees while ensuring the delivery of quality programs and enforcement of civil rights.”

How does your previous work experience prepare you for the responsibility of carrying out this mission in such a large organization?

Mr. LEONARD. It is funny because, you know, I was talking to my wife earlier today, and it seems as though my entire life has led me to this moment. I remember going to a—and listening to your earlier comments, I remember I was coaching a track team in New Orleans, Louisiana, and no one wanted to coach this track team. Ironically, the social secretary’s father was athletic director for the district, and he said, “I will give you three teams. You can choose either one. Neither one of them have done much.” I chose a team. Within 5 years, we had everyone in state every year.

Rainbow/PUSH is a hard place to work. Reverend Jackson will push you. It doesn’t sleep. I did that for 4 years.

I went to the Black Leadership Forum, and the Black Leadership Forum had some debt. Paid off the debt in 2–1/2 years, and it is still a functioning organization. No one really wanted to go there.

The Congressional Black Caucus, we have 43 bosses. It is an interesting place to work. And many people would heed that warning as well.

And I listened to you all earlier. The only thing I could tell you, Congressman, is that you have to have a lot of dedication and “stickability” there, I mentioned in my earlier comments, and that is my family’s version of discipline and stick-to-it-tiveness and discipline and diligence and trying your best in everything you do. And I have been blessed through the years to have people—I looked at the farm bill. You already are doing it. I have to implement what you all have done in 2002 and the adjustments that you made in the 2002 farm bill, and then the additional adjustments you made in 2008.

The field is laid. I simply have to come in, preferably get, you know—if selected—come in and put the effort and talk to you all and speak to you all and get your advice and guidance, because you have been doing this much longer than I have. But the passion has to be there, the passion to correct change, and the passion Secretary Vilsack showed in stopping what is going on is very attractive.

So I have, I believe, in addition, I think that I have everything that is needed. I have the stuff that is needed to do this because, I mean, this is a hard job. I think the team that Secretary Vilsack is putting together, listening to Mr. Miller’s statement, is ready to help. I think the alternative dispute resolutions, I think the beginning farmers program, I think the technical assistance, I think the idea that Mr. Miller comes in and wants to find a set of numbers—if he is that good on the numbers, I need him to work on some numbers for me. I mean, this sort of team that you are building together to win, to go back to my track analogy.

So it is a lot of moving parts. Yes, it is. And you have to get managers in those moving parts that have the same degree of passion “stickability,” discipline, and is on the same sheet of music as Secretary Vilsack, the coach. So we will—it is not any one person that

caused this problem, and it will not be any one that succeeds in it. But all of us working together, we will get it done.

Senator CHAMBLISS. Thank you. You have got a lot of challenges out there, but your background does give you a lot of experience to rely on to address those challenges.

Dr. Merrigan, I want to give you an opportunity to talk for a minute about your passion that I referred to, as well as your position on production agriculture. And I will not ask it in the form of a question. You and I have talked about this before together, but I want to give you an opportunity for the record to state your position, not just on sustainable agriculture but on production agriculture.

Ms. MERRIGAN. Thank you for the opportunity, Senator Chambliss, and I thought back to our meeting, and I realize one of the things I want to tell you is I grew up in rural America. There are rural parts of Massachusetts where people actually have to drive an hour to go to the grocery store. I grew up in a home next to a farm—a farm that was lost to development, housing development, and to commercial enterprises. I grew up in a community next door to a town where farmers lost their water supplies because of groundwater contamination from tobacco, cigar-wrap tobacco up where we are at, tobacco growing and potato growing.

And so being in rural America, American agriculture is a part of the fabric of who I am, and that is where I come from. While I did not grow up on a farm, it was part of my community. And coming to the Deputy job, I would see it as a great opportunity to represent all kinds of agriculture.

As you have said, organic is a small slice of the pie, 2, maybe 3 percent of overall production in American agriculture, a very exciting enterprise that has attracted young new farmers, and we certainly need new farmers because the aging population in the farm communities is of concern to all of us. But there is also the important disappearing middle, those farmers out there who are not making it, and I want to help and find ways to encourage them, and some of that is going to be through important conservation programs, to give them the assistance they need. EQIP, CRP, CSP—those are very, very important programs, and they help farmers. And I think that there are ideas that I can provide and help in that way.

You know, 20 percent of producers are providing 80 percent of the food. I understand that reality, Senator Chambliss, and when I was AMS Administrator, I worked on the organic program, but I also worked on milk marketing orders and check-off programs and commodity purchases of all sorts. And so I would like my history before the Committee to be not just those articles, which are out there and they are provocative—I have always been a provocateur; that is part of my personality—but also some of the hard that I have done for a range of agricultural interests.

Senator CHAMBLISS. OK.

Jim, you have pretty well, I think, answered all the questions that I might have for you over the years that I have known you and had the opportunity to work with you. And I was very pleased to hear you say that right out of the box, you are going to look toward implementation of the farm bill, particularly with the regula-

tions that were forthcoming in the previous administration that have not been totally reviewed to this point and need to be reviewed and need to be put in place.

The Chairman and I have had conversations with the Department about that very issue, and it is important that we get the farm bill implemented. Gosh, we are here already in the second year of that 2008 farm bill. That is hard to believe after all we went through last year, but you know the issues, and even though you come from a part of the world where you do not grow peanuts and cotton, as we do in the Southeast, you are very familiar and knowledgeable about those crops. And we have got some issues there particularly with respect to posted price on peanuts that I look forward to dialoguing with you about early, because it is a critical issue that is kind of unique to peanut farmers.

So, again, thanks to all of you for your willingness to serve, and we look forward upon confirmation to working with you.

Chairman HARKIN. Thank you very much, Senator Chambliss.

First of all, Dr. Leonard, before I finish with your series here, first of all, you mentioned that you are going to rely on Lloyd Wright, you are going to have Lloyd Wright working with you?

Mr. LEONARD. He has been assisting in the briefings.

Chairman HARKIN. Well, you could not find a better person, let me tell you that. OK?

Mr. LEONARD. He has been very helpful.

Chairman HARKIN. This guy is great. I know. He used to work for me. I see him sitting back there. You could not find a better person that knows that Department and knows how to get things done, so I recommend him highly for whatever you are using him for—well, I mean, it depends, I guess. But he is a great friend, and you are well advised to take his advice and consultation.

Let me also say this, Dr. Leonard: I have known your boss—well, you have two bosses. You have got the Secretary and you have got the President, obviously. I am talking about your immediate boss, the Secretary. I have known him for—well, let us see—just about 20 years now. Let me think about that. Yes, just about 20 years—before he was in office, when he was a mayor; when he was a State senator; of course, then as Governor. So I have just known him all these years.

I can tell you that he gets it. When it comes to civil rights, this guy gets it. And you will not find a better boss and somebody to have on your side in clearing up this backlog. We have talked about it. This is not just something that he knows. I mean, he feels this in his guts. This guy gets it. So I just want you to know you've got someone I admire greatly, and I know how deeply committed he is to clearing this thing up once and for all. So you are going to have a good partner in that.

Mr. LEONARD. Thank you.

Chairman HARKIN. Jim, I said before, you know, one of the things we did in the farm bill, we put the money in there for the computers. This is kind of a mundane topic. But we put the money in there for computers for the RMA, but we were not able to get the money for the new computer system for the Farm Service Agency.

Now, I have already heard little problems about this may be coming up, so the antiquated system in FSA creates some inefficiencies there for their personnel and program participants. I am hopeful that soon we can come up with the money for that. We have got to get that done somehow. But, again, would you address yourself to the prioritization of the need to ensure that the improvements to the RMA computer system will be compatible with the Farm Service Agency system so that this data is transferable?

Now, that is kind of a mundane question, but I am telling you, I am already hearing that there may be some problems there. And this could slow things down, and, you know, we want to get these things moving as rapidly as possible. So if you could just address yourself to that need for those new computers at the FSA.

Mr. MILLER. Well, thank you, Mr. Chairman. It is time that we move the Department of Agriculture, and particularly the FSA and the RMA, into the 21st century. And I know during the debate over the farm bill, there were a lot of discussions about the need for new technology in both agencies. And, of course, we were always fighting a battle of the budget at that time, and we know that it is not going to get easier as we look down the road. But we are in a situation now that there is always the fear that we could lose our ability to actually deliver programs just because of the systems that exist.

If confirmed, I certainly want to work with you and Senator Chambliss and your House colleagues to figure out a way not only to bring new technology to RMA, but I completely agree with you, we have to find a way to have an integrated system, a system that can literally talk back and forth across agencies, because it is extremely important that they be able to share information efficiently, and also a system that can be more readily accessible by the stakeholders, by farmers and ranchers. And we know that that has a cost associated with it, but we are suffering, I think, a very great cost the longer we delay.

We cannot just keep patching this old system back together and expect that it is going to serve the needs of the country in terms of the programs that we have to deliver. And as we make these programs more and more complex—and whether we like it or not, that is exactly what we have done—the need is even greater.

Chairman HARKIN. One other thing, Jim, you know, we reduced the amount of acres in the CRP program down to 32, but that was not a limit. That was sort of a target. And now with all this talk about cap and trade—and we may actually pass that this year. I don't know. I am not on that Committee. But it is going to have an impact on agriculture, and I think, to speak for us, we want to make sure that Agriculture gets its rightful place in the ability to sequester carbon and to be able to participate in that.

Obviously, one of the best areas for that is CRP, long-term land set-asides. And so I just wonder if you have given that any thought, and then we just need to work together to make sure that if, in fact, there is such a cap-and-trade system, that we do have a strong place for agriculture and for our farmers to be able to partake of the benefits of that. And CRP, it seems to me, is one of the best. I just wonder if you have any observations on that.

Mr. MILLER. Mr. Chairman, I certainly concur with you that the opportunities in rural America not only to increase our production

of a lot of different forms of renewable energy, whether we are talking about renewable energy in the form of liquid fuels such as the next generation of ethanol through cellulosic production or wind energy or solar, are tremendous economic opportunities.

At the same time, I believe that you are absolutely correct, if we are going to do something in terms of taking a serious effort at reducing greenhouse gases, agriculture needs to be a participant in that in a way that it can benefit from the new technologies, whether they are for crop farmers or livestock farmers, that may allow them to get paid for sequestering carbon, for instance.

So I certainly look forward to working with you and other members of the Committee in ways that we can ensure that farmers are able to benefit from this exciting new industry in a lot of different ways.

Chairman HARKIN. Well, I am glad you added that. I did not put that in my question, but I am glad you added that because, obviously, wind energy and liquid fuels, biomass, all the things taking place, but also in addition to getting the benefits from carbon sequestration so that there could be a whole new income stream for farmers out there.

Mr. MILLER. I think it presents maybe the best single opportunity that we have seen in production agriculture, possibly since the Green Revolution in terms of what we might be able to do in the future.

Chairman HARKIN. All right. Thank you very much.

Well, Dr. Merrigan, listening to your exchange on organics, it may be small, but it is the fastest growing part of agriculture in America today—the fastest growing part, even in Iowa. I think we must be—I think we are No. 2 now in the Nation. I think, if I am not mistaken, in the number of organic farms. And this has just burgeoned over the last few years.

We used to have a saying in Iowa that if a young person wanted to get into agriculture, he did hogs, because you could turn pigs, you know, rapidly and it was a good cash-flow. Well, because pork production has now gotten larger and larger, more confined, to many of our younger farmers that is not a viable entryway now to agriculture. Organics is. We are finding a lot of young people in Iowa now with just a few acres able to grow organics and sell them at premium prices and get a good cash-flow. They may be working in town and doing other things like that, but at least it gives them some cash-flow.

Well, to that end, this Committee did quite a bit in the last farm bill on organics. I was just looking at it. We did the Organic Certification Cost-Share Program. We had \$5 million in 2002 bill. We put \$22 million in the 2008 bill for the cost share. Organic research, we authorized it in the 2002 bill. We put \$78 million in the 2008 bill.

For organic data collection, market data so we would have some market data out there for organic farmers to know what was happening, we authorized it in the 2002 bill, but we put \$5 million in the 2008 bill.

And in the organic EQIP, we put transition money in there, made it available nationally so they would be eligible in the Envi-



ronmental Quality Incentives Program, that they could be eligible for that.

So we have, I think, on this Committee and in the House Committee recognized the importance of organic agriculture in this country and the need to do all we can to promote it.

The demand is there. I have been talked to by people who run big grocery chains, and they have said to me they have to import organics because they cannot get enough here. That does not make sense to me. If the demand is there and the public is demanding it—and they are—then it seems to me we ought to be doing all we can to enhance and support it and to do all we can in the Department to help these organic producers. It is the breadth of everything now. It is vegetables, milk, dairy products, meat. All kinds of meat products now are organic, and the public is demanding it.

So I am hopeful that you will continue to provide strong leadership in this area, strong leadership, because this Committee has spoken, and I also feel very strongly about it, that we need to make sure we support organic agriculture and organic farmers. And, you know, you said you want to be provocative. I wrote that down. That is good. Sometimes we need to provoke thinking, and new ways of thinking, in so many things that we do. So I am hopeful that you will use your position to continue to support what we did in this Committee to move ahead aggressively in those areas.

The second thing I would bring up is the Conservation Security Program. You testified on that, on the Conservation Security Program. Well, we now call it the Conservation Stewardship Program, but it is basically the same. We just made it nationwide instead of in watersheds. And so you are very familiar with it.

Secretary Vilsack said he wants to get the Conservation Stewardship Program into effect as quickly as possible, and I just wonder if you have any views on that and how we are going to fit that into the overall structure of our farm program system.

Ms. MERRIGAN. Thank you, Mr. Chairman. I think the CSP is a wonderful program. “Reward the best, motivate the rest” I believe is the motto. I would want to work with Secretary Vilsack to put it right there on the front line as quickly as possible to implement the new changes that came forth in the 2008 farm bill. I love the basic concept of rewarding farmers for their stewardship. As Senator Chambliss said, farmers do not want to be out there degrading land, hurting their own chances of success. And we need to find new tools to help them and to reward them for their efforts.

So one of my goals as Deputy would be to be working with my colleagues here at the table and really trying to implement an exciting array of new programs as well as fine-tuning of old programs that are in that historic 2008 farm bill. We need to get downtown, and we need to get to work as soon as possible.

Chairman HARKIN. Well, I hope we can make that happen.

I see we are joined by another distinguished Chairman of the Agriculture Committee on the House side. Senator Roberts?

Senator ROBERTS. Well, thank you, Mr. Chairman, and we have got quite a few Chairmen, as a matter of fact.

Chairman HARKIN. We have got them all over the place around here.

Senator ROBERTS. I want to congratulate all of the nominees today. Each of you has a great task ahead and a lot of challenges. We all know that. If you are going to walk into any rural America coffee shop, ask five farmers what is on their mind in regard to the future of farm policy, you will probably get quite a variety of responses. And probably your coffee would be cold by the time that you get to enjoy it, and especially if they have figured out who you were and what you were in charge of.

As you know, we have had an awful lot of increased input costs despite rising commodity prices. Declining prices, now they are coming back up, and the weather constantly weigh heavily on the minds of our producers. We just had one heck of a snowstorm out on the plains, 30 inches of snow in a small town in Kansas, set a record. It was good it was wet and stayed a little bit, so hopefully that will help out with the wheat crop.

But our farmers and ranchers have to worry about other factors affecting their operations, and they are asking what is going to happen. What will the Government do next in regards to farm program policy? What additional regulations will they impose on agriculture? How much of the safety net will they cut away and give to other priorities? Let me repeat that. How much of the safety net will they cut away and give to other priorities, which I have some problems with?

So these concerns are real, and, unfortunately, we do not have clear answers. And on top of these concerns, our producers seem to have fewer and fewer advocates willing to engage, it seems to me on their behalf in the public fight. And I think that is where you all can really help.

Through your positions, I hope you will join the many of us in the Congress and on this Committee in public defense of all of our farmers and ranchers—Dr. Merrigan and I had a good discussion about this—regardless of size or structure or commodity or geographic location. As we used to say in the House, when I had the privilege of serving there and was Chairman and working with the great Chairman of the Committee over there, Kika de la Garza, he used to say either hang together or hang separately.

We must not lose sight of the fact, I think, that our farmers and ranchers continue to produce the safest, most abundant, and affordable food supply in the world. I do not know how many times Chairman Harkin and Chairman Chambliss have said that or I have said that, but it needs repeating because we just—we do not have the ag press that we used to have, and there are just an awful lot of folks that I think have forgotten about the value of production agriculture, and by “production,” I am not defining that by size by any means, or crop.

Dr. Merrigan, I really appreciate your spending some time with me in my office. We had a good talk, and I appreciate that. And we get wrapped around the axle—unnecessarily, I might add—sometimes trying to define who is a small family farmer or who is a large family farmer or who is a family farmer. Instead, I think we should focus on the policies that benefit all of agriculture.

My question to you: How will you as Deputy at the Department work to ensure that the concerns of all of agriculture are ad-

dressed? And we talked about this. You can shorten up your reply. I think I know what you are going to say. I appreciate it.

Ms. MERRIGAN. Thank you, Senator. I actually have some former students in the back of the room, and they would tell you when they get to my class and they start talking about family farmers, factory farmers, corporate farmers, all of this rhetoric, I say, "Get rid of it all." Get rid of all that terminology. Let us not vilify the big guys, make the little guys the heroes of the day. Let us talk about how we are going to make American agriculture work, various sizes, various different kinds of production schemes, various different kinds of models. And we want it all to work, and that is very, very important to me.

I have had a history of leadership in agriculture, one that I embrace and am proud of, but I also think that I have worked very closely with the livestock sector. I have worked with the Cotton Council. I have worked with various commodity groups. And I want American agriculture to succeed, and that requires a diversity of approaches. It requires clear rules, certainty of program operation, and good management skills in the Department of Agriculture, and I would like the opportunity.

Senator ROBERTS. I appreciate your answer. Your response was exactly the way we wrote it.

[Laughter.]

Senator ROBERTS. Mr. Miller, let me express my appreciation from all of us for all your hard work during the 2008 farm bill and previous farm bills. You have been a tireless supporter of ag policy for a number of years, and this administration I think is very well served to have you as part of the team.

The Standard Reinsurance Agreement is scheduled to be renegotiated this year in reference to crop insurance. The crop insurance program—I remember Bob Kerrey and I working to try to improve that with the help of both gentlemen here. And, unfortunately, in my view, the crop insurance program has been used as a bank in too many instances to fund other programs. They are valuable programs, do not misunderstand me, but they should not be funded at the expense, again, of safety net programs for our farmers.

What do you think the goals of the renegotiation should be? What will be your priorities as it moves forward?

Mr. MILLER. Well, Senator, first of all, I am well aware of all the work you and former Senator Kerrey and the Chairman and Senator Chambliss put into ensuring that we have a viable Federal crop insurance program out there as a significant part of the safety net for farmers and ranchers. And I certainly support the program. I understand how important it is to our producers, and that importance has only grown, which I think is a testament to the work that you all did with the Agriculture Risk Management Protection Act.

So certainly as we get into the renegotiation of the SRA—and I am not in the position where I want to lay out what I think a negotiating strategy ought to be prior to going into those negotiations—I think the end result has got to be a new agreement with the companies, with our partners that are providing that crop insurance out there that ensures that the American farmers and ranchers who want to participate in it still have a very good product. I think

we can improve on that product in a number of ways, and I certainly want to explore that not only with the companies, with the RMA professionals that we have at the Department, but certainly with you and your colleagues on how we can do that, and at the same time how can we improve the efficiency of the delivery and the accounting for those programs.

The Chairman brought up the issue of technology, and certainly there is an area where, with the correct technology, if we can get that implemented, the savings for both the companies and the Government could be significant. We are spending, I believe, way too much time trying to push paper and trying to make systems that cannot talk to each other communicate, and it is not working.

So I hope we can pursue that, and I think that is an area where both our private sector partners and RMA should be able to find some common ground. But we all know that we face a fiscal dilemma in this country, and, you know, we are going to have to address that head on. And, quite frankly, you know, I do not think farmers and ranchers ultimately are going to be immune from that. I think everyone is going to share in some of that pain.

But I want to ensure that we have the best possible crop insurance program out there for our producers, and when I say "our producers," I mean producers of all scales in all parts of the country.

Senator ROBERTS. Well, thank you for that answer, and I would only observe that, first, working on crop insurance- -and I think that is when, Tom, you and I were over on the House side. And I was working for Keith Sebelius then, but at any rate, a lot of talk at that particular time as to whether there should even be a Federal crop insurance program. That was a giant step for us, and certainly I think a very good one.

The reality is that if you do not have a good crop insurance program and make it attractive and make it a true safety net, you are going to get into an emergency bill every year. It used to be that they were every even-numbered year. I think you know why that would be, but depending on whatever weather catastrophe that we would have. But, my gosh, if you get into these emergency bills, these disaster bills, they are a disaster to try to pass to begin with, costly, and they are a disaster to implement. I think most members who have worked on past disaster bills in a very honest effort to be of help to our producers in the various sections of the country, what would happen is that they would issue a press release when they passed it, and then in the implementation, they sort of went home for 6 months or did not really talk about it or very difficult to do that. And it is very time-consuming and very costly, and that is why a good crop insurance program I think is absolutely essential.

Thank you for your statement, Dr. Leonard. I am not trying to overlook you. I think we will just approve you and go on down the road.

I thank all the witnesses for being here, and thank you for holding this confirmation hearing, Mr. Chairman.

Chairman HARKIN. Thank you very much, Senator Roberts, and can I just say amen to what you just said about crop insurance. Pat and I may not always agree on everything in agriculture, but this is one thing we do agree on, in lockstep, on crop insurance. I think

we all pretty much basically agree on crop insurance here. We do have to make sure it works and works well.

Well, we are just about ready to start our votes on the Senate floor. I would ask if any of you have any other statements or any other things you would like to say before we call this to a close. Going once, going twice, going three times.

[No response.]

Chairman HARKIN. Well, again, thank you for your willingness to serve in this administration.

The Committee has received letters of support for each of the nominees. I ask unanimous consent those letters be made a part of the record.

[The letters can be found on pages 136 through 185 in the appendix.]

Chairman HARKIN. We have already told offices that any written questions need to be submitted by 6 p.m. today, and the USDA intends to return those answers by early tomorrow. And in consultation with the Ranking Member, we will see how we can expedite this process so that we can get the three of you confirmed as soon as possible.

To all of you—oh, I am sorry. We do have another member of the Committee who just arrived. In the nick of time, John. I was getting ready to bang the gavel.

[Laughter.]

Chairman HARKIN. The distinguished Senator from South Dakota, Senator Thune.

Senator THUNE. Thank you, Mr. Chairman, and if you are ready to wrap up, I can certainly submit some of my questions for the record. But I do thank you for holding the hearing, and I thank our nominees for their willingness to serve.

I just want to, I guess, say that with respect to the issues that I am interested in and concerned about, as we all know, we wrote a farm bill last year, and there are certain provisions in that farm bill that we want to get up and going. In particular, I would reference the disaster assistance program which is still being, I think—we have not seen regulations on. And the other thing I would mention, too, Mr. Chairman, and that was a program that we worked some together on, the BCAP program, the Biomass Crop Assistance Program, which I am told now is going to require an EIS, which I think is going to delay this a long time. But I hope that the Department will move quickly on both those programs. They are both important to at least the people that I represent in South Dakota, the disaster assistance program as well as the BCAP program and the next generation of biofuels, which I think everybody wants to get to. Everybody wants to move to the next generation of biofuels, and it is going to be really important that we get these programs up and going and get the rules issued on those.

There are a couple observations I would make, Mr. Chairman, and I might pose a question or two along those lines to Mr. Miller. But I would submit those for the record if that is—

Chairman HARKIN. If the Senator wanted to ask a couple of questions, that is what we are here for, and they have not called the votes yet, but they are getting ready to pretty soon. So I would be

more than willing to let the Senator go ahead and ask some questions.

Senator THUNE. OK. Well, I would just, if I could, then, ask Mr. Miller, who will be the Under Secretary of Ag for Farm and Foreign Ag Services, the BCAP program that I mentioned, I am hoping that we can perhaps figure out a way to expedite this EIS process. But I would just simply, I guess, ask if there are some ways that we could do the environmental assessment that might make that process move along a little more quickly. I think it could be a long time, and there could be a lot of delays if the full-blown EIS is—and it can be done, but is there a way we could do an environmental assessment and begin to implement the program while the EIS is being complete. I guess that is my question.

Mr. MILLER. Thank you, Senator. Let me just say, first of all, I think the work that you and Senator Klobuchar and many other members of the Committee did on the Biomass Crop Assistance Program truly is important as we try to resolve what really amounts to a chicken-and-egg problem in terms of getting to this next generation of biofuels. And that program is going to be, I believe, extremely important as we try to grow that industry and grow it successfully.

Specifically concerning the issue that you have raised, if confirmed, and as I pointed out in my statement for the record, I am going to work as hard as I can to get the various programs, including the BCAP program, implemented as expeditiously as possible. And certainly when I get to the Department, I think we need to explore whatever options might be available to us to expedite that. I realize the BCAP program, in this farm bill at least, has a limited life. It would expire in 2012. We are already somewhat delayed in moving ahead, and it is my goal to advance those regulations and get as many of these programs off the ground in as short a time span as possible, including the BCAP program. It is going to be extremely important to us as we move ahead.

Senator THUNE. And could you comment, as long as we are on the subject, on the disaster assistance program and where we are with that?

Mr. MILLER. Well, again, if confirmed, certainly one of my goals is to move ahead as quickly as possible with implementing the disaster assistance program. Now, within that program specifically, final calculations cannot be made until we get to the end of the marketing year for various crops. But certainly I hope to be able to ascertain what the status of the regulatory process is, if confirmed, once I get to the Department, and advance that process as much as possible.

I realize that we have already experienced disasters that should be assisted under that program that occurred in 2008. We are now rapidly approaching the spring planting season for the 2009 crop. In fact, it has begun in some of the Southern States. We need to at least get the rules designed and the program out there so farmers—in particular, their creditors—can look at it and be able to predict with greater certainty what the outcomes might be when we do get to the point where we can finally begin issuing payments.

So I am very interested in expediting that. I know there was a lot of work in the farm bill in creating this disaster program, and certainly it would be my goal to implement it consistent with the intent of Congress.

Senator THUNE. It was one of the more difficult parts, I think, of the farm bill, as you know, and I just hope that we can get the permanent program in place and regulations issued. We already are having, with the winter blizzards in my State, a lot of dead cattle. A lot of ranchers are having an awfully hard time getting out to check on their cattle. And so this is a persistent problem in our part of the world, and the permanent disaster program was designed to anticipate some of these things rather than reacting to them. And I think it is important that we get the program up and going, so I hope that you will work as hard as you can once you get there to get after that.

Thank you all. Thank you, Mr. Chairman.

Chairman HARKIN. Thank you, Senator Thune. I think that will conclude our proceedings.

As I said, I have discussed with Senator Chambliss how to expedite this. Hopefully we can get it done as soon as possible so you can all get in your offices and get to work right away. Again, I congratulate you all and all your families who are here today. It is a great honor, but it is also a great responsibility, and we look forward to working with you as co-equal branches of the Government to strengthen our agricultural system in America in all of its aspects—in all of its aspects.

With that, the Senate Committee will stand adjourned. [Whereupon, at 3:28 p.m., the Committee was adjourned.]





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**APPENDIX**

APRIL 1, 2009

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Statement of Senator Thad Cochran

April 1, 2009

Mr. Chairman, thank you for holding this nomination hearing. It is important that we review these nominations and allow those who are qualified to be confirmed and assume their positions. I congratulate the nominees before us today on being selected to serve at the Department of Agriculture.

Ms. Merrigan, I congratulate you on your nomination to be Deputy Secretary. It is possible that you will represent the Department when this Administration formalizes any cap-and-trade system. Specifically, I am concerned about agriculture's role in any cap and trade system. I understand that certain Members of Congress are urging the agricultural community to get involved and prepare to participate in any carbon offset program.

I believe that we should be cautious and consider carefully the overall impact of any program as well as the potential for increasing the costs of production.

Mr. Miller, I congratulate you on your nomination to serve as Under Secretary of Agriculture for Farm and Foreign Agriculture Services. If confirmed, you will be actively involved in the administration of commodity programs under the 2008 Farm Bill.

The Members of this Committee spent an enormous amount of time reaching the final agreement, and we expect the Department of Agriculture to implement and administer the programs as intended and in a timely fashion. I hope you will review carefully any plans or intentions to change the farm programs' based on total sales revenue.

I hope you will maintain the integrity of the farm bill. Once implemented, the current law will provide our producers with a much needed farm safety net. I am hopeful that the leadership of the Department of Agriculture will support and defend the 2008 Farm Bill as passed by Congress.

Mr. Leonard, I congratulate you on your nomination to be Assistant Secretary for Civil Rights at the Department. This position is very important, and I wish you the very best as you carry out your responsibilities.

The U.S. Department of Agriculture is very important in the effort to spur development in the rural areas of the country. Whether it is farm support payments, rural development loans or nutrition programs, these programs provide important opportunities to support and improve the way of life for many rural citizens. You have my best wishes for success as you undertake your new duties at the U.S. Department of Agriculture.

**Senator Charles E. Grassley  
Statement for the Record  
USDA nomination hearing 04/01/09**

I want to first start by congratulating all 3 of our nominees here today. The fact that the President has chosen each of you for these important positions is a testament to your public service and character. I special welcome back to Jim Miller, who was so instrumental in helping us get a farm bill done last year. I'm pleased that your work in helping the family farmer will continue in this capacity if confirmed.

As everyone on this committee knows, the Department of Agriculture has a lot of work to do in implementing the 2008 Farm Bill. Each of you will play an important role in this endeavor. Getting this done expeditiously, but most importantly – correctly is your fundamental charge and on the top of everyone's priority list. I have said it before, but I will say it again. For all intensive purposes, this farm bill, which was fully paid for, is exactly the type of stimulus we need to jump start our agricultural and rural economies. The president is always talking about things we need to do to stimulate the economy and this bill has provisions in it that will put people directly to work. So it's important that it be implemented soon.

I look forward to working with each of you in the future, and again, congratulations on your nominations.

Testimony of Joe Leonard, Jr.  
Senate Committee on Agriculture, Nutrition and Forestry  
April 1, 2009

Chairman Harkin, Ranking Member Chambliss, and Members of the Senate Committee on Agriculture, Nutrition and Forestry. It is an honor to appear before you today. I would like to thank Chairman Harkin and Ranking Member Chambliss for their longstanding commitment and dedication to the principles of civil rights while serving on this Committee. I would also like to thank Representative Carolyn Cheeks Kilpatrick for her warm introduction and to indicate what an honor and privilege it has been to work for her as her Executive Director when she was Chairwoman of the Congressional Black Caucus and to serve as a senior advisor on her staff.

Behind me, I'm proud to be joined by my wife Dr. Natasha Cole-Leonard and our son Cole. I thank my wife for her patience, support and understanding with a husband who swims far from the shore. I also thank my parents Joe and Shirley Leonard for their support, sacrifice, and teaching of what we refer to in our family as "stickability." It is also important for me at this time to invoke the names of Leonard men--Jose, Levy, Charles, Dave and Joe Sr. - all of whom endured slavery or segregation so that I might have better opportunities.

It is a sincere honor and privilege to be selected by President Obama to serve as Assistant Secretary for Civil Rights at the United States Department of Agriculture during this critical period in American history. As a historian, I am mindful of the challenges that have been associated with this office. USDA has recorded a turbulent history in Civil Rights since the establishment of the Office of Equal Opportunity in 1971. Initially, the total civil rights program experienced an almost revolving door situation with its leadership and for several years, it averaged one director a year. Furthermore, unfortunately, the allocation of resources -- both human and monetary -- did not match its needs.

The suspension of investigations and compliance reviews in the early 1980s and the concomitant reduction in the budget left a crippling legacy. The establishment of the Office of the Assistant Secretary for Civil Rights in 2003, through language included in the 2002 Farm Bill by this Committee, was a step in the right direction but the challenges of addressing a ballooning

inventory of complaints and complex class action complaints has not allowed it to fully address the many functions under its jurisdiction.

The Department has also been confronted with complex legal issues related to its program discrimination complaints. USDA must acknowledge its past mistakes and discrimination, correct its errors, and move forward into a new era of transparency and accountability that provides equal employment, equal access, and equal treatment to all of our employees and constituents.

I am confident that, if confirmed, I, along with the staff that Secretary Vilsack is putting together at the Department, will be able to tackle these longstanding challenges and implement the requirements of the 2008 Farm Bill as you intended.

Mr. Chairman, Ranking Member Chambliss, and Members of the Committee, if confirmed, I will work to the best of my abilities to reinvigorate the Office of Civil Rights. Specifically, I will:

- Initiate preparations for the construction of a single accurate database for customer complaints and a separate database for employee complaints;
- Take immediate steps to analyze this information to ensure that provisions of the Farm Bill on suspension of foreclosures is being properly implemented;
- Work to streamline the process for filing complaints for USDA customers;
- Work within USDA to employ full time investigators, encourage on-site investigations, and hire staff qualified to support and assist the investigators and adjudicators in processing USDA claims;
- Conduct analysis at the points of service delivery to pinpoint barriers to providing equitable access and treatment, and develop solutions to overcome these barriers, including providing tools to our employees to achieve intensive grassroots effects;

- Increase Alternative Dispute Resolution and mediation efforts to resolve complaints at the local and /or state level;
- Implement Farm Bill provisions for recording of application and participation rate data of applicants so that complete and accurate information can be used in accountability assessments and in evaluating special outreach needs;
- Review the overall organization of the Office of the Assistant Secretary of Civil Rights to ensure optimal information flow and cooperation and coordination;
- Initiate a systemic department-by-department review to determine staffing requirements in order to better facilitate timely responses to customer claims.; and
- Reinvigorate the commitment to Civil Rights for all USDA employees.

When Secretary Vilsack was before you, he reaffirmed his commitment to resolving outstanding civil rights claims at USDA. I am equally committed to that end and hope that my career is a testament to this principle.

This Committee plays a vital role in overseeing the operations of USDA and the Office of Civil Rights, and, if confirmed, I look forward to working with you to ensure that you and your staff are kept fully informed of the work of my office.

Lastly, I conclude by expressing my gratitude to President Obama for the confidence he has placed in me to take on this honorable responsibility and to you Mr. Chairman, Ranking Member Chambliss, and the Members of the Committee for the opportunity to appear before you this afternoon.



TESTIMONY OF KATHLEEN A. MERRIGAN, OF MASSACHUSETTS, TO BE  
DEPUTY SECRETARY, U.S. DEPARTMENT OF AGRICULTURE  
APRIL 1, 2009

Mr. Chairman, Senator Chambliss, members of the Committee, it is a great honor to be nominated by President Obama to the position of Deputy Secretary. I am honored by Secretary Vilsack's confidence in me and his invitation to join him in leading the People's Department.

I appreciate Senator Leahy's generous introduction. He is an inspirational leader, a wonderful boss, and throughout the years, he has been a true friend to me and my family. I would like to also recognize my husband, Michael Selmi and my two children, Fiona and Seamus, who accompany me here today.

I am grateful for the opportunity and privilege to appear before you, to return home to the Committee room in which I worked with many of you, and your able staff, to craft legislation and oversee USDA operations. During my six years as a staff member for this Committee, I came to understand first-hand how essential it is for members of the Committee to receive timely, robust, and honest assessments from the Administration on issues before the Committee. For this reason, I want to begin my testimony pledging that, if confirmed, I will always prioritize answering the Committee's questions and calls for assistance. It would be an honor to join you in the common cause of improving the lives of all Americans because whether they understand it or not, each and every citizen needs U.S. agriculture to thrive.

It was from a distance, in my role as a college professor, that I watched as the 2008 Farm Bill took shape. It is a masterful piece of legislation, with its 15 titles, 600 provisions, and creative new ventures. As someone who cares deeply about American agriculture, I am grateful for the hard work committee members and staff devoted over a period of years to bring about this historic law.

During the 1990 Farm Bill deliberations, I worked to help Senator Leahy realize his vision for a national organic food standards program, which was included in that omnibus bill. My excitement soon turned to frustration once we began waiting for that law to be implemented, which took nearly 12 years. I do not want similar tales to be told about the 2008 Farm Bill. I understand that farmers and ranchers need certainty. In some areas of the country, farmers have already begun or are about to begin planting and they need to fully understand the programs that they will be utilizing. If confirmed, I understand that it will be my job to assist the Secretary and other leaders in the Department to ensure that this law is implemented as Congress intended and as quickly as possible.

The last time I appeared before this distinguished Committee two years ago, it was during the shaping of the 2008 Farm Bill. I testified on ways to improve what is now the Conservation Stewardship Program (CSP), a jewel among many wonderful USDA programs. What I like about CSP – your program Mr. Chairman – is that it recognizes

farmers as environmental stewards and rewards their contributions to healthy food, land, water, and wildlife. If confirmed as Deputy, one of my priorities will be to communicate the important contributions made by farmers and ranchers in protecting and enhancing our natural resources, such as mitigating climate change. As Secretary Vilsack has so ably articulated, we must harness our research enterprise to find ways to expedite the next generation of biofuels, develop new and market-worthy crop rotations, and advance the use of agroforestry and biomass strategies.

I teach at a graduate school of nutrition science and policy, where understanding the paradox of childhood obesity and hunger is central to our mandate. As Administrator of the USDA Agricultural Marketing Service, I spearheaded efforts to purchase commodities for our national school lunch and breakfast programs. If confirmed as Deputy, I will seize the opportunity to work with the Committee to assist your efforts to reauthorize the Child Nutrition Reauthorization Act this year. It is my goal and my passion to improve access and delivery of nutritious foods - particularly fresh fruits and vegetables - to our nations' children. It is something we can do; it is something we must do.

American agriculture must remain competitive. To this end, creative and supportive marketing programs and science-based regulations are essential. Investments in science and research must be made, but these investments will yield greater results if they are targeted, monitored, and evaluated.

I also believe that a strong farm safety net must be maintained to uphold and honor those men and women who persevere, despite the odds, and work hard every day to deliver wholesome safe food to people around the world.

Food safety must be enhanced and export opportunities sought. As this Committee knows all too well, rural Americans are not immune from the current economic upheaval and USDA must continue to find ways to assist small towns and rural communities and amplify food assistance programs to meet needs in all corners of the country. In short, the challenges before us are great but so too are the opportunities.

If confirmed, I am also looking forward to working with Secretary Vilsack and this Committee to get to the bottom of several key challenges before the Department today - resolving decade old civil rights complaints, modernizing an outdated information technology system, and transforming the Forest Service into a 21<sup>st</sup> century agency.

The Secretary has also stated his resolve to help farmers, ranchers, and rural Americans to reduce their dependence on foreign oil. This Committee has authorized major opportunities for rural America to participate in this effort through the Farm Bill energy title. I am looking forward to working to quickly implement the energy title programs such as Repowering Assistance and REAP. Those programs combined with other USDA initiatives such as Value Added and MicroEnterprise loans and grants will allow rural communities to develop new and exciting economic opportunities and to continue to play a central role in the effort to achieve energy independence.

I want to express my gratitude to the Chairman, the Ranking Member, and the Committee for the opportunity to appear before you today. Again, I want to thank President Obama for the confidence he has placed in me to do this job. Lastly, I want to thank my husband Michael Selmi whose willingness to stand by me and support me in this endeavor has allowed me to embrace this important new challenge.

## TESTIMONY OF JAMES W. MILLER

## SENATE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Wednesday, April 1, 2009

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Chairman Harkin, Ranking Member Chambliss, and members of the Senate Committee on Agriculture, Nutrition and Forestry, thank you for the opportunity to appear before you today. In particular, I want to thank Senator Kent Conrad for his kind introduction and indicate how much I enjoyed working for him for the 4 years I spent as part of his Senate Budget Committee staff.

I also want to take this opportunity to introduce my family to the Committee. Next week my wife Sandy and I will be celebrating our 35<sup>th</sup> wedding anniversary. Sandy is my best friend and strongest supporter. To the extent the various activities I have undertaken involve sacrifice, she has been the one to bear that inconvenience and I thank her for her patience and understanding.

In addition, I would like to introduce my oldest son Matt and his wife Alison who are the parents of our two wonderful grandsons Emmett and Oliver. I am also very happy that our other son Adam and his wife Amber were able to travel from their home in Phoenix to be here today. I am extremely grateful that my family could be here today and I thank them all for their love and support.

Mr. Chairman, members of the Committee, it is a great honor and privilege to be nominated by President Obama to serve as Undersecretary for Farm and Foreign Agricultural Services at the Department of Agriculture during this critical period. I am very mindful of the responsibilities of this position and the importance of its mission areas at the Department to our farmers, ranchers and all citizens of our rural communities, the American tax payer, as well as our consumers, both here and abroad.

The mission areas for the Under Secretary position for which I have been nominated include the Farm Service Agency, Foreign Agriculture Service and the Risk Management Agency at the Department of Agriculture. Each of these important agencies is staffed with professionals who work very hard to provide the highest level of service to their customers and stakeholders.

If confirmed, it will be a great honor to work shoulder-to-shoulder with these fine public servants to carry out the policies and responsibilities that Congress and the Obama administration have identified for each of these mission areas.

Today the American people are faced with historic economic challenges. Farmers, ranchers and rural communities are not immune from this crisis. Farm commodity markets have crumbled as a result of the bursting of the speculative bubble in the futures markets and changing market fundamentals, export markets are declining due to the

depth of the global economic recession, and tremendous uncertainty exists throughout production agriculture because of weaker prices, high input costs and increased difficulties when it comes to financing their operations. And, as is always the case, farmers and ranchers must constantly cope with the weather.

The cost/price squeeze faced by producers in each agriculture sector and each region of the country presents a real challenge that is immediate and compounded by what is likely to result in increased credit requirements for many producers this year. In addition, many agriculture lenders are tightening their credit standards while also facing constraints on their own ability to secure adequate capital to finance production agriculture this year.

I am under no illusion about the challenges our producers are facing this year. The risks for producers under these conditions are significant while the rewards are uncertain. Furthermore, I recognize that USDA must quickly make up ground in implementing the 2008 Farm Bill to ensure the safety net that was promised in the legislation as delivered.

I am keenly aware of the extraordinary effort made by this Committee last year to pass this historic farm bill. If confirmed, I will regularly seek to consult with the members of this Committee and your House colleagues to move as quickly as possible to implement the many provisions of the Food, Conservation and Energy Act of 2008 as well as the provisions of the American Recovery and Reinvestment Act that fall within FSA, FAS and RMA mission areas.

If confirmed, I pledge to work with all my energy to implement these programs in a way that is consistent with the intent of Congress and in a way that is fair and equitable to those who participate in these programs. Specifically I will:

- Conclude the Departmental review of the 2008 Farm Bill regulations promulgated by the previous administration and press to issue the regulations pertaining to the 2009 commodity programs as well as other important provisions such as the Conservation Reserve Program (CRP) and the Biomass Crop Assistance Program (BCAP) as soon as is practical.
- Ascertain the status and expedite the process of developing the regulations pertaining to the implementation of the disaster provisions of the 2008 Farm Bill as amended by subsequent legislation.
- Examine the tools available to the Department to help alleviate the crisis conditions that exist within specific sectors of production agriculture such as dairy.
- Review the public comments and initiate the process to promulgate the rules pertaining to the payment limitation provisions for the 2010 commodity program year.

- Work to ensure the agriculture export programs supported by the Foreign Agriculture Service continue to meet the needs of the cooperator groups and stakeholders in their efforts to expand U.S. agriculture sales abroad and help alleviate hunger overseas.
- Implement the modifications to the federal crop insurance program as prescribed by the 2008 Farm Bill.
- Initiate preparations for the upcoming round of negotiations of the Standard Reinsurance Agreement between USDA and its private sector insurance partners.
- Work within the Department and with Congress to develop a realistic and workable plan to modernize the information technology at USDA necessary to ensure the efficient delivery of its programs.

In addition, I want to emphasize my commitment to a statement Secretary Vilsack made during his confirmation hearing. The Secretary stated he would work hard to resolve outstanding civil rights claims in program and employment practices and would not tolerate discrimination in any form at USDA. I, too, am committed to turning this page at USDA. Discrimination in any form will not be tolerated in the agencies over which I have responsibility.

Let me conclude by once again expressing my gratitude to President Obama for the faith and confidence he has placed in me to take on this important responsibility and to you, Mr. Chairman, Senator Chambliss and the members of the Committee for the opportunity to appear before you today.

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**DOCUMENTS SUBMITTED FOR THE RECORD**

APRIL 1, 2009

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## BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).  
**Joe Edd Leonard, Jr.**
2. Date and place of birth.  
**June 16, 1966, Place Austin, Texas.**
3. **Marital Status:** If married, list spouse's name (include any former names used), occupation, employer's name and business address(es).  
**Married Dr. Natasha Cole-Leonard, (Natasha Cole) English professor, Community College of Baltimore County 7201 Rossville Blvd. Baltimore Maryland 21237.**
4. **Education:** List each college and graduate or professional school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

1996-2004	Ph.D. Howard University, Washington, DC, Specialization Civil Rights history.
1990-1994	M.A. History Southern University, Baton Rouge, Louisiana, Specialization Civil Rights history.
1988-1989	B.A. Huston-Tillotson University, Austin Texas, African-American history
1985-1988	Southern University, Baton Rouge, Louisiana
5. **Employment and Self-Employment Record:** List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms or ranches, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college; include a title and brief job description.



<p>January 2009-present</p>	<p><b>Senior Advisor Rep. Carolyn (Cheeks) Kilpatrick (D-MI)</b> Advise and counsel Rep. Kilpatrick on legislative concerns.</p>
<p>January 2007 - January 2009</p>	<p><b>Congressional Black Caucus, Washington, DC</b>  <b>Executive Director.</b> Coordinate and manage activities of the CBC; help guide legislative policy for CBC's 43 members; confront political crises and issues of concern to CBC's various constituent groups by developing rapid response communications plan within 24 hours of a given event, building strategy for long term policy and, when necessary, crafting legislative action; direct day-to-day activity of CBC staff; serve as liaison to other caucuses within the Congress and throughout the nation; assist CBC chair in developing 2-year agenda and daily implementation of that agenda; construct database for communicating with 100,000+ constituents.</p>
<p>June 2004 - December 2006</p>	<p><b>Black Leadership Forum, Washington, DC</b>  <b>Executive Director.</b> Provided leadership and collaborated with principals of 32 member organizations and 8 at-large member groups to develop and implement coordinated strategies for social and political advancement of African Americans and other minority groups; directed day to day activities of the Black Leadership Forum including coordination of Leadership Fellows program, member activities, fundraising, communications, national advocacy, policy analysis and community outreach to implement various strategies that integrate organizational goals and values.</p>

2004	<p><b>Election and Voter Registration Activities, Washington, DC</b> (concurrent with BLF and RPC employment).</p> <p><b>National Field Director, Unity '04 Campaign, National Coalition on Black Civic Participation.</b> Directed and implemented the multi-organization strategy that resulted in the registration of 105,000 African-American voters, in nineteen cities, in seventy-five days; directed Unity'04 Get Out the Vote (GOTV) effort which accounted for a seven percent increase of voter turnout in the targeted precincts.</p>
	<p><b>Communications and Public Policy Director, Voices for Working Families.</b> Directed communications and messaging campaign targeting African-Americans to register to vote in nationwide elections; executed expansion and enhancement of national initiative to increase voter turnout of African Americans in national and local elections.</p>
2000 - 2004	<p><b>Rainbow/PUSH Coalition, Washington, DC.</b></p> <p><b>Development Director of the Citizenship Education Fund Political Action Committee, Rainbow/PUSH Coalition (Jan. 2004 - Jun. 2004).</b> Cultivated partnerships and solicited funding for PAC, developed solicitation strategies, and informed potential contributors of CEF activities associated with voter education and outreach.</p> <p><b>Washington, DC Bureau Chief and Director of the Public Policy Leaders Institute, Rainbow/PUSH Coalition (Dec. 2000 - Jan. 2004).</b> Advocated on behalf of marginalized groups in various state legislatures and the U.S. Congress, built coalitions among various organizations to advance a progressive agenda, supervised RPC International Affairs Program and Media/ Telecommunications Project, and managed/operated DC office of RPC.</p>

1998 - 2000	<p>Center for Policy Alternatives, Washington, DC.</p> <p>Director of the Arthur Fleming Institute (May 2000 - Dec. 2000.) As director, selected a bipartisan class of state legislators to serve as Fleming Fellows and facilitated leadership forums that focused on governing leadership styles, decision-making processes, and consensus building techniques.</p>
	<p>Coordinator of the Southeast Policy Leadership Forum (Jan. 1999 - May 2000). As coordinator, advocated for progressive public policies throughout the states of the southeastern U.S., addressing such issues as predatory lending and reform of prescription drug plans in selected states.</p>
	<p>Kellogg Fellow, CPA (Jan. 1998 - Jan. 1999). Provided administrative and research support for various center activities, including coordination of meetings, forums, and press events.</p>
2002 - 2006	<p>Adjunct Instructor, Department of History and Government, Bowie State University, Bowie, MD. Courses taught: Survey of African American History I and II.</p>
1997 - 2001	<p>Adjunct Instructor, Department of History, Howard University, Washington, DC. Courses taught: United States History Since 1877, African American History Since 1877.</p>
1992 - 1996	<p>Special Education Teacher, L.E. Rabouin Career Magnet High School, New Orleans, LA.</p>
1992 - 1996	<p>Boys Head Track Coach/ Athletic Director, L.E. Rabouin Career Magnet High School, New Orleans, LA.</p>
1989 - 1992	<p>Special Education Teacher, Fort Allen Middle School, Fort Allen, LA.</p>
1989-1992	<p>Assistant Football and Basketball Coach/ Boys and Girls Head Track Coach, Fort Allen Middle School, Fort Allen, LA.</p>

6. Military Service: Have you had any military service? If so, give particulars, including the

dates, branch of service, rank or rate, serial number and type of discharge received.

**None**

7. Government Service: State (chronologically) your government service or public offices you have held, including the terms of service grade levels and whether such positions were elected or appointed.  
**1/07-1/09 Executive Director of the Congressional Black Caucus; 1/09-present Rep. Carolyn Cheeks Kilpatrick (D-13), Both appointed positions.**
8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you received and believe would be of interest to the Committee.
- January 2009 Omega Psi Phi National Service Award
  - June 2007, Selected by the *National Journal* as one of "Influential Staffers on Capitol Hill"
  - March 2007, National Urban League, "Empowering Communities Award"
  - August 2006, National Black MBA Association, Legacy Award
  - September 2005, National Coalition on Black Civic Participation Emerging Leader Award
  - July 2003, Selected among "The next generation of emerging leaders" by *Black Enterprise* magazine.
  - September 2003, Congressional Black Caucus, Chairman's Award recipient
  - 1999 Patricia Roberts Harris Fellowship, Ralph J. Bunche International Affairs Center, Howard University, Washington, DC
  - January 1998 - May 1999, W.K. Kellogg Fellowship, Center for Policy Alternatives, Washington, DC.
  - January 1997-December 1999 Howard University Teaching Fellowship.
9. Other Memberships: If not covered above, list all organizations in which during the past 10 years you held a position as official, board member, or other leadership position and describe the position. Exclude religious organizations. **None**
10. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published materials (including published speeches) you have written. Please include on this list published materials on which you are listed as the principal editor. It would be helpful to the Committee if you could provide one copy of all published material that may not be readily available. Also, to the maximum extent practicable, please supply a copy of all unpublished speeches you made during the past five years on issues involving agriculture, nutrition, forestry or any other matters within the jurisdiction of this

Committee and the Department of Agriculture.

Dissertation: We Are Catchin Hell Down Here: The Struggle for Public Accommodations and Voter Franchisement by the Congress of Racial Equality in Louisiana, 1960-1965. Thesis: The Plaquemine Demonstrations: An Historical Account of the Civil Rights Movement in Plaquemine, Louisiana, (1963).

## FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Have you severed all connections with your immediate past private sector employers, business firms, associations, and/or organizations? **Not applicable, I currently work in the House of Representatives.**
2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers. **None.**
3. Do you, or does any partnership or closely held corporation in which you have an interest, own or operate a farm or ranch? (If yes, please give a brief description including location, size and type of operation.) **No.**
4. Have you, or any partnership or closely held corporation in which you have an interest, ever participated in federal commodity income and price support programs? (If yes, provide all details including amounts of government payments and loans received or forfeited by crop and farm, et cetera during the past five years.) **No.**
5. Have you, or any partnership or closely held corporation in which you have an interest, ever received a loan or cosigned a note involving a loan from or guaranteed by any current or previously existing agency of the Department of Agriculture, including through any of the farm or rural development lending programs? (If yes, please state the current status and details of such loans, whether they have been fully repaid, and all details of any such loan activity.) **No.**
6. Have you, or any partnership or closely held corporation in which you have an interest, received payments for crop losses from the federal crop insurance program in the past 5 years? (If yes, give details.) **No.**
7. Have you ever received a government guaranteed student loan? If so, has it been repaid? **Yes, I received a student loan and it is currently being repaid on time. I received the student loan August 1996.**
8. If confirmed, do you have any plans, commitments, or agreements to pursue outside employment or engage in any business or vocation, with or without compensation, during your service with the government? (If so, explain.) **No.**
9. Do you have any plans to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations after completing government service? (If yes, give details.) **No.**

10. Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service? (If yes, please specify.) **No.**
11. Describe all matters and all employers, clients, organizations, or interests you represented over the past five years before the Department of Agriculture or any of its agencies, or before Congress involving matters within the jurisdiction of this Committee or the Department of Agriculture. **No.**
12. If confirmed, explain how you will resolve any actual or potential conflicts of interest, including any that may be disclosed by your responses to the above items. In particular, identify all investments, obligations, liabilities, or other relationships which involve actual or potential conflicts of interest relative to the position for which you have been nominated and what actions you will take to resolve these actual or potential conflicts of interest if confirmed.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Agriculture's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.

13. Describe and explain all divestitures or arrangements, of any nature with respect to any type of interest, which you have made or will make to resolve actual or potential conflicts of interest should you be confirmed to the position for which you are nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Agriculture's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

March 27, 2009

The Honorable Tom Harkin  
Chairman  
Committee on Agriculture, Nutrition,  
and Forestry  
United States Senate  
Washington, DC 20510-6000

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Joe E. Leonard, who has been nominated by President Obama for the position of Assistant Secretary for Civil Rights, Department of Agriculture.

We have reviewed the report and have also obtained advice from the Department of Agriculture concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated March 27, 2009, from Dr. Leonard to the agency's ethics official, outlining the steps Dr. Leonard will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with any action he agreed to take in his ethics agreement.

Based thereon, we believe that Dr. Leonard is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert I. Cusick".

Robert I. Cusick  
Director

Enclosures



March 27, 2009

Mr. Raymond J. Sheehan  
Designated Agency Ethics Official  
U.S. Department of Agriculture  
Washington, DC 20250-0122

Dear Mr. Sheehan:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Assistant Secretary for Civil Rights, U.S. Department of Agriculture (USDA).

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Sincerely,

  
Joe E. Leonard

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

50211 (Rev. 02/2008)  
4 C.F.R. Part 2634  
U.S. Office of Government Ethics  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20543

Reporting Status (Check one)	Incumbent <input type="checkbox"/> New Year Covered by Report <input checked="" type="checkbox"/> Former <input type="checkbox"/>	Reporting Period (MM/DD/YYYY)	Transmittal <input type="checkbox"/> File <input type="checkbox"/> Disc	Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the end of the filing extension period shall be subject to a \$200 fee.
Reporting Individual's Name Leonard	Job Title Assistant Secretary for Civil Rights	Department or Agency (If Applicable) Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)
Position for Which Filing Assistant Secretary for Civil Rights	Address (Street, City, State, and ZIP Code) 2284 Rayburn House Office Building, Washington DC 20515	Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)
Location of Present Office (or forwarding address) 2284 Rayburn House Office Building, Washington DC 20515	Title of Position (and Designation) Executive Director Congressional Black Caucus (1-3-07 to 1-6-08)	Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)
Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above) Congressional Senior Assistant	Committee on Agriculture, Nutrition, and Forestry	Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)
Presidential Nominee Subject to Senate Confirmation	Committee on Agriculture, Nutrition, and Forestry	Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)
Organization U.S. House of Representatives	Committee on Agriculture, Nutrition, and Forestry	Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)
Other Review (If desired by requester)	U.S. House of Representatives	Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)
Agency Ethics Official's Opinion On the basis of information contained in this report, I conclude that the filer is in compliance with the ethics laws and regulations (subject to any comments in this box below).	U.S. House of Representatives	Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)
Office of Government Ethics USO OHV	U.S. House of Representatives	Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)
Comments of Reporting Official (If additional space is required, see the reverse side of this sheet)	U.S. House of Representatives	Department of Agriculture	Telephone No. (Include Area Code) (202) 225-2251	Reporting Period (MM/DD/YYYY)

Form Approved  
OMB No. 3208-9008  
NSN 7540-01-476-8444

SP7278 (Rev. 02/2002) 5 C.F.A. Part 2034 U.S. Office of Governmental Ethics Reporting Individual's Name

SCHEDULE A

Joe E. Leonard, Jr.

Page Number 2

**Assets and Income**

**BLOCK A**

For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding \$1,000 at the close of the reporting period. Do not report the value of any asset with such income.

For yourself, also report the source and actual amount of all income exceeding \$200 (other than the U.S. Government) for each reportable source but not the amount of earned income of more than \$1,000 (except report the actual amount of any honoraria over \$200 of your spouse).

None  None

Examples: Central Airline Common; Doe-Jones & Smith, Houston, Texas; Knowledge Equity Fund; RIA, Bedford, MA; International 500 Index Fund

1 Community College, Baltimore County  
S Baltimore, MD

2 TIAA-CREF:  
S Retirement Class-Lifecycle 2010  
CREF Variable Annuity Money Market

3 Bank of America  
J Savings Account  
Checking Account

4 U.S. Savings Bonds

5

6

**Valuation of Assets at close of reporting period**

**BLOCK B**

Income: type and amount. If "None (or less than \$200)" is checked, no other entry is needed in Block C for that item.

Type	Amount	Date (Mo., Day, Yr.)
None (or less than \$200)		
Dividends		
Interest		
Accepted Trust		
Over \$28,000,000		
\$5,000,001 - \$25,000,000		
Over \$1,000,000 *		
\$250,001 - \$250,000		
\$50,001 - \$250,000		
\$1,001 - \$2,500		
\$4,001 - \$15,000		
\$50,001 - \$100,000		
Over \$1,000,000 *		
Over \$5,000,000		
Other Income (Specify Type & Amount)		
Salary		

**BLOCK C**

**Assets and Income**

Income: type and amount. If "None (or less than \$200)" is checked, no other entry is needed in Block C for that item.

None (or less than \$200)

Dividends

Interest

Accepted Trust

Over \$28,000,000

\$5,000,001 - \$25,000,000

Over \$1,000,000 \*

\$250,001 - \$250,000

\$50,001 - \$250,000

\$1,001 - \$2,500

\$4,001 - \$15,000

\$50,001 - \$100,000

Over \$1,000,000 \*

Over \$5,000,000

Other Income (Specify Type & Amount)

Salary

Date (Mo., Day, Yr.)

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher category of value, as appropriate.

Prior: Million, Current: In 1,000.

**Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate**

Form 278 (Rev. 07/2001)  
F.C.I.R. Part 2504  
U.S. Office of Government Ethics  
Reporting Individual's Net Worth

Joe E. Leonard, Jr.

Page Number  
**3**

3

**SCHEDULE B**

**Part I: Transactions**

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction recorded is \$1,000. Include transactions that resulted in a loss. Do not include transactions that resulted in a loss. Do not include transactions involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of Divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

Report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of Divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

Identification of Assets

1	2	3	4	5
Example: Mutual Funds Common				
1				
2				
3				
4				
5				

\* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

**Part II: Gifts, Reimbursements, and Travel Expenses**

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible form, transportation, lodging, food, or entertainment) received from one source totaling more than \$260; and (2) travel-related cash reimbursements received from one source totaling more than \$260. For conflict of interest analysis, it is helpful to indicate a basis for receipt, such as the U.S.C. 8 4111 or other statutory authority. For pre-extended gifts and reimbursements, include travel itinerary, receipts, and the names of attendees provided. Reimbursements shown in unit by

the U.S. Government, given to your agency in connection with official travel; received from relatives, friends, or independent of the filer; or independent of their relationship to you or recorded as gifts. Identify the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth \$104 or less. See instructions for other exclusions.

1	2	3	4	5	6	7	8	9
Example: New York City, NY	New York City, NY	Frank Jervis, San Francisco, CA	Gifts	Gifts	Gifts	Gifts	Gifts	Gifts
1								
2								
3								
4								
5								

Please indicate amount by check

12-278 (Rev. 8/2008)  
 I.C.F.A. Form 2004  
 U.S. Office of Governmental Ethics  
 Reporting Individually Named

Joe E. Leonard, Jr.

Page Number

4

**SCHEDULE C**

**Part I: Liabilities**

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

Creditor (Name and Address)  
 Example: First District Bank, Washington, DC  
 1 U.S. Department of Education

Type of Liability  
 Example: Mortgage on rental property, business  
 1 student loan

Date Incurred  
 1991 1999  
 1898

Interest Rate  
 8% 10%  
 5.875

Term if applicable  
 25 yrs. or longer  
 13 yrs.

Category of Amount or Value (\$)  
 \$10,001 - \$15,000  
 \$15,001 - \$20,000  
 \$20,001 - \$25,000  
 \$25,001 - \$30,000  
 \$30,001 - \$35,000  
 \$35,001 - \$40,000  
 \$40,001 - \$45,000  
 \$45,001 - \$50,000  
 \$50,001 - \$55,000  
 \$55,001 - \$60,000  
 \$60,001 - \$65,000  
 \$65,001 - \$70,000  
 \$70,001 - \$75,000  
 \$75,001 - \$80,000  
 \$80,001 - \$85,000  
 \$85,001 - \$90,000  
 \$90,001 - \$95,000  
 \$95,001 - \$100,000  
 Over \$100,000

\$10,001 - \$15,000	
\$15,001 - \$20,000	X
\$20,001 - \$25,000	
\$25,001 - \$30,000	
\$30,001 - \$35,000	
\$35,001 - \$40,000	
\$40,001 - \$45,000	
\$45,001 - \$50,000	
\$50,001 - \$55,000	
\$55,001 - \$60,000	
\$60,001 - \$65,000	
\$65,001 - \$70,000	
\$70,001 - \$75,000	
\$75,001 - \$80,000	
\$80,001 - \$85,000	
\$85,001 - \$90,000	
\$90,001 - \$95,000	
\$95,001 - \$100,000	
Over \$100,000	

None    
 None

\*This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher category, as appropriate.

**Part II: Agreements or Arrangements**

Report your agreements or arrangements for continuing participation in an employee benefit plan (e.g., 401k, deferred compensation), (2) continuation payment by a former employer (including severance payments); (3) leaves

of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits

Example: Payment to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service rendered through 1/31/01

State and Terms of any Agreement or Arrangement  
 Example: Doe Jones & Smith, Hometown, State

Date  
 7/83

Print Exhibitor Contact Be Used.

**SCHEDULE D**

Page Number **5**

92 278 (Rev. 01/28/80)  
5 C.F.R. Part 2634  
U.S. Office of Government Ethics  
Reporting Individual's Name  
**Joe E. Leonard, Jr.**

**Part I: Positions Held Outside U.S. Government**  
Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit committee, or educational institution, or any individual with religious, social, fraternal, or political activities and those solely of an honorary nature.

1	Organization (Name and Address)	Type of Organization	Position Held	None	
				From (Mo., Yr.)	To (Mo., Yr.)
1	Example: New York State College of Forestry, NY, NY Joe Jones & Smith, Harrisburg, Pa	Non-profit education Law firm	President Partner	6/82 7/83	Present 1/80
2					
3					
4					
5					
6					

**Part II: Compensation In Excess Of \$5,000 Paid by One Source**  
Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential, or Presidential Candidate

1	Source (Name and Address)	Legal Services	Brief Description of Duties	None	
				From (Mo., Yr.)	To (Mo., Yr.)
1	Example: Doe Jones & Smith, Harrisburg, Pa Metro University (Client of Doe Jones & Smith), Minneapolis, Minn	Legal services Legal services in connection with university construction			
2					
3					
4					
5					

Prior Editions Cannot Be Used.

## BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).  
 Kathleen Ann Merrigan  
 Childhood nickname: Kathy
2. Date and place of birth.  
 Pittsfield, Massachusetts  
 October 6, 1959
3. Marital Status: If married, list spouse's name (include any former names used), occupation, employer's name and business address(es).  
 Married  
 Michael Lee Selmi, law school professor  
 George Washington University School of Law  
 2000 H Street NW  
 Washington DC 20052
4. Education: List each college and graduate or professional school you have attended, including dates of attendance, degrees received, and dates degrees were granted.  
 Williams College, Williamstown, MA,  
 B.A., June 1982  
 Attended 9/78-6/82  
 Lyndon B. Johnson School of Public Affairs, University of Texas at Austin  
 M. of Public Affairs, Aug. 1987  
 Attended 9/85-5/87  
 Massachusetts Institute of Technology, Cambridge MA  
 PhD, Aug 2000  
 First field: Public Policy, second field: Environmental Planning  
 In residence 9/92-6/94  
 I took one course during high school at Greenfield Community College, and one course at Boston University and one course at Suffolk University while working for the Massachusetts State Legislature during the period 1982-1985. I do not recall the specific dates of attendance for these courses.
5. Employment and Self-Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms or ranches, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from

college; include a title and brief job description.

(1) 2001-present

**Friedman School of Nutrition Science and Policy**

**Tufts University**, Boston Massachusetts

Director, Agriculture, Food and Environment M.S./Ph.D. Program, Assistant Professor and Director of the Center on Agriculture, Food and the Environment

(2) Summer 2008

**Food Agriculture Organization of the United Nations**, Rome Italy

Expert Consultant

Responsible for drafting a proposal for an international alliance of centers focused on organic agriculture

(3) Spring 2001

**Rapoza and Associates**, Washington DC

Part-time contractor working on an appropriations project for clients: National Council of La Raza and the Community Development Corporations. (In both cases, my work was related to concerns these organizations had pertaining to the work of the Labor HHS Appropriations Subcommittee)

(4) 1999-2001

**U.S. Department of Agriculture, Agricultural Marketing Service**, Washington DC

Agency Administrator

(5) 1994-1999

**Henry A. Wallace Institute for Alternative Agriculture**, Washington DC

Senior Analyst

Responsible for monitoring national agriculture and food systems policy. Assisted grassroots groups, facilitated collaboration between non-governmental organizations, conducted policy research, provided congressional testimony, and disseminated information through conference presentations and publications.

(6) 1997

**Rapoza and Associates**, Washington DC

Part-time contractor on USDA-funded project to provide an independent evaluation of the RUS loan and grant program, with particular focus on how decreasing amounts of grants affect participation of low income rural communities

(7) Summer 1998

**Food Agriculture Organization of the United Nations**, Rome Italy

Expert Consultant

Responsible for drafting COAG paper on organic agriculture which was adopted by the Council of Ministers



(8) 1992-1994

**Massachusetts Institute of Technology**, Cambridge MA  
 Instructor and Research Assistant for Professor Larry Susskind  
 Designed sustainable agriculture curriculum for the International Programme on the Management of Sustainability sponsored by the Netherlands; Instructed graduate course *Bargaining, Negotiation and Dispute Resolution in the Public Sector*; Analyzed environmental policy studies for the U.S. Army Environmental Policy Institute.

(9) Summer 1993

**Schramm and Williams**, Washington DC  
 Research Assistant  
 Researched and wrote paper on plant patents, general office support

(10) 1987-1992

**U.S. Senate Committee on Agriculture, Nutrition and Forestry**, Washington DC  
 Senior science and technology adviser to Chairman Patrick Leahy. Responsible for issues related to biotechnology, organic and sustainable agriculture, agricultural research and extension, pesticides, animal and plant health, and agricultural appropriations

(11) Summers 1987 and 1986

**Politechnika University of Krakow**, Poland  
 Assistant in Water Policy Institute researching pesticide use and policy. Summer 1986 was supported through a Fulbright grant.

(12) 1986-1987

**Texas Department of Agriculture**, Austin TX  
 Special Assistant to the Chief of Regulatory Affairs  
 Part-time employment while in school. Responsible for pesticide issues and serving as liaison to the Structural Pest Control Board and State Legislature

(13) 1982-1985

**U.S. Congressman John Olver / Massachusetts State Senate**, Boston MA  
 Chief of Staff for U.S. Congressman John Olver during his tenure as State Senator (1983-85); Research Analyst for the Massachusetts Joint Committee on Taxation (1983); Manager of successful state senate campaign (1982).

6. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.
- None
7. Government Service: State (chronologically) your government service or public offices you have held, including the terms of service grade levels and whether such positions were elected or appointed.

(1) USDA, AMS Administrator, dates (1999-2001)  
presidential appointment, SES

(2) US Senate Committee on Agriculture, Nutrition & Forestry, 1987-1992  
Appointed as staff member by Chairman Patrick Leahy

(3) Texas Department of Agriculture, 1986-1987  
Appointed by Commissioner as part-time special assistant, hourly wage

(4) Massachusetts State Senate, 1982-1985  
Appointed by then-State Senator John Olver as his chief of staff (83-85) and as  
research analyst for the Massachusetts Joint Committee on Taxation (1982)

(5) Democratic Town Committee Member, 1979-82 (approximately)  
Elected in my hometown to serve.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you received and believe would be of interest to the Committee.

None

9. Other Memberships: If not covered above, list all organizations in which during the past 10 years you held a position as official, board member, or other leadership position and describe the position. Exclude religious organizations.

Member of the Board of Directors, The Organic Center (resigned 3/23/09)

10. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published materials (including published speeches) you have written. Please include on this list published materials on which you are listed as the principal editor. It would be helpful to the Committee if you could provide one copy of all published material that may not be readily available. Also, to the maximum extent practicable, please supply a copy of all unpublished speeches you made during the past five years on issues involving agriculture, nutrition, forestry or any other matters within the jurisdiction of this Committee and the Department of Agriculture.

I do not speak from a prepared text and therefore I have no written documents from my various speeches over the past five years.

Most of my significant speeches over the past five years are listed on my CV and accessible at:

[http://nutrition.tufts.edu/1178308939734/Nutrition-Page-nl2w\\_1178203752361.html](http://nutrition.tufts.edu/1178308939734/Nutrition-Page-nl2w_1178203752361.html)

*Academic Press/Peer-Reviewed*

Merrigan, K. and M. Bailey. (2008) Implementing Farm-to-College Programs: Lessons Learned at Tufts University. *Nutrition Today* (40)4 160-165.

Merrigan, K. (2007) North American Governance. In I. Taylor and K. Barrett (Eds.), *Genetically Engineered Plants: Decision-Making Under Uncertainty* (pp. 207-228). Binghamton, NY: Haworth Press, Inc.

Merrigan, K. (2006) Challenges in Measuring the Benefits of Organic Foods. *Crop Management*, Sept. 21.

Lockeretz, W. and K. Merrigan. (2005) Selling to the Eco-conscious Food Shopper. *Nutrition Today*, 40(1) 45-49.

Merrigan, K. (2005) Organic Food Regulations: Part Art, Part Science. In C. Hassler (Ed.), *Regulation of Functional Foods and Nutraceuticals: A Global Perspective* (pp. 69-78). Ames, Iowa: Blackwell Press.

Merrigan, K., M. Mackey, G. Blackburn, V. Young, J. Dwyer, C. Juma, B. Bistrain, I. Rosenberg. (2003) Agricultural Biotechnology: The Road to Improved Nutrition and Increased Production? *Nutrition Reviews*, 61(6) Part II. 95-100.

Merrigan, K. (2000) Politics, Policy, and IPM. In *Emerging Technologies for Integrated Pest Management: Concepts, Research, and Implementation*, APS Press (American Phytopathological Society), 2000.

Merrigan, K. (1997) Government Pathways to Reform. In W. Lockeretz (Ed.), *Visions of American Agriculture* (pp. 155-172). Ames, Iowa: Iowa State University Press.

Merrigan, K. (1995) Herbicide-Tolerant Plants: A Case of Science Gone Astray? *Health and Environment Digest*, 9(1) 3-5.

Youngberg, I. G., N. Schaller and K. Merrigan. (1993) The Sustainable Agriculture Policy Agenda in the United States: Politics and Prospects. In P. Allen (Ed.), *Food for the Future: Conditions and Contradictions of Sustainability*, (pp. 295-318). New York: John Wiley & Sons Inc.

Merrigan, K. (1993) National Policy Options and Strategies to Encourage Sustainable Agriculture: Lessons From the 1990 Farm Bill. *American Journal of Alternative Agriculture*, 8(4) 158-160.

Merrigan, K.. (1992) New Directions for Agricultural Research and Extension in the 1990 Farm Bill. *HortScience*, 27(3) 204-206.

Merrigan, K. and S. Smith. (1987) The Massachusetts Experience. In J. Schmandt and R. Wilson (Eds.), *Promoting High Technology Industry: Initiatives and Policies for State Governments*, (pp. 65-96). Boulder, Colorado: Westview Press.

*Land Grant University and Government Publications*

Merrigan, K. (June 2003) The role of consumer demand, government standards and market facilitation, in *Organic Agriculture: Sustainability, Markets and Policies*, Organisation for Economic Co-Operation and Development, CABI Publishing.

Merrigan, K. (1995) Property is Nothing More Than Persuasion, in *Genes for the Future: Discovery, Ownership, Access*, J. MacDonald (ed.), Ithaca, New York: National Agricultural Biotechnology Council.

Merrigan, K. (1994) Agricultural Sustainability: the Unfinished Agenda in, *Public Issues Shaping the 1995 Farm Bill*, Special Report, 473, University of Missouri-Columbia.

Merrigan, K. (June 1993) A Time for Change: Research and Extension in the New Administration, *The Future of Agricultural Research and Extension: Policy Perspectives*, Rural Policy Research Institute Report, University of Nebraska.

Merrigan, K. (1992) Farm Policy and Sustainable Agriculture in, *Building Bridges: Cooperative Research and Education for Iowa Agriculture*, Leopold Center for Sustainable Agriculture, Iowa State University.

*Popular/Industry Press*

Merrigan, K. (2004) From the Farm to the Students, op-ed column, *Boston Sunday Globe*, Jan. 4, 2004.

Merrigan, K. (2003) Dear Senator, an essay on federal policies and improved nutrition in *Catholic Rural Life*, Vol. 46, No. 1, Fall 2003.

Merrigan, K. (2002) Essay, *Organic Gardening Magazine* 60<sup>th</sup> anniversary issue. Chosen as one of 5 organic leaders/visionaries (others: John Ikerd, Willie Nelson, Joan Dye Gussow, and Elliot Coleman) to imagine the state of organic agriculture in 2020, September 2002.

Merrigan, K. (2002) Genetic engineering: a call to scrutinize science, essay in *Tufts Nutrition*, 4 (1) fall 2002.

Merrigan, K. (2001) Forward, *Organic Foods Sourcebook*, Elaine Lipson, Contemporary

Books (McGraw Hill).

Merrigan, K. (2000) Boards Should Commit to Embracing Diversity, *The Packer*, January 3, 2000.

Merrigan, K. (1998) Agriculture's New Frontiers, *Agricultural Outlook Forum '98 Proceedings*, U.S. Department of Agriculture, May, 1998.

Merrigan, K. (1997) Forward, *Directory of Organic Expertise*, CAAF, 1997.

*Published Research Reports*

Merrigan, K., O. Chen, C. Mirle, P. Milbury, J. Blumberg. (2007) *New Approaches to Measure the Impact of Farming Systems and Technology on Food Quality*, Report submitted to The Organic Center.

Beckhardt, R., S. Borron, E. Ladow, A. LoDolce, K. Merrigan. (2007) *Envisioning a Food Garden on the Rose Fitzgerald Kennedy Greenway*. Commissioned by the Massachusetts Horticulture Society.

Lockeretz, W. and K. Merrigan. (2006) *Ensuring Comprehensive Organic Livestock Standards*, Proceedings of the 1<sup>st</sup> IFOAM International Conference on Animals in Organic Production.

Merrigan, K. (1997) *An Analysis of the U.S. Department of Agriculture Rural Utility Service Water and Wastewater Loan and Grant Program*. Commissioned by USDA to conduct an independent evaluation of the RUS loan and grant program, with particular focus on how decreasing amounts of grant funds affect participation of low income rural communities.

Merrigan, K. (1993) *Time to Read Between the Lines*, 1993. Publication of first year doctoral research paper analyzing U.S. federal investments in research infrastructure and proposing "base-closing" initiative.

Susskind, L., K. Merrigan, P. Schimek. (1994) *The Uses and Organization of Environmental Policy Studies*, Prepared for the U.S. Army Environmental Policy Institute, DACA 88-92-D-0006.004, March, 1994.

*Invited Congressional Testimony*

*The Conservation Security Program: Insight and Recommendations Based on the New England Experience, Hearing before the Committee on Agriculture, Nutrition, and Forestry*, U.S. Senate, Jan. 17, 2007. (This testimony was based on a research I undertook with my students while a professor at Tufts)

Illegal Activities at the Hunts Point Marketing Terminal, Hearing before the Subcommittee on Livestock and Horticulture of the Committee on Agriculture, House of Representatives, No. 106-58, 2000. (I testified as Administrator of AMS)

Statements of the Administrator, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations for 2000, Hearings before the Subcommittee on Appropriations, House of Representatives, No. 106-Part 3, Conservation Programs and Marketing and Regulatory Programs, 1999. (I testified as Administrator of AMS)

Time to Read Between the Lines, Hearing before the Subcommittee on Resource Conservation, Research, and Forestry of the Committee on Agriculture, House of Representatives, No. 104-27, 1996. (This testimony was based on research I did as a doctoral student at MIT)

Setting Priorities for Agricultural Research Facilities, Hearing before the Subcommittee on Department Operations and Nutrition of the Committee on Agriculture, House of Representatives, No. 103-21, 1993. (This testimony was based on research I did as a doctoral student at MIT)

FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Have you severed all connections with your immediate past private sector employers, business firms, associations, and/or organizations?

I am currently employed by Tufts University. I will resign my position, assuming that I am confirmed.

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.

My husband and I both have TIAA/CREF accounts. I have a Thrifts Savings Account. My husband has a Vanguard Retirement Fund.

3. Do you, or does any partnership or closely held corporation in which you have an interest, own or operate a farm or ranch? (If yes, please give a brief description including location, size and type of operation.)

No

4. Have you, or any partnership or closely held corporation in which you have an interest, ever participated in federal commodity income and price support programs? (If yes, provide all details including amounts of government payments and loans received or forfeited by crop and farm, et cetera during the past five years.)

No

5. Have you, or any partnership or closely held corporation in which you have an interest, ever received a loan or cosigned a note involving a loan from or guaranteed by any current or previously existing agency of the Department of Agriculture, including through any of the farm or rural development lending programs? (If yes, please state the current status and details of such loans, whether they have been fully repaid, and all details of any such loan activity.)

No

6. Have you, or any partnership or closely held corporation in which you have an interest, received payments for crop losses from the federal crop insurance program in the past 5 years? (If yes, give details.)

No

7. Have you ever received a government guaranteed student loan? If so, has it been repaid?

As an undergraduate at Williams College, I had student loans that totaled approximately \$5,000 which became due shortly after my graduation in 1982. As a master candidate at the University of Texas, I took out a loan that I believe was around \$3,000 in 1986 or 1987. In both cases, the loans were repaid in full and on time.

8. If confirmed, do you have any plans, commitments, or agreements to pursue outside employment or engage in any business or vocation, with or without compensation, during your service with the government? (If so, explain.)

No

9. Do you have any plans to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations after completing government service? (If yes, give details.)

No

10. Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service? (If yes, please specify.)

No

11. Describe all matters and all employers, clients, organizations, or interests you represented over the past five years before the Department of Agriculture or any of its agencies, or before Congress involving matters within the jurisdiction of this Committee or the Department of Agriculture.

None

12. If confirmed, explain how you will resolve any actual or potential conflicts of interest, including any that may be disclosed by your responses to the above items. In particular, identify all investments, obligations, liabilities, or other relationships which involve actual or potential conflicts of interest relative to the position for which you have been nominated and what actions you will take to resolve these actual or potential conflicts of interest if confirmed.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Agriculture's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.

13. Describe and explain all divestitures or arrangements, of any nature with respect to any type of interest, which you have made or will make to resolve actual or potential conflicts of interest should you be confirmed to the position for which you are nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Agriculture's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.





United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

March 26, 2009

The Honorable Tom Harkin  
Chairman  
Committee on Agriculture, Nutrition,  
and Forestry  
United States Senate  
Washington, DC 20510-6000

Dear Mr Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Kathleen A. Merrigan, who has been nominated by President Obama for the position of Deputy Secretary, Department of Agriculture.

We have reviewed the report and have also obtained advice from the Department of Agriculture concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated March 26, 2009, from Ms. Merrigan to the agency's ethics official, outlining the steps Ms. Merrigan will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of her confirmation date with any action she agreed to take in her ethics agreement.

Based thereon, we believe that Ms. Merrigan is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert I. Cusick".

Robert I. Cusick  
Director

Enclosures

March 26, 2009

Mr. Raymond J. Sheehan  
Designated Agency Ethics Official  
U.S. Department of Agriculture  
Washington, DC 20250-0122

Dear Mr. Sheehan:

The purpose of this letter is to explain the steps that I intend to take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Deputy Secretary, U.S. Department of Agriculture (USDA). The steps detailed below take into account any potential conflicts or appearances thereof associated with this position.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2). I further understand that the interests of the following persons are imputed to me: any spouse or minor child of mine, any general partner of a partnership in which I am a limited or general partner; any entity in which I serve as officer, director, trustee, general partner, or employee; and any person or entity with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my position as Assistant Professor at the Friedman School of Nutrition Science and Policy, Tufts University. For one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which Tufts University is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Further, pursuant to 5 C.F.R. § 2635.502, I have a "covered relationship" with the Food Agriculture Organization of the United Nations. During the summer of 2008 I served as an expert consultant for the United Nations Food Agriculture Organization in Rome, Italy and received a stipend for that work. This position terminated in August 2008. Accordingly, for one year following my resignation from the U.N. Food Agriculture Organization, I will not participate personally and substantially in any particular matter involving specific parties in which the U.N. is a party or represents a party, unless I receive authorization pursuant to 5 C.F.R. § 2635.502(d).

On March 23, 2009, I resigned my position on the Board of Directors of The Organic Center, a non-profit educational organization. Pursuant to 5 C.F.R. § 2635.502, for a

period of one year after my termination from this position, I will not participate in any particular matter involving specific parties in which this organization is a party or represents a party, unless I am authorized to participate.

In order to avoid potential conflicts of interest under section 208, I will divest my holdings in the following companies within 90 days of my confirmation: Green Mountain Coffee Roasters, Inc ; Whole Foods Market, Inc ; and Organic Valley Family of Farms. Until these divestitures have been completed, I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on these entities, unless I first obtain a written waiver or qualify for a regulatory exemption

My spouse is employed as a Samuel Tyler Research Professor of Law by the George Washington University School of Law, from which he receives a fixed annual salary. Pursuant to 5 C.F.R. § 2635.502, I will not participate in any particular matter involving specific parties in which George Washington University is or represents a party, unless I am authorized to participate.

Sincerely,

  
Kathleen A. Merrigan

SP278 (Rev. 01/06/00)  
5 C.F.R. Part 2634

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved  
OMB No. 3209-0001

Date of Appointment, Election or Nomination (Admin. Day, Year)		Reporting Status (Check appropriate box): Incumbent <input type="checkbox"/> New <input checked="" type="checkbox"/>		Calendar Year Covered by Report		Transmission Date (Month/Day/Year)		Transmission Method (Check appropriate box): File <input type="checkbox"/> E-file <input checked="" type="checkbox"/>		Any individual who is required to file this report and does to more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a \$200 fee.	
Reporting Individual's Name			Last Name and Middle Initial			First Name			Position for Which Filing		
Merrigan			Kathleen A.			US Department of Agriculture			Reporting Periods		
Title of Position			Title of Position (if available)			Telephone No. (Include Area Code)			Transmittals: This revenue report is the preceding calendar year except for Schedule C and Part II of Schedule D which include the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Deputy Secretary			US Department of Agriculture			817-636-3791			Transmittals: The revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Address (Number, Street, City, State, and ZIP Code)			Address (Number, Street, City, State, and ZIP Code)			Telephone No. (Include Area Code)			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Room 125, 150 Harrison Ave, Boston MA 02111			Room 125, 150 Harrison Ave, Boston MA 02111			817-636-3791			Transmittals: The revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Location of Present Office (for forwarding address)			Title of Position (if Not Same as Above)			Name of Congressional Committee, Commission, Nomination Committee on Agriculture, Nutrition & Forestry			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Government During the Preceding 12 Months (If Not Same as Above)			Name of Congressional Committee, Commission, Nomination Committee on Agriculture, Nutrition & Forestry			Do You Intend to Create a Qualified Disqualified Trust? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
President's Name as Subject to Senate Confirmation			Signature of Reporting Individual			Date (Month, Day, Year)			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Certification			Kathleen C. Merrigan			3/26/09			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
I CERTIFY that the statements I have made on this form and all attached schedules are true, correct and complete to the best of my knowledge.			Signature of Other Reviewer			Date (Month, Day, Year)			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Other Review (If cleared by agency)			Signature of Designated Agency Ethics Official/Relevant Official			Date (Month, Day, Year)			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Agency Ethics Official's Opinion			Signature			Date (Month, Day, Year)			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the DAS system).			R. K. Merrigan			3/24/09			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Office of Government Ethics Use Only			Signature			Date (Month, Day, Year)			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
Comments of Recusant Officials (If additional space is required, use the reverse side of this sheet)			Robert J. Merrigan			3/26/09			Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
									Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		
									Transmittals: This revenue report is the preceding calendar year up to the date of filing. Part II of Schedule D is not applicable.		

Form Approved  
OMB No. 3209-0001

NSN 7540-01-070-8444

278-112

Form Approved  
OMB No. 3209-0001

NSN 7540-01-070-8444

Form Approved  
OMB No. 3209-0001

NSN 7540-01-070-8444

52721 (Rev. 03/2000)  
 U.S. Office of Governmental Ethics  
 Reporting Individual's Name

Kathleen A. Merrigan

**SCHEDULE A**

Page Number

2

**Assets and Income**

**BLOCK A**  
 For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding \$1,000 at the close of the reporting period, unless the asset was held for less than one year during the reporting period, together with such income.

For yourself, also report the source and actual amount of earned income exceeding \$200 (other than the U.S. Government or Federal agency; income from the sale of a personal asset; income of more than \$1,000 (except report the actual amount of any honoraria over \$200 of your spouse).

None

Center Affiliated Companies

Examples  
 Dow Jones & Smith, Firm, Inc., State  
 Key Bank, State Bank, State  
 W.A. Harward 500 Index Fund

1 Etrade Checking

2 Etrade Money Market Account

3 Vanguard Prime Money Market Fund

4 Vanguard Primecap Mutual Fund

5 Vanguard College Savings 529 Plan -

Vanguard Mid-Cap Index Portfolio

6 Vanguard Aggressive Age-Based Option

Dodge & Cox Stock Fund

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with his spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

**Valuation of Assets at close of reporting period**

**BLOCK B**  
 None (or less than \$1,000)

\$1,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$250,000

\$250,001 - \$500,000

\$500,001 - \$1,000,000

Over \$1,000,000

Over \$50,000,000

Over \$100,000,000

Over \$500,000,000

Over \$1,000,000,000

**Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.**

**BLOCK C**  
 None (or less than \$201)

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$1,000,000

Over \$1,000,000

Over \$5,000,000

Over \$10,000,000

Over \$50,000,000

Over \$100,000,000

**Type**

Dividends

Interest

Capital Gains

None (or less than \$201)

Other Income (Specify Type & Actual Amount)

Date (Mo., Day, Yr.)

Only if Honoraria

SF278 (Rev. 02/2000)  
 5 C.F.R. Part 504  
 U.S. Office of Government Ethics  
 Reporting Individual's Name  
 Kathleen A. Merrigan

Page Number 3

### SCHEDULE A continued (Use only if needed)

Assets and Income BLOCK A	Valuation of Assets at close of reporting period BLOCK B		BLOCK C											
	Type	Amount	Type	Amount	Type	Amount	Type	Amount	Type	Amount	Type	Amount	Other Income (Specify Type & Amount)	Date (Mo., Day, Yr.) Only if Honorary
1 Dodge & Cox Income Fund	None <input type="checkbox"/>		Dividends		Interest		None (or less than \$201)							
2 Dodge & Cox International Fund			Dividends		Interest		None (or less than \$201)							
3 Third Avenue Value Fund			Dividends		Interest		None (or less than \$201)							
4 Third Avenue Real Estate Value Fund			Dividends		Interest		None (or less than \$201)							
5 Third Avenue International Value Fund			Dividends		Interest		None (or less than \$201)							
6 Winslow Green Growth Fund			Dividends		Interest		None (or less than \$201)							
7 Peritt Emerging Opportunities Fund			Dividends		Interest		None (or less than \$201)							
8 Clisco Stock			Dividends		Interest		None (or less than \$201)							
9 Green Mountain Coffee Stock			Dividends		Interest		None (or less than \$201)							

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.  
 Prior Editions Cannot be Used.

SP2776 (Rev. 03/2009)  
 2 C.F.R. Part 2054  
 U.S. Office of Government Ethics  
 Reporting Individual's Name

Kathleen A. Merrigan

Page Number  
4

**SCHEDULE A continued**  
 (Use only if needed)

BLOCK A		BLOCK B		BLOCK C	
Assets and Income	Valuation of Assets at close of reporting period	Type	Amount	Other Income Type & Amount	Date (/Mo., Day, Yr.) Only if Honorary
<input type="checkbox"/> None	None				
1 Rimage Corp Stock	\$1,001 - \$15,000	Dividends	\$1,001 - \$15,000		
2 Whole Foods Market Stock	\$15,001 - \$50,000	Dividends	\$15,001 - \$50,000		
3 Organic Valley Stock	\$50,001 - \$100,000	Dividends	\$50,001 - \$100,000		
4 Iowa College Savings Account - Savings Track A: Aggressive Growth Portfolio	\$100,001 - \$250,000	Dividends	\$100,001 - \$250,000		
5 Citizens Bank Boston, MA	\$250,001 - \$500,000	Dividends	\$250,001 - \$500,000		
6 Greenfield Cooperative Bank Greenfield, MA	\$500,001 - \$1,000,000	Dividends	\$500,001 - \$1,000,000		
7 Savings Bank Life Insurance Woburn, MA	\$1,001 - \$15,000	Dividends	\$1,001 - \$15,000		
8 US Series EE Savings Bonds	\$15,001 - \$50,000	Dividends	\$15,001 - \$50,000		
9 (S) Weil, Gotshal (Law Firm) Washington, DC	\$50,001 - \$100,000	Dividends	\$50,001 - \$100,000		
	\$100,001 - \$250,000	Dividends	\$100,001 - \$250,000		
	\$250,001 - \$500,000	Dividends	\$250,001 - \$500,000		
	\$500,001 - \$1,000,000	Dividends	\$500,001 - \$1,000,000		
	\$1,000,001 - \$5,000,000	Dividends	\$1,000,001 - \$5,000,000		
	\$5,000,001 - \$25,000,000	Dividends	\$5,000,001 - \$25,000,000		
	\$25,000,001 - \$50,000,000	Dividends	\$25,000,001 - \$50,000,000		
	\$50,000,001 - \$100,000,000	Dividends	\$50,000,001 - \$100,000,000		
	Over \$100,000,000	Dividends	Over \$100,000,000		
	Over \$500,000,000	Dividends	Over \$500,000,000		
	Over \$1,000,000,000	Dividends	Over \$1,000,000,000		
	Over \$5,000,000,000	Dividends	Over \$5,000,000,000		

\* This category applies only if the asset/income is solely that of the filer or jointly held by the filer with the spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

52791 (Rev. 02/2000)  
 5 C.F.R. Part 2634  
 U.S. Office of Governmental Ethics  
 Reporting Individual's Name

Kathleen A. Merrigan

Page Number

5

**SCHEDULE A continued**  
 (Use only if needed).

BLOCK A	BLOCK B		BLOCK C									
	Assets and Income	Variation of Assets at close of reporting period	Type	Amount	Other Income (Specify Type & Amount)	Date (Mo., Day, Yr.) Only if Honorary						
1 <input type="checkbox"/> None	(S) University of Nebraska Law School Lincoln, Nebraska	\$1,001 - \$15,000	Dividends	None (or less than \$201)	honoraria \$2,000	11/7/08 11/7/108						
2	(S) George Washington University Law School Washington, DC	\$15,001 - \$50,000	Interest	\$1,001 - \$2,500	Salary							
3	Tulsa University Boston, MA	\$50,001 - \$100,000	Interest	\$2,501 - \$5,000	Salary \$135,854							
4	United Nations, Food Agriculture Organization, Rome Italy	\$100,001 - \$250,000	Interest	\$5,001 - \$15,000	UN stipend \$11,500							
5	(S) Carolina Academic Press - Textbook on civil right litigation	\$250,001 - \$500,000	Dividends	\$15,001 - \$50,000								
6	(S) Matthew Bender (Publisher) Casebook on employment law	\$500,001 - \$250,000	Dividends	\$50,001 - \$100,000								
7	(S) George Washington Uni 401(k) - Vanguard International Growth Fund	\$250,001 - \$500,000	Dividends	\$100,001 - \$250,000								
8	Vanguard International Value Fund	\$500,001 - \$250,000	Dividends	\$250,001 - \$500,000								
9	Vanguard Morgan Growth Fund	\$250,001 - \$500,000	Dividends	\$500,001 - \$250,000								

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.  
 Print Editions Cannot be Used.



**SCHEDULE A continued**  
(Use only if needed)

Page Number **6**

Assets and Income BLOCK A	Valuation of Assets at close of reporting period BLOCK B		Income: type and amount. If "None" for less than \$201* is checked, no other entry is needed in Block C for that item. BLOCK C		Date (Mo., Day, Yr.) Only if Honorary
	Type	Amount	Type	Amount	
1 <input type="checkbox"/> None					
(S) GW Uni 401(K) Cont -		Over \$1,000,000	Dividends	Over \$1,000,000	
Guard Wellington Fund		\$1,000,001 - \$500,000	Interest	\$1,001 - \$2,500	
Guard Windsor Fund		\$500,001 - \$100,000	Capital Gains	None (or less than \$201)	
(S) GW Uni Retirement Plan -		\$100,001 - \$50,000	Other Income (Specify Type & Amount)	Over \$5,000,000	
Guard International Growth Fund		\$50,001 - \$100,000			
Guard International Value Fund		\$100,001 - \$50,000			
Guard Windsor Fund		\$50,001 - \$100,000			
(S) TIAA CREF -		\$100,001 - \$50,000			
TIAA Real Estate		\$50,001 - \$100,000			
CREF Social Choice		\$100,001 - \$50,000			
CREF Stock		\$50,001 - \$100,000			
CREF Growth		\$100,001 - \$50,000			

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, must use other higher categories of value, as appropriate.  
Four Entries Cannot Be Used.

SP278 (Rev. 02/2000)  
 5 C.F.R. Part 3014  
 U.S. Office of Government Ethics  
 Reporting Individual's Name  
 Kathleen A. Meenghan

Page Number  
 7

**SCHEDULE A continued**  
 (Use only if needed)

Assets and Income BLOCK A	Valuation of Assets at close of reporting period BLOCK B		Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item. BLOCK C		Date (Mo., Day, Yr.) Only if Honorary
	Type	Amount	Type	Amount	
1 <input type="checkbox"/> None					
1 (S) TIAA CREF Cont -					
CREF Global Equities					
2 TIAA CREF Mid-Cap BI Index					
3 TIAA CREF Small-Cap Gr Index					
TIAA CREF Small-Cap Val Index					
4 TIAA CREF -					
TIAA Traditional					
5 TIAA Real Estate					
6 CREF Money Market					
CREF Stock					
7 CREF Growth					
8 CREF Equity Index					
CREF Global Equities					
9 CREF Social Choice					

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.  
 Prior filaments cannot be filed.

SE 276 (Rev. 03/2000)  
 5 C.F.R. Part 2634  
 U.S. Office of Government Ethics

**Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate**

Reporting Individual's Name: **Kathleen A. Merrigan** Page Number: **8**

**SCHEDULE B**

**Part I: Transactions**

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss. Do not include transactions that resulted from OGE.

report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of Divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

Transaction Type (X)	Date (Mo., Day, Yr.)	Amount of Transaction (X)	Amount of Transaction (X)													
			None	\$1,001 - \$5,000	\$5,001 - \$10,000	\$10,001 - \$25,000	\$25,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000	Over \$500,000.000			
X	2/1/99															

\* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

**Part II: Gifts, Reimbursements, and Travel Expenses**

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than \$260; and (2) travel-related cash reimbursements received from one source totaling more than \$260. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates and the nature of expenses received. Exclude reimbursements given to you by

the U.S. Government given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth \$104 or less. See instructions for other exclusions.

Source (Name and Address)	Brief Description	Value
Example: Nat'l Assn. of Book Collectors, NY, NY Frank Jones, San Francisco, CA	Autline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	\$300
	Luggage (personal friend)	\$100

Prior Editions Cannot Be Used.

SP 278 (Rev. 03/2000)  
 5 C.F.R. Part 2634  
 U.S. Office of Government Ethics  
 Reporting Individual's Name  
 Kathleen A. Merrigan

SCHEDULE C

Page Number 9

**Part I: Liabilities**

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

Creditor (Name and Address)  
 Example: First Direct Bank, Washington, DC  
 John Jones, 123 7 St., Washington, DC

Type of Liability  
 Example: Mortgage on principal property, 10-year  
 Promissory note

Date Incurred  
 1991  
 1999

Interest Rate  
 8%  
 10%

Term if applicable  
 None X  
 24 yrs. on demand

Category of Amount or Value (x)

\$10,001 - \$15,000	
\$15,001 - \$20,000	
\$20,001 - \$25,000	
\$25,001 - \$30,000	
\$30,001 - \$35,000	
\$35,001 - \$40,000	
\$40,001 - \$45,000	
\$45,001 - \$50,000	
\$50,001 - \$55,000	
\$55,001 - \$60,000	
\$60,001 - \$65,000	
\$65,001 - \$70,000	
\$70,001 - \$75,000	
\$75,001 - \$80,000	
\$80,001 - \$85,000	
\$85,001 - \$90,000	
\$90,001 - \$95,000	
\$95,001 - \$100,000	
Over \$100,000	

\* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher category, as appropriate.

**Part II: Agreements or Arrangements**

Report your agreements or arrangements for continuing participation in an employee benefit plan (e.g. 401k, deferred compensation); (2) continuation payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits

Example: Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 7/01.

1 I will continue to participate in my TIAA-CREF plan. Neither I nor the university will continue to make contributions.

1	I will continue to participate in my TIAA-CREF plan. Neither I nor the university will continue to make contributions.	Peoples	Doe Jones & Smith, Hometown, State	7/83
2				7/04
3				
4				
5				
6				

**Part I: Positions Held Outside U.S. Government**

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

Examples:	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
1	NIH, Assn. of Root Collectors, NY, NY Doe Jones & Smith, Hometown, State Boston, MA	Non-profit education Law firm university	President Partner assistant professor	6/92 7/85 7/2001	Present 1/00 Present
2	Friedman School of Nutrition Science and Policy, Tufts University	international development agency	expert consultant	8/08	8/08
3	Food Agriculture Organization of the United Nations Rome, Italy	non-profit education	Board of Directors	2004	Present
4					
5					
6					

**Part II: Compensation In Excess Of \$5,000 Paid by One Source**

Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.

Examples:	Source (Name and Address)	Brief Description of Duties
1	Doe Jones & Smith, Hometown, State Main University (client of Doe Jones & Smith), Hometown, State Friedman School of Nutrition Science and Policy, Tufts University	Legal services Legal services in connection with university construction teaching, research, administration
2	Food Agriculture Organization of the United Nations	writing paper on organic agriculture in role as expert consultant. Salary was paid by Tufts, and FAO provided a living stipend to cover my costs of being in Rome for 6 weeks
3		
4		
5		
6		

Prior Editions Cannot Be Used.

BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).

James Warren Miller, James W. Miller, Jim Miller, Jimmy Miller

2. Date and place of birth.

May 11, 1949                      Colfax, Washington

3. Marital Status: If married, list spouse's name (include any former names used), occupation, employer's name and business address(es).

Sandra (Sandy) Lee Miller, Sandra Lee Trachy (maiden name), Sandra Lee Weger (prior marriage)

Self-employed – Long Term Care Insurance Specialist  
3045 Olin Drive  
Falls Church, VA 22044

Primary company represented:  
Genworth Financial  
Genworth Life Insurance Company Long Term Care Division  
6610 West Broad Street  
Richmond, VA 24505

4. Education: List each college and graduate or professional school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

Washington State University, Pullman, WA – September, 1967 - February, 1972

Washington State University College of Business and Economics - Bachelor of Arts: Business Administration (economics and finance) February, 1972

Washington State University, Pullman, WA – September, 1972 – February, 1973  
College of Business and Economics - Post-graduate study, no degree

5. Employment and Self-Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including farms or ranches, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college; include a title and brief job description.

## Employment History -

February, 1972 – September, 1972 - Gerald Miller Farm, Garfield, WA  
General farm work

March, 1973 – March, 1974 - Pioneer National Title Insurance Company, Seattle, WA  
Title Examiner – reviewed documents pertaining to real estate transactions to determine accuracy and eligibility for title insurance coverage.

April, 1974 – July 1974 - Gerald Miller Farm, Garfield, WA  
General farm work, family farm management of production and marketing.

July, 1974 – Present - Gerald Miller, Inc., Falls Church, VA  
Director from July, 1974 to present. Treasurer from July, 1974 to approximately July, 1979. President from July, 1979 to August, 2004 and December, 2008 to present. Responsible for farm production, marketing and management of a family farm corporation through 1995. In 1995, the day-to-day farm operations ceased. Farm assets were sold or cash leased to R&J Farms. Since 1995, responsible for management of the corporation's real estate assets.

June, 1995 – February, 1999 - National Association of Wheat Growers, Washington, DC  
Vice President for Government Affairs – responsible for association's government relations and advocacy operations.

February, 1999 – August, 2004 - Farmer's Educational and Co-operative Union of America (National Farmers Union), Washington, DC  
Chief Economist – responsible for agriculture policy analysis concerning issues of interest to the organization and its membership and assisted in the advocacy of NFU policies.

August, 2004 – September, 2008 - United States Senate Committee on the Budget, Washington, DC  
Senior Analyst for Agriculture and Trade – responsible for reviewing agriculture and trade budget issues for the Committee Chairman and for providing legislative assistance on agriculture issues that came before the Senate committees of which he was a member.

September, 2008 – Present - Farmer's Educational and Co-operative Union of America (National Farmers Union), Washington, DC  
Chief of Staff/Economist – responsible for day-to-day management of the association's operations and analysis of policies pertaining to issues of interest to the association and its membership.

Organization History –

December, 1979 – December, 1983 - Washington Association of Wheat Growers, Ritzville, WA  
Director and/or Officer – Elected by membership to participate in the leadership of a voluntary farm commodity organization in the State of Washington.

January, 1981 – January, 1988 - National Association of Wheat Growers, Washington, DC  
Director and/or Officer - Elected by membership to participate in the leadership of a voluntary, national farm commodity organization.

May, 1994 – June, 1995 - USA Dry Pea and Lentil Council, Moscow, Idaho  
Director – Selected by membership to serve as a member of the Board of Directors of a voluntary commodity organization.

6. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

7. Government Service: State (chronologically) your government service or public offices you have held, including the terms of service grade levels and whether such positions were elected or appointed.

August, 2004 – September, 2008  
United States Senate – Committee on the Budget  
Senior Analyst for Agriculture and Trade  
Appointed by the Committee Chairman

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you received and believe would be of interest to the Committee.

None

9. Other Memberships: If not covered above, list all organizations in which during the past 10 years you held a position as official, board member, or other leadership position and describe the position. Exclude religious organizations.

None



10. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published materials (including published speeches) you have written. Please include on this list published materials on which you are listed as the principal editor. It would be helpful to the Committee if you could provide one copy of all published material that may not be readily available. Also, to the maximum extent practicable, please supply a copy of all unpublished speeches you made during the past five years on issues involving agriculture, nutrition, forestry or any other matters within the jurisdiction of this Committee and the Department of Agriculture.

Published material –

During 1983, as President of the Washington Association of Wheat Growers, I wrote several columns that were published in the Association's monthly trade publication "Wheat Life". I do not have copies of the articles.

The staff of the National Association of Wheat Growers has reviewed their publications during the 1985-87 period when I served as an officer of the association. I have attached copies of the materials they provided.

In 1997, as Vice President for Government Affairs of the National Association of Wheat Growers, the summary of an article I wrote on risk management for wheat and small grains was published in the USDA Risk Management Agency "Train the Trainer" handbook. I also presented the paper at the national Risk Management Education Summit on September 16-17, 1997. A copy is attached.

Speeches –

Series of North Dakota farm meetings in March, 2007 concerning the 2008 Farm Bill. A copy of the Powerpoint presentation that was the basis of my remarks is attached.

March, 2007 – National Farmers Union Fly-In, Washington, DC  
Concerning the 2008 Farm Bill – no prepared remarks.

April, 2007 – National Barley Growers Association, Washington, DC  
Concerning the 2008 Farm Bill – no prepared remarks.

June, 2008 – American Farm Bureau Federation, Washington, DC  
Concerning the 2008 Farm Bill – no prepared remarks.

June, 2008 – National Association of Rural Appraisers and Farm Managers,  
Washington, DC  
Concerning the 2008 Farm Bill – no prepared remarks.

November, 2008 – Montana Farmers Union Young Producer Conference, Butte,

Montana

A copy of the Powerpoint presentation that was the basis of my remarks is attached.

## FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. Have you severed all connections with your immediate past private sector employers, business firms, associations, and/or organizations?

National Farmers Union -

If confirmed, I will resign my position with the National Farmers Union prior to assuming my position at USDA.

If deemed necessary, I will convert my current 401-K account from the National Farmers Union to a personal IRA.

I currently have a Life Membership in the Washington Farmers Union. I plan to retain this membership unless advised this represents a conflict of interest at which time I will request the membership be transferred to my spouse or voided.

Gerald Miller, Inc. -

If confirmed, I will resign my positions as an officer and director of Gerald Miller, Inc. and convey the voting rights to all stock in the corporation that I currently own to my spouse.

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.

National Farmers Union - Participant in a company sponsored 401-K retirement program which had a value of approximately \$7,000 on February, 28, 2009.

National Farmers Union - Vested in a defined benefit pension plan which will provide approximately \$500 per month retirement income at age 65.

Gerald Miller, Inc. - Own 6300 shares of common stock in the corporation worth approximately \$35,000 as of February, 28, 2009. The stock could increase in value or pay dividends in the future.

3. Do you, or does any partnership or closely held corporation in which you have an interest, own or operate a farm or ranch? (If yes, please give a brief description including location, size and type of operation.)

Yes

My wife and I jointly own approximate 150 acres of farmland located about 5 miles north of Garfield, WA. The land is cash leased to R&J Farms of Garfield, WA. The primary

crops produced on the farm are wheat, barley, lentils and canola.

Gerald Miller, Inc. owns approximately 20 acres of farmland, 90,000 bushels of grain storage and other farm buildings located about 5 miles north of Garfield, WA. The land, grain storage and building are cash leased to R&J Farms of Garfield, WA.

4. Have you, or any partnership or closely held corporation in which you have an interest, ever participated in federal commodity income and price support programs? (If yes, provide all details including amounts of government payments and loans received or forfeited by crop and farm, et cetera during the past five years.)

Yes. Gerald Miller, Inc. has participated in federal commodity income and price support programs in the past but has not received any payments or loans since 1996.

5. Have you, or any partnership or closely held corporation in which you have an interest, ever received a loan or cosigned a note involving a loan from or guaranteed by any current or previously existing agency of the Department of Agriculture, including through any of the farm or rural development lending programs? (If yes, please state the current status and details of such loans, whether they have been fully repaid, and all details of any such loan activity.)

No

6. Have you, or any partnership or closely held corporation in which you have an interest, received payments for crop losses from the federal crop insurance program in the past 5 years? (If yes, give details.)

No.

7. Have you ever received a government guaranteed student loan? If so, has it been repaid?

Yes.

During the period 1994 through 1998 my wife and I took out loans for our children's college education that I believe were non-subsidized loans through the Bank of Latah that were guaranteed by the government. They have all been repaid.

8. If confirmed, do you have any plans, commitments, or agreements to pursue outside employment or engage in any business or vocation, with or without compensation, during your service with the government? (If so, explain.)

No, with the exception that:

I expect to continue to receive passive rent income from the cash rental of the farm

property owned jointly by my spouse and myself. I may also receive passive dividend income from Gerald Miller, Inc.

9. Do you have any plans to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations after completing government service? (If yes, give details.)

No, as to the National Farmers Union.

Yes, as to Gerald Miller, Inc. I plan to seek a position as a director and officer of the Corporation and exercise my voting rights for the common stock I own in the Corporation.

10. Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service? (If yes, please specify.)

No.

11. Describe all matters and all employers, clients, organizations, or interests you represented over the past five years before the Department of Agriculture or any of its agencies, or before Congress involving matters within the jurisdiction of this Committee or the Department of Agriculture.

Excluding matters raised as a result of my employment by the United States Senate, during the August, 2004 to September, 2008 period, I participated in two informational meetings with the Chairman and several members of the House Agriculture Committee concerning the market conditions for dairy producers on behalf of the National Farmers Union. These meetings were held in January, 2009.

12. If confirmed, explain how you will resolve any actual or potential conflicts of interest, including any that may be disclosed by your responses to the above items. In particular, identify all investments, obligations, liabilities, or other relationships which involve actual or potential conflicts of interest relative to the position for which you have been nominated and what actions you will take to resolve these actual or potential conflicts of interest if confirmed.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Agriculture's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.

13. Describe and explain all divestitures or arrangements, of any nature with respect to any type of interest, which you have made or will make to resolve actual or potential conflicts of interest should you be confirmed to the position for which you are nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Agriculture's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

March 24, 2009

The Honorable Tom Harkin  
Chairman  
Committee on Agriculture, Nutrition,  
and Forestry  
United States Senate  
Washington, DC 20510-6000

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by James W. Miller, who has been nominated by President Obama for the position of Under Secretary for Farm and Foreign Agricultural Services, United States Department of Agriculture.

We have reviewed the report and have also obtained advice from the United States Department of Agriculture concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated March 20, 2009, from Mr. Miller to the agency's ethics official, outlining the steps Mr. Miller will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with any action he agreed to take in his ethics agreement.

Based thereon, we believe that Mr. Miller is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert I. Cusick".

Robert I. Cusick  
Director

Enclosures

March 20, 2009

Mr. Raymond J. Sheehan  
Designated Agency Ethics Official  
U.S. Department of Agriculture  
Washington, DC 20250-0122

Dear Mr. Sheehan:

The purpose of this letter is to explain the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services (FFAS), U.S. Department of Agriculture (USDA). The Under Secretary of Agriculture for Farm and Foreign Agricultural Services (FFAS) holds a general membership on the Board of Directors of the Commodity Credit Corporation (CCC) and, by tradition, serves as President of the CCC. The steps detailed below take into account any potential conflicts or appearances thereof associated with that CCC position also.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2). I further understand that the interests of the following persons are imputed to me: any spouse or minor child of mine, any general partner of a partnership in which I am a limited or general partner, any organization in which I serve as officer, director, trustee, general partner, or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation I will resign from my position as Chief of Staff/ Economist with the Farmer's Educational and Co-operative Union of America (National Farmers Union) Washington, D.C. For one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which this organization is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I am vested in a defined benefit pension plan with National Farmers Union and will receive a pension when I reach the prescribed age. After my resignation, neither National Farmers Union nor I will make any additional contributions to the plan. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of National Farmers Union to provide this



contractual benefit, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208 (b)(1) or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208 (b)(2).

My wife and I own real property in Whitman County, Washington. This property is leased out for farming on a cash lease basis to R & J Farms of Garfield, WA, a partnership formed by my sister and her husband. My wife and I are not engaged in this farming operation. During my tenure as Under Secretary, my wife will maintain a fixed cash lease on the farm. In the past, R & J Farms has participated in the Conservation Reserve Program (CRP) and commodity programs and received benefits from USDA. These programs are administered by USDA through the CCC, on which I will serve as an officer and member of the Board. I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on my interest in the value of this property or any payments received by R & J Farms from USDA programs unless I obtain a waiver. 18 U.S.C. § 208 (b)(1). Additionally, in the event of a disaster in Whitman County, WA, I will not participate in any way in a decision as to whether to designate Whitman County as entitled to disaster relief.

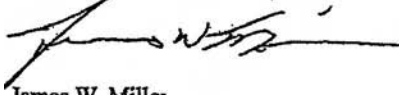
Further, pursuant to 5 C.F.R. § 2635.502, I have a "covered relationship" with R & J Farms. Accordingly, during my tenure, I will not participate personally and substantially in any particular matter involving specific parties in which R & J Farms, my sister or her husband is a party or represents a party, unless I receive authorization pursuant to 5 C.F.R. § 2635.502(d).

My wife and I own common stock in Gerald Miller, Inc., a family-owned corporation in Falls Church, VA. Gerald Miller, Inc. is engaged in the cash lease of farm land, grain storage and farm buildings adjoining the real property owned by my spouse and me in Whitman County, Washington. The land, grain storage and buildings are cash leased to R & J Farms. Additionally, Gerald Miller Inc. has participated in programs in the past but has not received or forfeited any direct Government payments or loans since 1996. Since 1974, I have served as a Director of Gerald Miller Inc. Upon confirmation I will resign my position as director of Gerald Miller, Inc. However, I will retain my shares of voting stock in this closely-held family corporation. So as to avoid voting on any operational matters at Gerald Miller, Inc., I will execute an agreement with my wife authorizing her to vote my shares of stock. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of Gerald Miller, Inc. unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2).

Both the real property that my wife and I jointly own and the farmland and agricultural assets of Gerald Miller Inc. are subject to a mortgage with NW Farm Credit Services of Spokane, WA. By its terms, the mortgage will mature in 2015. Pursuant to 5 C.F.R. § 2635.502, I will not participate personally and substantially in any particular matter involving specific parties in which NW Farm Credit Services is a party or represents a party, unless I am authorized to participate.

My wife earns sales and residual commissions from Genworth Financial Agency, Inc. and John Hancock Life Insurance Company for her sale of long-term care insurance policies, which constitutes the vast majority of her insurance "book of business." These companies do not engage in crop insurance however, Genworth Financial Agency, Inc. does engage in insurance for real estate. Pursuant to 5 C.F.R. § 2635.502, I will not participate in any particular matter in which any of the companies with whom my wife has a contractual relationship is a party or represents a party, unless I am authorized to participate.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Miller", written over a horizontal line.

James W. Miller

Form Approved  
OMB No. 3299-0001

### Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

5274 (Rev. 05/2009)  
U.S. Office of Government Ethics

Reporting Individual's Name <b>Miller</b>		Reporting Status <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Temporary <input type="checkbox"/> Other		Reporting Period From <b>08/01/08</b> to <b>09/30/08</b>		Reporting Period From <b>08/01/08</b> to <b>09/30/08</b>		Reporting Period From <b>08/01/08</b> to <b>09/30/08</b>		Reporting Period From <b>08/01/08</b> to <b>09/30/08</b>	
Position for Which Filing <b>Undersecretary - Farm and Foreign Agricultural Services</b>		Agency <b>USDA</b>		Reporting Period <b>(202) 314-3108</b>		Reporting Period <b>(202) 314-3108</b>		Reporting Period <b>(202) 314-3108</b>		Reporting Period <b>(202) 314-3108</b>	
Location of Present Office (If not the same as above) <b>Suite 790, 400 North Capitol St, NW, Washington, DC 20001</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>	
Location of Present Office (If not the same as above) <b>Sr. Analyst for Agriculture and Trade, US Senate Budget Committee August, 2004 - September, 2008</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>	
Presidential Nominee Subject to Senate Confirmation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>	
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true and correct to the best of my knowledge.		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>	
Other Review (If desired by agency)		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>	
Agency Ethics Official's Opinion On the basis of information provided in this report, I conclude that the filer is in compliance with applicable laws and regulations that apply to any restrictions in the box below.		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>	
Office of Government Ethics Use Only		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>	
Comment of the Bureau Chief with all additional comments of the reporting individual		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>		Reporting Period <b>08/01/08</b>	

Apparatus Prior Editions, Which Cannot Be Used. Form Approved in Microsoft Excel 2009



SF278 (Rev. 02/2003)  
 U.S. Office of Government Ethics  
 Reporting Individual's Name  
 James Warren Miller  
 Page Number 2

Assets and Income

Block A

Assets

Block B

Income

Other Income

Date (Mm, Dd, Yr) Only if Honorary

Asset/Income Category	Value/Income	1	2	3	4	5	6	7	8	9	Other Income	Date
1 (S) Pentagon Federal Credit Union (IRA certificate of deposit)	\$1,000.00	X										
2 (S) T. Rowe Price (IRA) Equity Index 500	\$1,000.00	X										
3 (S) T. Rowe Price (IRA) MGS-Cap Growth	\$1,000.00	X										
4 (S) WA State Dept. of Retirement Systems Teacher Retirement Program Defined Benefit Plan	\$1,000.00		X									
5												
6 (S) American Funds Euro Pacific Growth RC	\$1,000.00	X										
7 (S) Pentagon Federal Credit Union (checking / savings)	\$1,000.00	X										
8 (S) Principal Bank Principal Bank State Harbor IRA (savings)	\$1,000.00	X										
9 Joint ownership of 148 acres of farmland 5 miles north of Garfield, WA (R&V Farms, Garfield, WA is benefit)												

Assets and Income Total: \$5,000.00

Income Total: \$1,000.00

Other Income: \$5,000.00

Total: \$11,000.00

None

If the asset/income is value of the filer or jointly held by the filer with the spouse or dependent children, mark the other major category of value, as appropriate.

Prior Effective Date to Use

James Warren Miller

Page Number

3

SCHEMATIC OF THE DISBURSEMENT OF THE FILER'S INCOME

Assets and Income

BLOCK A

BLOCK B

BLOCK C

Amount

Other Income (Specify Type & Actual Amount)

Days (Date, Day, P.M., Only if Homeless)

Notes (Other than 501)

Prerequisites

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

504-444-1100

	Assets and Income	BLOCK B	BLOCK C	Amount	Other Income (Specify Type & Actual Amount)	Days (Date, Day, P.M., Only if Homeless)
1	Gerald Miller, Inc. - 6300 sq. Comm. (family-owned corporation) Enterprise limited to cash rental of farmstead and farm buildings located 5 miles north of Garfield, WA					
2	(S) Gerald Miller, Inc. - 6300 sq. Comm. stock (family-owned corporation) Enterprise limited to cash rental of farmstead and farm buildings located 5 miles north of Garfield, WA					
3	Farmer's Educational & Co-operative Union of America (National Farmers Union)					
4	(S) John Hancock Life Ins. Co.					
5						
6						
7						
8						
9						

\* This category applies only if the asset/income is jointly held by the filer's spouse or dependent children. If the asset/income is either held by the filer or jointly held by the filer with his spouse or dependent children, mark the entire higher category of value, as appropriate.

Prior Edition: Cannot be Used

REG-100 (REV. 04/01/00)  
 S.C.R.B. Part 2074  
 U.S. Office of Government Ethics  
 Reporting Individual's Name

James Warren Miller

Page Number

4

SECURITIES ACQUIRED		SECURITIES DISPOSED		ASSETS AND INCOME		OTHER INFORMATION	
BLOCK A		BLOCK B		BLOCK C		BLOCK D	
1	2	3	4	5	6	7	8
1	(S) Genworth Financial Agency, Inc.						
2							
3	NFU 401 (K) American Funds Growth Fund of Amer R3	X					
4							
5	NFU 401 (K) Minim S&P 500 Index	X					
6							
7							
8	NFU Pension - Defined Benefit Plan (value not ascertainable)						
<p><b>Assets and Income</b>                  This category applies only if the asset/income is solely for the filer's spouse or dependent children. If the asset/income is either for the filer or jointly held by the filer with the spouse or dependent children, mark this category with a check in the filer's spouse or dependent children column. If the asset/income is solely for the filer's spouse or dependent children, if the asset/income is either for the filer or jointly held by the filer with the spouse or dependent children, mark this category with a check in the filer's spouse or dependent children column. If the asset/income is solely for the filer or jointly held by the filer with the spouse or dependent children, mark this category with a check in the filer's spouse or dependent children column. If the asset/income is solely for the filer or jointly held by the filer with the spouse or dependent children, mark this category with a check in the filer's spouse or dependent children column.</p>							

\* This category applies only if the asset/income is solely for the filer's spouse or dependent children. If the asset/income is either for the filer or jointly held by the filer with the spouse or dependent children, mark this category with a check in the filer's spouse or dependent children column. If the asset/income is solely for the filer or jointly held by the filer with the spouse or dependent children, mark this category with a check in the filer's spouse or dependent children column.

**Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate**

SP 278 (Rev. 01/2009)  
 U.S. Office of Government Ethics  
 Reporting Individual's Name

James Warren Miller

Page Number  
5

**Part I: Transactions**  
 Report any purchase, sale, or exchange by you, your spouse, dependent child, or dependent child under 18 years of age, for the following categories of property, services, benefits, commodities, financial, and other securities when the amount of the transaction exceeds \$1,000. Multiple transactions that together total \$1,000 must be reported as a single transaction. Exclude:  
 - Transactions with your spouse or dependent child.  
 - Transactions with any other person if the transaction is a bona fide sale of securities, commodities, financial, and other securities.  
 - Transactions involving the purchase or sale of real estate.  
 - Transactions involving the purchase or sale of a motor vehicle.  
 - Transactions involving the purchase or sale of a second residence.  
 - Transactions involving the purchase or sale of a primary residence.  
 - Transactions involving the purchase or sale of a business interest.

Line	Date (MM/DD/YY)	Description	Type of Transaction	Amount of Transaction (Q)	
				Buy	Sell
1	2/1/99				
2					
3					
4					
5					

\* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, see the other higher categories of value, as appropriate.

**Part II: Gifts, Reimbursements, and Travel Expenses**

For you, your spouse and dependent child, report the source of the following: (1) any gift (such as a cash gift, a gift certificate, a stock, bond, or other security) received from one source (other than a spouse, child, or dependent child) of more than \$500; (2) travel-related cash reimbursements received from one source (other than a spouse, child, or dependent child) of more than \$250. For conflict analysis, if a reimbursement exceeds \$100, it must be reported as a personal benefit, agency expense, and/or reimbursement, as appropriate. Exclude: (1) gifts or services received from one source (other than a spouse, child, or dependent child) of less than \$500; (2) gifts or services received from one source (other than a spouse, child, or dependent child) of less than \$250; (3) gifts or services received from one source (other than a spouse, child, or dependent child) of less than \$100.

Line	Date (MM/DD/YY)	Description	Type of Transaction	Amount of Transaction (Q)	Value
2					
3					
4					
5					

For Filings Completed By Us:

**Part III: Gifts, Reimbursements, and Travel Expenses**  
 For you, your spouse and dependent child, report the source of the following: (1) any gift (such as a cash gift, a gift certificate, a stock, bond, or other security) received from one source (other than a spouse, child, or dependent child) of more than \$500; (2) travel-related cash reimbursements received from one source (other than a spouse, child, or dependent child) of more than \$250. For conflict analysis, if a reimbursement exceeds \$100, it must be reported as a personal benefit, agency expense, and/or reimbursement, as appropriate. Exclude: (1) gifts or services received from one source (other than a spouse, child, or dependent child) of less than \$500; (2) gifts or services received from one source (other than a spouse, child, or dependent child) of less than \$250; (3) gifts or services received from one source (other than a spouse, child, or dependent child) of less than \$100.



82 278 (Rev. 02/2009)  
 S-CFR Part 2654  
 U.S. Office of Governmental Ethics

Reporting Individual's Name

James Warren Miller

Page Number

6

**Part I: Liabilities**

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude a mortgage on your primary residence (see instructions for reporting debt for acquisition).

Example:	Creditor (Name and Address)	Amount Owed (Type of Liability)	Year of Liability	Interest Rate	Term of Loan (Years)	Category of Amount or Value (C)
1	Blue Ditch Bank, Washington, DC 100 Jones, 123 St., Washington, DC	Mortgage on real property - business	1991	8% (fixed)	25 yrs. conventional	Over \$1,000,000
2	NW Farm Credit Services, Spokane, WA	Assumed farm real estate mortgage from Gerald Miller, Inc. Security is approximately 1.89 acres of farmland located 5 miles north of Garfield, WA	1995	6%	Mortgage 2015	Over \$1,000,000
3	Panatagon Federal Credit Union, Arlington, VA	Revolving Credit Line	2000	10%		Over \$1,000,000
4						
5						

\* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher category, as appropriate.

**Part II: Agreements or Arrangements**

Report your agreements or arrangements for contributions, participation in an employee benefit plan (e.g., 401k, deferred compensation, or retirement payment) by a former employer (including severance payments) (C) leave

Example:	Employer (Name and Address)	Amount or Value (Type of Liability)	Year of Liability	Interest Rate	Term of Loan (Years)	Category of Amount or Value (C)
1	NFU pension plan - Vested interest in defined benefit plan monthly payments available at age 65. Employer will not make further contributions to the plan. According to plan administrators, it will pay \$488.99 per month beginning at age 65.					Over \$1,000,000
2	NFU 401(k) plan - Defined contribution plan. Investments in managed 401(k) account sponsored by company will not make further contributions to the plan.					Over \$1,000,000
3						
4						
5						

For Electronic Channel Use Only

SE 278 (Rev. 03/2000)  
 5 C.F.R. Part 2634  
 U.S. Office of Government Ethics

Reporting Individual's Name: **James Warren Miller** Page Number: **7**

**Part I: Positions Held Outside of Government**  
 Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or member of an organization (State or Federal).

1	2	3	4	5	6	7	8	9	10
Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)	None	Present	9/08	7/74	Present
Example: Doi Jones & Smith, Hamilton, Ga. Farmer's Educational and Co-operative Union of America (National Farmers Union), Washington, DC	Non-profit, general farm organization	Chief of Staff / Economist	6/92	7/85					
2 Gerald Miller, Inc., Falls Church, VA	Family-owned corporation engaged in agriculture	Director							
3									
4									
5									
6									

**Part II: Compensation for Executive or Non-Executive Positions**  
 Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly or indirectly to you or your business during the reporting period. This includes the names of clients and statement of any source (Name and Address).

1	2	3	4	5	6	7	8	9	10
Source (Name and Address)	Type of Source	Position Held	From (Mo., Yr.)	To (Mo., Yr.)	None	Present	9/08	7/74	Present
Example: Doi Jones & Smith, Hamilton, Ga. Miami University (attn: Doi Jones & Smith), Middletown, Ohio	Local source for compensation with such connection	Chief of Staff and Economist for general farm organization- internal management, policy analysis							
1 Farmer's Educational and Co-operative Union of America (National Farmers Union), Washington, DC									
2									
3									
4									
5									
6									

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate.

None

Other Entries Cannot Be Used.

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**QUESTIONS AND ANSWERS**

APRIL 1, 2009

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**QUESTIONS FROM CHAIRMAN HARKIN FOR KATHLEEN MERRIGAN**

1. The economic recovery bill provided significant resources for rural America through USDA programs – particularly the broadband and water and waste disposal programs. Funding in these programs provide a significant opportunity to create jobs and to improve our rural infrastructure.

The economic recovery bill provided \$1.38 billion for the water and waste disposal program. This program has a large backlog of eligible applications from cities and rural water systems. I hope the Department will move forward as quickly as possible to release these economic recovery funds so that eligible projects can begin to break ground, which will create jobs and building vital infrastructure in rural communities.

The public comment period for changes made to the broadband program in the 2008 farm bill is still open. Despite this, the Department needs to be aggressive to get the \$2.5 billion provided in the economic recovery bill out the door with the greatest speed possible and consistent with solid administration so that rural areas can have access to broadband service, which will also create jobs and business opportunities in rural America.

**If confirmed will you work to get economic recovery funding on the ground as quickly as possible, while maintaining accountability and transparency to ensure that taxpayer dollars are being invested as effectively and efficiently as possible?**

2. While the House and Senate Agriculture Committees spent close to a year and a half crafting the 2008 farm bill, none of that effort would mean anything to America's farmers and ranchers, if we could not rely on the Department of Agriculture to implement the programs in a timely fashion as Congress intended. Producers can sign-up for the 2009 program and will soon be able to elect the ACRE program as an option. However, other programs such as the new standing agricultural disaster assistance program and the Conservation Stewardship Program have not been implemented. In these uncertain economic times, farmers need to know that the commodity and conservation programs on which they rely will be available when needed.

**Can you assure this Committee that you will work with us to get rules for these programs in place as promptly as possible?**

3. Socially Disadvantaged and small and beginning farmers and ranchers have not been appropriately prioritized at the Department in years past. Many of them spend a considerable amount of time fighting to gain access to basic USDA services and assistance when they should be farming the land.

To remedy this, the Food, Conservation, and Energy Act created the Office of Advocacy and Outreach in section 14013. The purpose of this office is twofold: to help socially disadvantaged farmers and ranchers obtain access to USDA services and to do the same for small and beginning farmers and ranchers. The farm bill also specifies that this office shall be established within the executive operations function of the Department's organizational structure. We did so because we it is critical that the Secretary prioritize outreach and help to minority, small, and beginning farmers across USDA, rather than simply putting them under the purview of some other office with limited range.

**Can you please tell me where you stand with respect to the establishment and placement of this office of advocacy and outreach, and can you confirm that you will, as required by the farm bill, establish this office within executive operations?**

**QUESTIONS FROM CHAIRMAN HARKIN FOR JOE LEONARD, JR.**

1. A recent GAO report found that the Office of the Assistant Secretary for Civil Rights has not fulfilled its responsibility to resolve and prevent backlogs of filed civil rights complaints. Some complaints are still pending from the early 2000s. GAO could not obtain from USDA a consistent explanation or justification for this backlog of unresolved civil rights claims.

To respond to this backlog problem, in the 2008 Food, Conservation, and Energy Act we specifically refocused the duties of the Office of the Assistant Secretary for Civil Rights upon enforcing civil rights protections, adjudicating claims, and ensuring compliance with civil rights laws. We moved the task of outreach to socially disadvantaged farmers over to a new Office of Advocacy and Outreach – that is, out of the Office of the Assistant Secretary for Civil Rights.

**Dr. Leonard, will you assure the Committee that you will dedicate your time and give the highest priority to resolving this vast backlog of civil rights complaints and to adjudicating claims and cases and enforcing civil rights laws for USDA employees and customers?**

2. **Dr. Leonard, please share with the Committee what your goals are for your first 60 days, 6 months, and first year, respectively?**

3. The miscellaneous title of the Food, Conservation, and Energy Act also provides several important new tools designed to strengthen the ability of the Department to better monitor participation of producers by race gender and ethnicity and to develop systems to ensure equitable access to services for every producer who walks in the door of a USDA agency.

**What are your plans to use the authority of ASCR to implement the provisions of FCEA section 14003 on the receipt for service or denial of service, section 14006 relative to the compilation of program participation data, and section 14007 requiring the ASCR to use this authority in reviewing civil rights compliance?**

4. The report on civil rights complaints and resolutions required under section 14010 of FCEA is due each year.

**Do you expect this report can be prepared on time, and how will you use its results in your work?**

**QUESTIONS FROM CHAIRMAN HARKIN FOR JIM MILLER**

1. Last week, the World Trade Organization put out a report which estimates that world trade flows will decline by 9 percent in 2009 compared to 2008, the biggest drop seen since the Second World War. Exports are an important source of demand for U.S. agricultural products, typically accounting for at least a quarter of total farm receipts.

**Given the fragile condition of the world economy in general, and the fact that many of our important overseas markets are also facing problems with access to import credit, will you commit to maximizing use of all U.S. export programs, including the Dairy Export Incentive Program, Market Access Program, and the GSM-102 export credit guarantee program, consistent with our WTO obligations, to try to limit the expected decline in U.S. agricultural exports?**

2. In 2003, an on-line marketplace called The Seam was contracted by USDA to market cotton that had been forfeited to the CCC under the marketing loan program. In 2005, forfeited peanuts were added to the contract. In both instances, USDA officials maintained control over the product until sale and made the determination when product would be offered for sale and whether or not to accept bid offers. In 2007, a separate contract was established to enable the Seam to take title to other CCC commodities such as non-fat dry milk powder or wheat for the purpose of bartering it for products that could then be utilized in the TEFAP program or international food aid program.

**As best we can tell, USDA did not hold an open process for awarding these contracts to The Seam, and the last one in particular seems to have been quite lucrative. I would ask you to commit to reviewing those contracts, and if you find they were either awarded inappropriately or are otherwise overly generous, I urge you to consider canceling them and either re-assign those responsibilities to USDA employees or conduct an open process to re-bid those contracts. I also ask you to notify the House and Senate Agriculture Committees of the results of your review, and any decisions made pursuant to that review.**

**Senator Baucus Questions for Kathleen Merrigan**

- 1. As you know Congress passed the Farm Bill with overwhelming support over 10 months ago. Nonetheless, important new regulations relating to disaster assistance have not yet been finalized. Will you work to ensure that sign-up for the Livestock Forage Program and the Livestock Indemnity Program begins June 1, 2009?**
- 2. This past summer in Montana a cow was found infected with brucellosis from wildlife, costing Montana's ranchers millions of dollars in extra testing costs. Will you support increasing funding for brucellosis vaccination by \$2 million annually to ensure we can manage brucellosis more effectively?**
- 3. In order to better understand agriculture production in Montana will you visit Montana in the next year?**
- 4. The number of families that rely upon agriculture as their primary source of income has declined steadily for decades. This population decline hurts rural communities, schools and businesses. What ideas do you have to reduce the outmigration of farming families from rural America?**

**Senator Baucus' Question for Joe Leonard, Jr.**

- 1. Will you visit Montana in the next year?**

**Senator Baucus' Questions for James Miller**

**1. As you know, Congress passed the Farm Bill with overwhelming support over 10 months ago. Nonetheless, important new regulations relating to disaster assistance have not yet been finalized. Will you work to ensure that sign-up for the Livestock Forage Program and the Livestock Indemnity Program begins June 1, 2009?**

**2. Although U.S. agricultural producers support the WTO Doha Round, they are concerned that the current Doha Round negotiations are unbalanced, and do not do enough to open foreign agricultural markets. Too little new market access is being offered by emerging economies, while too much is being asked of U.S. agricultural producers and manufacturers, both in terms of tariff reductions and domestic support. Can we count on you to work closely with USTR to re-balance these negotiations and lead them to a successful conclusion?**

**3. Sanitary and Phytosanitary (SPS) barriers prohibit access for many of our most valuable agricultural exports. BSE-related barriers to our beef exports have cost more than \$10 billion in lost exports since 2003. And Europe uses SPS barriers to block our most valuable agricultural exports, from biotech corn and soy to hormone-treated beef. I am increasingly concerned by the proliferation of new SPS barriers as countries seek mechanisms to protect their agricultural markets during this economic downturn. Can you assure me that addressing SPS barriers will be a high priority for the Foreign Agricultural Service? What are your priorities and what is your strategy for restoring agricultural trade with Europe? Will you work with**



**Congress, your colleagues at USTR, and other agencies to develop a strategy for reducing global SPS barriers in the short and long term?**

**4. According to OIE guidelines, U.S. beef from cattle of all ages is safe. Unfortunately, many of our trading partners continue to block U.S. beef exports, despite the lack of a scientific basis for doing so. Will you work with USTR to achieve the full opening of beef markets, particularly in Korea, Japan, and China?**

**5. In order to better understand agriculture production in Montana will you visit Montana in the next year?**

**Questions for the Record  
Senator Saxby Chambliss  
April 1, 2009**

**Kathleen Merrigan**

- 1) Dr. Merrigan, you are a well known and respected advocate in support of organic and alternative agriculture. The vast majority of U.S. agriculture, however, uses conventional production methods including a range of new technologies which enhance producers' ability to protect natural resources.

What is your view on the contributions of new technologies such as biotechnology to sustainable agriculture and the regulation of these new technologies?

- 2) Dr. Merrigan, you are known for your contributions to the development of a national organic standard. In the years since the National Organic Program was launched we have seen organically labeled food go main stream. In that same period, USDA has reviewed and approved a number of biotech crops that farmers value because they reduce the need for tillage, cut the usage of insecticides, protect and increase yields.

Despite the fact that biotech and organic crop production have flourished and gone main stream simultaneously, there are many people who assume a world in which biotech crops are widely adopted by farmers is one in which organic production is threatened and vice versa.

What bearing if any does your affiliation with organic agriculture have on your views of biotech crop technology and what are your views on how USDA currently regulates biotech crops? How should USDA modify how it regulates biotech crops?

- 3) In the European Union, the precautionary principle is used by critics of biotechnology to stunt the adoption of new products. The result has been to limit access by farmers to new seeds and innovations that lower production costs and increase yields. The United States Government has always taken a different view and regulatory approach to biotechnology.

What is your view of the precautionary principle and its application to regulatory decisions in the United States and the European Union? And will you pledge to the Members of the Committee that you will embrace sound science as the President has pledged in order to guide you decisions at the Department?

**Question for Jim Miller**

- 1) On March 27, Secretary Vilsack was quoted in press reports as stating that "the administration is very concerned about all aspects of the (WTO) Doha discussion." As you know, the most recent WTO Doha text on export credits would severely limit the existing export credit program. In light of the fact that the unprecedented global economic crisis and the resulting collapse of commercial trade credit has caused the

GSM-102 program to experience a level of demand previously unseen in its 28 year history, our negotiators, including USDA, should revisit the export credit language to deal with extraordinary circumstances.

Will you commit to working with the trade and work out language in any final agreement that would allow for the functioning of disciplined yet viable export credit programs on an ongoing basis, and, in addition, that would allow for more flexible conditions for such programs during financial or food crises?

## Questions – Senator Thad Cochran to USDA Nominees

**Mrs. Merrigan** – I notice in your written testimony that one of your priorities will be to highlight the contributions made by farmers to protect our natural resources. You also mention climate change as one possible contribution. I am concerned that cap-and-trade advocates are viewing agriculture as one industry that may benefit from some type of carbon offset program. I believe that we must be cognizant of the difference between a farmer who purchases inputs to produce corn and a landowner who might own tracts of land enrolled in conservation programs. *What are your ideas about how production agriculture might benefit from any cap-and-trade program?*

**Mrs. Merrigan** – Your testimony states that a strong safety net must be maintained. However, the President’s budget proposal would phase out farm support for producers with sales revenue of more than \$500,000. As you may know, farmers just experienced a tough reauthorization of farm programs and are now facing significant changes to program eligibility requirements. I believe that the recently enacted law should not be altered and this Administration should allow the new reform provisions to be implemented before trying to eliminate additional support. The Administration’s proposal calculates total sales to determine eligibility, while the 2008 Farm Bill reforms determine eligibility by the individual’s Adjusted Gross Income (AGI). *In your opinion, what is the correct method for determining which farms should no longer receive government support? Most importantly, do you believe Congress should follow the Administration’s lead and enact these new limitations before the 2008 Farm Bill is fully implemented?*

**Mr. Miller** – If confirmed, your mission area will lead USDA’s efforts to maintain and open international markets for U.S. agriculture products. The previous Administration successfully negotiated multiple bilateral trade agreements that resulted in positive gains for agricultural exports. *As the global population continues to expand, what are your priorities for international trade and how can we work with you to open new markets?*

**Senator Charles E. Grassley  
Questions for the Record  
USDA nomination hearing 04/01/09**

**Questions for Jim Miller, Under Secretary for Farm and Foreign Ag Service**

- 1) As far as impacting producers go, implementation of the 2008 Farm Bill in your mission area is by far the most critical. You have a large task in front of you. In your testimony you mention 7 or 8 areas in which work needs to be done across the mission area. However, if you had to pick out the top 2 issues you want to address right out of the box, what will they be?
- 2) As you know, payment limits continue to be one of my top priorities in agriculture. I was pleased that the President recognized in his budget the need to do something in this area. While I may not have totally agreed with his approach, I was pleased to see a \$250,000 hard cap proposed and that he continues to keep the discussions going on this important issue. While legislatively we are going to have to make payment cap decisions here on the hill, USDA has a lot of flexibility in other areas in closing loopholes such as actively engaged requirements and shutting down schemes and devices that producers use to avoid payment limitations.  
  
I realize that the extended comment period is still open until next week on this rule. However, strategically I wonder how you might handle potential changes to the rule. Would these changes apply to 2010 and beyond?
- 3) Later this year, the Risk Management Agency will be undertaking a new Standard Reinsurance Agreement. Can you outline any goals or priorities that you have for the SRA?

**Questions for Kathleen Merrigan, Deputy Secretary**

- 1) I've been an outspoken advocate for whistleblowers because I value the candid, unfiltered information they provide to Congress about Executive Branch activities. Many whistleblowers often come forward and face retaliation by the agencies they work for and that retaliation may be as straightforward as being terminated, or could be cloaked as a reassignment or a shifting in duties. Either way, this retaliation is exactly why Congress passed the Whistleblower Protection Act of 1989 and countless other laws containing whistleblower protections.

Can you give me a commitment that you'll not retaliate against Department of Agriculture whistleblowers, and instead work with them to address concerns that they raise? Will you commit to ensuring that every whistleblower is treated fairly and that those who retaliate against whistleblowers are held accountable?

- 2) I've been critical of the Department for many years because of continued failures at the Packers and Stockyards Administration. The Inspector General report in 2005 re-iterated my suspicions. I know the IG is completing a follow up audit and I look forward to those results. The prior Administration started to take steps in the right direction in getting investigations moving and resolved. The 2008 Farm Bill added additional rulemaking in the areas of undue preference and arbitration. Can you tell me what your priorities are for Packers and Stockyards Administration? What priority will you place on getting these new rules out? Will you commit to working with the Department of Justice and pursuing anti-competitive investigations?

**Questions for Joe Leonard Jr., Assistant Secretary for Civil Rights**

- 1) The Department has a documented and persistent failure in the civil rights arena dating back through many administrations. This situation must be corrected. Please explain what actions you will take in your first 90 days and subsequently your first year in the Assistant Secretary for Civil Rights position to get the Department on the right track.
- 2) The Food, Conservation, and Energy Act of 2008 included a provision which re-opened the Pigford class action lawsuit which was the result of years of discrimination against black farmers who were participating in Farm Service Agency Programs. Please outline your plans to implement this provision of the farm bill.

During the Farm Bill, Congress was only able to contribute \$100 million for the Pigford claims provision. There has been disagreement whether the Department may only use this money for farmer's claims vs. administrative or adjudicative costs. How will you ensure that this money is used to make sure farmers are made right instead of using it to pay expensive costs due to processing?

The \$100 million provided for in the Pigford provision of the Farm Bill will almost certainly be insufficient relief for claimants. I've attempted in past payment limit amendments to add additional dollars to the Pigford fund but have been unsuccessful. What efforts will you undertake to secure the necessary additional funding?

- 3) Numerous oversight reports have been released on the continued problems plaguing the office of the Assistant Secretary for Civil Rights. Most recently a GAO report released in 2008 found that USDA still has a significant backlog of pending discrimination complaints and continues to have difficulty in resolving these complaints. What actions do you intend to take to help clear out this backlog, while appropriately processing these complaints?

Sen. Pat Roberts  
Senate Agriculture Committee  
Nominations Hearing  
Questions for the Record  
April 1, 2009

Dr. Merrigan:

1. What counsel would you give Secretary Vilsack in regards to making national animal identification mandatory?
2. Will USDA engage on agriculture's behalf in protecting conventional agriculture production from over-regulation by other federal agencies including the EPA?
3. Do you agree with the U.S. position supporting biotechnology as part of the solution to meeting global demand for food, fiber, and fuel? If so, how will you encourage the coexistence of biotech and non-biotech crop production?

Mr. Miller:

1. Congress cut roughly \$6 billion from the crop insurance program in the latest Farm Bill. If Congress continues to cut financial support for the program, either through reduced producer premium assistance, or underwriting gains, or administration and operating expense reimbursements, or through other means, what can Congress expect the effect of those cuts to be on the overall effectiveness of the program?
2. Under your leadership, how will FAS help ensure that our beef trade is completely resumed with countries such as South Korea and Japan? Furthermore, how will FAS help protect our existing markets?



Senate Committee on Agriculture, Nutrition & Forestry  
USDA Nomination Hearing  
Questions for the record  
Dr. Joe Leonard Jr.  
April 1, 2009

Chairman Tom Harkin

- 1) A recent GAO report found that the Office of the Assistant Secretary for Civil Rights has not fulfilled its responsibility to resolve and prevent backlogs of filed civil rights complaints. Some complaints are still pending from the early 2000s. GAO could not obtain from USDA a consistent explanation or justification for this backlog of unresolved civil rights claims.

To respond to this backlog problem, in the 2008 Food, Conservation, and Energy Act we specifically refocused the duties of the Office of the Assistant Secretary for Civil Rights upon enforcing civil rights protections, adjudicating claims, and ensuring compliance with civil rights laws. We moved the task of outreach to socially disadvantaged farmers over to a new Office of Advocacy and Outreach – that is, out of the Office of the Assistant Secretary for Civil Rights.

*Dr. Leonard, will you assure the Committee that you will dedicate your time and give the highest priority to resolving this vast backlog of civil rights complaints and to adjudicating claims and cases and enforcing civil rights laws for USDA employees and customers?*

**RESPONSE:** I absolutely share your concern on this issue. If confirmed, let me assure you and the Committee, that I will indeed dedicate time and give the highest priority to resolving these longstanding concerns.

- 2) *Dr. Leonard, please share with the Committee what your goals are for your first 60 days, 6 months, and first year, respectively?*

**RESPONSE:** If confirmed, I will immediately find out the status of the implementation of the 2008 Farm Bill provisions and work to ensure that those provisions are being implemented with the intent of Congress. I will also initiate the migration of the complaint data to a single system and implement quality control system. Further, I will work with Lloyd Wright, Advisor to the Secretary for Civil Rights Program Complaints, to ensure that we are appropriately dealing with pending farm program complaints, and I will implement a similar initiative for employment complaints. I will also conduct an overall assessment of civil rights at USDA. If confirmed, I look forward to working with you and the Committee on these very important issues.

- 3) The miscellaneous title of the Food, Conservation, and Energy Act also provides several important new tools designed to strengthen the ability of the Department to better monitor participation of producers by race gender and ethnicity and to develop systems to ensure equitable access to services for every producer who walks in the door of a USDA agency.

*What are your plans to use the authority of ASCR to implement the provisions of FCEA section 14003 on the receipt for service or denial of service, section 14006 relative to the compilation of program participation data, and section 14007 requiring the ASCR to use this authority in reviewing civil rights compliance?*

**RESPONSE:** If confirmed, I will collaborate with appropriate USDA teams to determine how the Office of Advocacy and Outreach should implement Farm Bill Sections 14003 and 14006, to ensure equitable access to services for every producer who walks in the door of a USDA agency and in line with the intent of Congress. If confirmed, I will also diligently work to ensure oversight and evaluation of civil rights compliance as Congress intended in the 2008 Farm Bill.

- 4) The report on civil rights complaints and resolutions required under section 14010 of FCEA is due each year.

*Do you expect this report can be prepared on time, and how will you use its results in your work?*

**RESPONSE:** If confirmed, I will work to ensure all reports are prepared and issued in a timely manner, and that the Department utilizes the data appropriately in civil rights compliance and complaint reporting.

Senator Max Baucus

- 1) Will you visit Montana in the next year?

**RESPONSE:** If confirmed, I would certainly look forward to visiting Montana in the next year.

Senator Charles E. Grassley

- 1) The Department has a documented and persistent failure in the civil rights arena dating back through many administrations. This situation must be corrected. Please explain what actions you will take in your first 90 days and subsequently your first year in the Assistant Secretary for Civil Rights position to get the Department on the right track.

**RESPONSE:** If confirmed, I will immediately find out the status of the implementation of the 2008 Farm Bill provisions and work to ensure that those provisions are being

implemented with the intent of Congress. I will also initiate the migration of the complaint data to a single system and implement quality control system. Further, I will work with Lloyd Wright, Advisor to the Secretary for Civil Rights Program Complaints, to ensure that we are appropriately dealing with pending farm program complaints, and I will implement a similar initiative for employment complaints. I will also conduct an overall assessment of civil rights at USDA. If confirmed, I look forward to working with you and the Committee on these very important issues.

- 2) The Food, Conservation, and Energy Act of 2008 included a provision which re-opened the Pigford class action lawsuit which was the result of years of discrimination against black farmers who were participating in Farm Service Agency Programs. Please outline your plans to implement this provision of the farm bill.

During the Farm Bill, Congress was only able to contribute \$100 million for the Pigford claims provision. There has been disagreement whether the Department may only use this money for farmer's claims vs. administrative or adjudicative costs. How will you ensure that this money is used to make sure farmers are made right instead of using it to pay expensive costs due to processing?

The \$100 million provided for in the Pigford provision of the Farm Bill will almost certainly be insufficient relief for claimants. I've attempted in past payment limit amendments to add additional dollars to the Pigford fund but have been unsuccessful. What efforts will you undertake to secure the necessary additional funding?

**RESPONSE:** If confirmed, I will collaborate with the Secretary to implement the Farm Bill as Congress intended. Further, in collaboration with the Secretary and the Department of Justice, I will make every effort to see that these complaints are resolved fairly and quickly, and I look forward to working with the Committee to bring this issue to resolution.

- 3) Numerous oversight reports have been released on the continued problems plaguing the office of the Assistant Secretary for Civil Rights. Most recently a GAO report released in 2008 found that USDA still has a significant backlog of pending discrimination complaints and continues to have difficulty in resolving these complaints. What actions do you intend to take to help clear out this backlog, while appropriately processing these complaints?

**RESPONSE:** You have raised a very important issue. If confirmed, I will work with the Secretary and Lloyd Wright's, Advisor to the Secretary, Civil Rights Program Complaints, to immediately implement measures that will result in defining the universe of complaints and determining the resolution and resources needed. In addition, I will implement a similar initiative for employment complaints. You have been a long-time champion on these issues and, if confirmed, I look forward to working with you on these very important issues.

Senate Committee on Agriculture, Nutrition & Forestry  
USDA Nomination Hearing  
Questions for the record  
Dr. Kathleen Merrigan  
April 1, 2009

Chairman Tom Harkin

- 1) The economic recovery bill provided significant resources for rural America through USDA programs – particularly the broadband and water and waste disposal programs. Funding in these programs provide a significant opportunity to create jobs and to improve our rural infrastructure.

The economic recovery bill provided \$1.38 billion for the water and waste disposal program. This program has a large backlog of eligible applications from cities and rural water systems. I hope the Department will move forward as quickly as possible to release these economic recovery funds so that eligible projects can begin to break ground, which will create jobs and building vital infrastructure in rural communities.

The public comment period for changes made to the broadband program in the 2008 farm bill is still open. Despite this, the Department needs to be aggressive to get the \$2.5 billion provided in the economic recovery bill out the door with the greatest speed possible and consistent with solid administration so that rural areas can have access to broadband service, which will also create jobs and business opportunities in rural America.

*If confirmed will you work to get economic recovery funding on the ground as quickly as possible, while maintaining accountability and transparency to ensure that taxpayer dollars are being invested as effectively and efficiently as possible?*

**RESPONSE:** If confirmed, I can assure you that I will work to get all recovery funds implemented as quickly and effectively as possible. I will assist Secretary Vilsack in assuring that Rural Development projects funded by the economic recovery bill are worthwhile projects that create quality jobs and have a stimulative effect in rural America. I look forward to working with you, if confirmed, to ensure that rural America has access to broadband and that the process is not held up in unnecessary bureaucracy.

- 2) While the House and Senate Agriculture Committees spent close to a year and a half crafting the 2008 farm bill, none of that effort would mean anything to America's farmers and ranchers, if we could not rely on the Department of Agriculture to implement the programs in a timely fashion as Congress intended.

Producers can sign-up for the 2009 program and will soon be able to elect the ACRE program as an option. However, other programs such as the new standing agricultural

disaster assistance program and the Conservation Stewardship Program have not been implemented. In these uncertain economic times, farmers need to know that the commodity and conservation programs on which they rely will be available when needed.

*Can you assure this Committee that you will work with us to get rules for these programs in place as promptly as possible?*

**RESPONSE:** I share your concerns about the timely implementation of important Farm Bill provisions. If confirmed, I will review the current status of Farm Bill implementation and take steps to immediately implement the remaining provisions as quickly as possible. America's farmers need to have the safety net in place that this Committee authorized, and the Conservation Stewardship Program is an essential part of that safety net.

- 3) Socially Disadvantaged and small and beginning farmers and ranchers have not been appropriately prioritized at the Department in years past. Many of them spend a considerable amount of time fighting to gain access to basic USDA services and assistance when they should be farming the land.

To remedy this, the Food, Conservation, and Energy Act created the Office of Advocacy and Outreach in section 14013. The purpose of this office is twofold: to help socially disadvantaged farmers and ranchers obtain access to USDA services and to do the same for small and beginning farmers and ranchers. The farm bill also specifies that this office shall be established within the executive operations function of the Department's organizational structure. We did so because we it is critical that the Secretary prioritize outreach and help to minority, small, and beginning farmers across USDA, rather than simply putting them under the purview of some other office with limited range.

*Can you please tell me where you stand with respect to the establishment and placement of this office of advocacy and outreach, and can you confirm that you will, as required by the farm bill, establish this office within executive operations?*

**RESPONSE:** I am a strong advocate for small, minority and beginning farmers and ranchers, and the Census of Agriculture shows that these groups are increasing in number across the country. Secretary Vilsack has made significant commitments to the Civil Rights outreach component to not only fix the systems, which have caused problems in the past, but to restore confidence that USDA is a true partner with historically underserved and beginning producers.

There have been significant concerns raised about the structure of the Office of Civil Rights and the ability of the Office to carry out the functions assigned to it in the 2002 Farm Bill. If confirmed, I am committed not only to reviewing the structural concerns, but also to affirming the commitment of USDA personnel to carry out the functions of the Office. In addition, if confirmed, I will provide whatever direction necessary to fulfill the intent of the 2002 Farm Bill and to provide the Office of Advocacy and Outreach the

necessary access to the Office of the Secretary as noted in the 2008 Farm Bill explanatory language.

Senator Saxby Chambliss

- 1) Dr. Merrigan, you are a well known and respected advocate in support of organic and alternative agriculture. The vast majority of U.S. agriculture, however, uses conventional production methods including a range of new technologies which enhance producers' ability to protect natural resources.

What is your view on the contributions of new technologies such as biotechnology to sustainable agriculture and the regulation of these new technologies?

**RESPONSE:** My history in organic agriculture is well known and it sometimes overshadows my even longer history in biotechnology policy. Senator Leahy originally hired me to join the staff of this Committee to promote the scientific advancement of biotechnology and, over the years, I have continued to advocate for scientific investments in biotechnology. I have also argued for a strong regulatory regime to protect farmers and the environment, because such a regime is necessary for the technology to reach its full potential.

Most recently, I participated in the two-year stakeholder group convened by the Pew Initiative on Food and Biotechnology, which produced a series of reports that have been embraced by a broad diversity of groups in the food and agriculture sector. Along with about 30 colleagues representing a range of organizations such as the Cotton Council, Monsanto, the Center for Science in the Public Interest, the National Wheat Growers, and Environmental Defense, I participated in wide-ranging discussions about biotechnology and exciting new applications on the horizon.

I approach emerging technologies as a scientist. I believe that certain applications of biotechnology hold great promise for agriculture, such as drought resistance crops, which are still in the research pipeline but hopefully close to commercialization. If confirmed, I look forward to working with you to advance these very important technologies.

- 2) Dr. Merrigan, you are known for your contributions to the development of a national organic standard. In the years since the National Organic Program was launched we have seen organically labeled food go main stream. In that same period, USDA has reviewed and approved a number of biotech crops that farmers value because they reduce the need for tillage, cut the usage of insecticides, protect and increase yields.

Despite the fact that biotech and organic crop production have flourished and gone main stream simultaneously, there are many people who assume a world in which biotech crops are widely adopted by farmers is one in which organic production is threatened and vice versa.

What bearing if any does your affiliation with organic agriculture have on your views of biotech crop technology and what are your views on how USDA currently regulates biotech crops? How should USDA modify how it regulates biotech crops?

**RESPONSE:** My experience as AMS Administrator taught me a great deal. I learned firsthand how difficult it is to protect the integrity of identity preserved crop and livestock products, whether they are organic, genetically engineered, or produced for other attributes of interest in the marketplace. As a guiding principle, I believe that we should have systems in place to avoid costly market disruptions that occur when comingling occurs.

As you know, I have written and spoken about biotechnology regulation in this country. I am on the record as supporting the Coordinated Framework and the regulatory principle of focusing on product not process. If confirmed, I look forward to working with you as well as with our experts in APHIS as new biotechnology applications emerge and, within the scope of authority granted to the Department under the Plant Pest Act, ensure that science-based decisions guide our regulatory actions.

- 3) In the European Union, the precautionary principle is used by critics of biotechnology to stunt the adoption of new products. The result has been to limit access by farmers to new seeds and innovations that lower production costs and increase yields. The United States Government has always taken a different view and regulatory approach to biotechnology.

What is your view of the precautionary principle and its application to regulatory decisions in the United States and the European Union? And will you pledge to the Members of the Committee that you will embrace sound science as the President has pledged in order to guide you decisions at the Department?

**RESPONSE:** I absolutely agree with the President that it is important to use sound science in developing programs and making regulatory decisions. It is appropriate to take a cautious approach to decisions that affect public health and safety, but where sound science tells us that a product or process presents no significant health or safety risk, we should not stand in the way of technological advancement. I also believe that it is incumbent on those of us making such decisions to be completely transparent, to consider the views of everyone who is affected – both those who disagree with us as well as those who agree – and to make decisions that assure the safety of the consuming public.

Senator Max Baucus

- 1) As you know Congress passed the Farm Bill with overwhelming support over 10 months ago. Nonetheless, important new regulations relating to disaster assistance have not yet been finalized. Will you work to ensure that sign-up for the Livestock Forage Program and the Livestock Indemnity Program begins June 1, 2009?

**RESPONSE:** I understand that you worked night and day for a very long time on the 2008 Farm Bill and, particularly, on the creation of the disaster assistance program. I also know that, in many cases, farmers and ranchers across the country have been waiting for much needed disaster assistance for far too long. Furthermore, it is my understanding that there is support for speeding up the implementation for several parts of the disaster assistance program including the Livestock Forage Program and the Livestock Indemnity Program. If confirmed, one of my first and most important priorities will be to look into the status of the implementation of the Farm Bill including the disaster assistance program and do all I can to implement the provisions as quickly as possible. I look forward to working with you to ensure that occurs.

- 2) This past summer in Montana a cow was found infected with brucellosis from wildlife, costing Montana's ranchers millions of dollars in extra testing costs. Will you support increasing funding for brucellosis vaccination by \$2 million annually to ensure we can manage brucellosis more effectively?

**RESPONSE:** I certainly understand that a brucellosis outbreak in Montana is extremely concerning for ranchers across the state. I also recognize that agriculture is the number one industry in the State of Montana and a brucellosis outbreak in cattle would be a crisis for the state's economy. That is why I believe it is extremely important for USDA to continue to conduct research to ensure that brucellosis is effectively managed, and if confirmed, I will work with you to ensure that appropriate levels of funding are provided for brucellosis vaccinations.

- 3) In order to better understand agriculture production in Montana will you visit Montana in the next year?

**RESPONSE:** If confirmed, I look forward to learning more about agriculture in the State of Montana, and I would certainly look forward to visiting in the next year.

- 4) The number of families that rely upon agriculture as their primary source of income has declined steadily for decades. This population decline hurts rural communities, schools and businesses. What ideas do you have to reduce the outmigration of farming families from rural America?

**RESPONSE:** I, too, am very concerned about outmigration in rural communities across the country. I want to work to provide farmers, ranchers, and rural communities ways to diversify their incomes through the creation of value-added products, the development of renewable fuels, or microenterprise loans and grants. I also believe that it is very important to make investments in our rural infrastructure including roads and bridges, healthcare, schools, and community facilities as well. If confirmed, I look forward to working with you to find ways to address outmigration and provide opportunities for all rural Americans.

Senator Thad Cochran



- 1) I notice in your written testimony that one of your priorities will be to highlight the contributions made by farmers to protect our natural resources. You also mention climate change as one possible contribution. I am concerned that cap-and-trade advocates are viewing agriculture as one industry that may benefit from some type of carbon offset program. I believe that we must be cognizant of the difference between a farmer who purchases inputs to produce corn and a landowner who might own tracts of land enrolled in conservation programs. *What are your ideas about how production agriculture might benefit from any cap-and-trade program?*

**RESPONSE:** While production agriculture is a sector that relies on fossil fuels, its unique interactions with private lands conservation and renewable energy production make it well-positioned to benefit from a cap-and-trade approach to reducing carbon emissions. Already, producers across the country are enrolling no-till, low-till, and conservation acreage in carbon trading markets, such as the Chicago Climate Exchange. Though these markets are not fully evolved, under a cap-and-trade scenario, producers would be likely to see increased benefits for these types of practices. In addition, through improving metrics for measuring and certifying on-farm and forestry practices, and investing in research to lower and capture livestock emissions and improve on-farm efficiency, farmers and ranchers might see further financial benefits for conservation and greenhouse gas-reducing actions. If confirmed, I look forward to working with you on this issue.

- 2) Your testimony states that a strong safety net must be maintained. However, the President's budget proposal would phase out farm support for producers with sales revenue of more than \$500,000. As you may know, farmers just experienced a tough reauthorization of farm programs and are now facing significant changes to program eligibility requirements. I believe that the recently enacted law should not be altered and this Administration should allow the new reform provisions to be implemented before trying to eliminate additional support. The Administration's proposal calculates total sales to determine eligibility, while the 2008 Farm Bill reforms determine eligibility by the individual's Adjusted Gross Income (AGI). *In your opinion, what is the correct method for determining which farms should no longer receive government support? Most importantly, do you believe Congress should follow the Administration's lead and enact these new limitations before the 2008 Farm Bill is fully implemented?*

**RESPONSE:** As I mentioned in my testimony, I believe that we need a farm policy that supports all of agriculture – a variety of crops, production methods, and farm sizes. It makes little sense to me to categorize farms as family farmers or commercial farmers, and I believe we need to move away from this style of rhetoric and toward a more productive conversation about what makes the most sense for the future of our farm policy.

This being said, the recent economic downturn and looming budget deficits require us to review all federal spending to ensure that taxpayer dollars are being invested wisely and that we are making sound decisions for the future. The President has spoken on many

occasions of the need to share in the sacrifice required to cut our deficit in half by 2012 and, if confirmed, I will support that worthy goal by proposing responsible spending decisions at USDA.

In my view, there are a number of mechanisms to improve payment limit rules and tighten eligibility standards for farm program payments in a way that maintains a sound farm safety net. The President's budget proposal in this area represents a bold step toward targeting payments to producers who truly need them. Clearly, Congress will have a significant role in responding to the President's proposal, and if confirmed, I look forward to working with the Committee on this issue.

Senator Pat Roberts

- 1) What counsel would you give Secretary Vilsack in regards to making national animal identification mandatory?

**RESPONSE:** Animal disease prevention is a deep concern for me as I understand its impacts on the economic viability of rural America as well as the integrity of this nation's food system. In terms of a national identification program, if confirmed, I would counsel Secretary Vilsack to continue to follow the philosophy he has publicly outlined: For an animal identification system to be effective, it must have widespread support among all the affected sectors. To build this type of support for the system, the USDA must invite all people, whether or not they support a mandatory system, to the discussion.

I also believe it is appropriate to look at the work already done by USDA and different groups in the livestock industry to determine what makes sense and communicate those benefits to the entire audience. If confirmed, I would look forward to working with you on this very important issue to ensure that this country has an effective animal disease prevention system in place that is supported by a broad base of the livestock sector.

- 2) Will USDA engage on agriculture's behalf in protecting conventional agriculture production from over-regulation by other federal agencies including the EPA?

**RESPONSE:** I believe that USDA has the responsibility to share its expertise with its sister agencies. Through its broad spectrum of research, regulatory, and safety net programs, USDA has a wealth of knowledge that all federal policy makers must have when making decisions that impact conventional agriculture. If confirmed, I am certainly willing to ensure that other agencies consider the information and research available at USDA.

- 3) Do you agree with the U.S. position supporting biotechnology as part of the solution to meeting global demand for food, fiber, and fuel? If so, how will you encourage the coexistence of biotech and non-biotech crop production?

**RESPONSE:** As I mentioned in my testimony, I believe that we need a farm policy that supports all of agriculture – a variety of crops, production methods, and farm sizes. It makes little sense to me to categorize farms as family farmers or commercial farmers, and I believe we need to move away from this style of rhetoric and toward a more productive conversation about what makes the most sense for the future of our farm policy. Within this framework, it's clear that new technologies have a role in enhancing the productivity and efficiency of American agriculture.

Thanks to our network of universities, government research facilities, and private companies engaged in agriculture research, American agriculture is positioned to reap the benefits of new technologies designed to lower input costs and improve productivity. These new technologies will play a critical role in meeting the growing demand for food, fiber, feed, and fuel. We must maintain a regulatory framework that provides clear sign posts and rules of the road for new technologies such as biotechnology. In light of the recent Office of Inspector General report on biotechnology regulation, I believe that improvements can be made in this field that will support innovation, mitigate unintended consequences, and enhance the competitiveness of agricultural exports. If confirmed, I look forward to working with the Committee on this challenging issue.

Senator Charles E. Grassley

- 1) I've been an outspoken advocate for whistleblowers because I value the candid, unfiltered information they provide to Congress about Executive Branch activities. Many whistleblowers often come forward and face retaliation by the agencies they work for and that retaliation may be as straightforward as being terminated, or could be cloaked as a reassignment or a shifting in duties. Either way, this retaliation is exactly why Congress passed the Whistleblower Protection Act of 1989 and countless other laws containing whistleblower protections.

Can you give me a commitment that you'll not retaliate against Department of Agriculture whistleblowers, and instead work with them to address concerns that they raise? Will you commit to ensuring that every whistleblower is treated fairly and that those who retaliate against whistleblowers are held accountable?

**RESPONSE:** As both a congressional staff member and as Administrator of AMS, I have been approached by whistleblowers. While sometimes the information reliable and sometimes not, in all cases, I followed through and completed a thorough investigation the situation. It takes courage to be a whistleblower as often these individuals put themselves at risk for the greater good. If confirmed, this is a commitment I can make: I will not retaliate against whistleblowers nor tolerate others who do so.

- 2) I've been critical of the Department for many years because of continued failures at the Packers and Stockyards Administration. The Inspector General report in 2005 re-iterated my suspicions. I know the IG is completing a follow up audit and I look forward to those results. The prior Administration started to take steps in the right direction in getting

investigations moving and resolved. The 2008 Farm Bill added additional rulemaking in the areas of undue preference and arbitration. Can you tell me what your priorities are for Packers and Stockyards Administration? What priority will you place on getting these new rules out? Will you commit to working with the Department of Justice and pursuing anti-competitive investigations?

**RESPONSE:** I feel very strongly that all farmers should be given a fair shake in the market place. For livestock producers, this means efficient and effective enforcement of the Packers and Stockyards Act (PSA). I look forward to making sure that the Department implements the PSA provisions as intended by Congress in the 2008 Farm Bill, in particular, those provisions that will give more precise meaning to the terms “undue preference” and “arbitrary.” If confirmed, I look forward to working with you, and all members of the committee, as USDA works to implement these regulations and provide for more timely investigations, which has been documented by GAO and USDA OIG numerous times.

Senate Committee on Agriculture, Nutrition & Forestry  
USDA Nomination Hearing  
Questions for the record  
Mr. James Miller  
April 1, 2009

Chairman Tom Harkin

- 1) Last week, the World Trade Organization put out a report which estimates that world trade flows will decline by 9 percent in 2009 compared to 2008, the biggest drop seen since the Second World War. Exports are an important source of demand for U.S. agricultural products, typically accounting for at least a quarter of total farm receipts.

Given the fragile condition of the world economy in general, and the fact that many of our important overseas markets are also facing problems with access to import credit, will you commit to maximizing use of all U.S. export programs, including the Dairy Export Incentive Program, Market Access Program, and the GSM-102 export credit guarantee program, *consistent with our WTO obligations*, to try to limit the expected decline in U.S. agricultural exports?

**RESPONSE:** If confirmed, I will be pleased to work with the stakeholders in the U.S. export programs, including the export credit guarantee program, Market Access Program and the Dairy Export Incentive Program, as well as consult with members of the House and Senate Agriculture Committees to determine the appropriate export tools and approach to help ensure, consistent with our trade agreement commitments, that we are doing all that is reasonable and possible to help bolster our agriculture export opportunities, particularly during this extraordinary period of global economic uncertainty.

- 2) In 2003, an on-line marketplace called The Seam was contracted by USDA to market cotton that had been forfeited to the CCC under the marketing loan program. In 2005, forfeited peanuts were added to the contract. In both instances, USDA officials maintained control over the product until sale and made the determination when product would be offered for sale and whether or not to accept bid offers. In 2007, a separate contract was established to enable the Seam to take title to other CCC commodities such as non-fat dry milk powder or wheat for the purpose of bartering it for products that could then be utilized in the TEFAP program or international food aid program.

As best we can tell, USDA did not hold an open process for awarding these contracts to The Seam, and the last one in particular seems to have been quite lucrative. I would ask you to commit to reviewing those contracts, and if you find they were either awarded inappropriately or are otherwise overly generous, I urge you to consider canceling them

and either re-assign those responsibilities to USDA employees or conduct an open process to re-bid those contracts. I also ask you to notify the House and Senate Agriculture Committees of the results of your review, and any decisions made pursuant to that review.

**RESPONSE:** If confirmed, I will review the contracts awarded to The SEAM with regards to the process by which they were awarded and to ensure that the benefits associated with those contracts are appropriate. Upon the completion of that review, I will notify the House and Senate Agriculture Committees of the results and decisions made pursuant to that review.

Senator Saxby Chambliss

- 1) On March 27, Secretary Vilsack was quoted in press reports as stating that "the administration is very concerned about all aspects of the (WTO) Doha discussion." As you know, the most recent WTO Doha text on export credits would severely limit the existing export credit program. In light of the fact that the unprecedented global economic crisis and the resulting collapse of commercial trade credit has caused the GSM-102 program to experience a level of demand previously unseen in its 28 year history, our negotiators, including USDA, should revisit the export credit language to deal with extraordinary circumstances.

Will you commit to working with the trade and work out language in any final agreement that would allow for the functioning of disciplined yet viable export credit programs on an ongoing basis, and, in addition, that would allow for more flexible conditions for such programs during financial or food crises?

**RESPONSE:** If confirmed, I will be pleased to work with the stakeholders in the U.S. export credit programs as well as consult with members of the House and Senate Agriculture Committees to determine an appropriate approach to help ensure, consistent with our future trade agreement commitments, that export credit programs remain an available option to our customers to purchase U.S. agricultural commodities particularly during extraordinary circumstance such as financial and/or food crises.

Senator Max Baucus

- 1) As you know, Congress passed the Farm Bill with overwhelming support over 10 months ago. Nonetheless, important new regulations relating to disaster assistance have not yet been finalized. Will you work to ensure that sign-up for the Livestock Forage Program and the Livestock Indemnity Program begins June 1, 2009?

**RESPONSE:** If confirmed, one of the first things I will do is look into the status of the Farm Bill implementation including for the disaster assistance program. And, I will, if

confirmed, do all I can to expedite and finalize the rules for these very important programs.

- 2) Although U.S. agricultural producers support the WTO Doha Round, they are concerned that the current Doha Round negotiations are unbalanced, and do not do enough to open foreign agricultural markets. Too little new market access is being offered by emerging economies, while too much is being asked of U.S. agricultural producers and manufacturers, both in terms of tariff reductions and domestic support. Can we count on you to work closely with USTR to re-balance these negotiations and lead them to a successful conclusion?

**RESPONSE:** If confirmed, I will work closely with the USTR to help ensure that the provisions of the WTO Doha Round represent a balanced agreement for U.S. agriculture in terms of domestic support and market access commitments.

- 3) Sanitary and Phytosanitary (SPS) barriers prohibit access for many of our most valuable agricultural exports. BSE-related barriers to our beef exports have cost more than \$10 billion in lost exports since 2003. And Europe uses SPS barriers to block our most valuable agricultural exports, from biotech corn and soy to hormone-treated beef. I am increasingly concerned by the proliferation of new SPS barriers as countries seek mechanisms to protect their agricultural markets during this economic downturn. Can you assure me that addressing SPS barriers will be a high priority for the Foreign Agricultural Service? What are your priorities and what is your strategy for restoring agricultural trade with Europe? Will you work with Congress, your colleagues at USTR, and other agencies to develop a strategy for reducing global SPS barriers in the short and long term?

**RESPONSE:** I share your concern about the use of sanitary and phytosanitary trade barriers to impede our agricultural exports that cannot be justified by generally accepted international scientific research. If confirmed, I assure you that addressing these issues with all of our trading partners, including those in Europe, will be a top priority for the Foreign Agriculture Service.

If confirmed, I will also work closely with Congress, USTR and other agencies to restore our ability to export a number of agricultural products to Europe that have been impeded by their application of unjustified SPS barriers and will seek to reduce those barriers among all our trading partners.

- 4) According to OIE guidelines, U.S. beef from cattle of all ages is safe. Unfortunately, many of our trading partners continue to block U.S. beef exports, despite the lack of a scientific basis for doing so. Will you work with USTR to achieve the full opening of beef markets, particularly in Korea, Japan, and China?

**RESPONSE:** If confirmed, I can assure you that I will work with USTR to re-establish our beef export markets in Korea, Japan and China consistent with the science-based approach delineated by the International Organization for Animal Health,(OIE).

- 5) In order to better understand agriculture production in Montana will you visit Montana in the next year?

**RESPONSE:** I have visited Montana on many occasions in the past, and if confirmed, I would be pleased to have the opportunity to visit your state in my new capacity as Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

Senator Thad Cochran

- 1) If confirmed, your mission area will lead USDA's efforts to maintain and open international markets for U.S. agriculture products. The previous Administration successfully negotiated multiple bilateral trade agreements that resulted in positive gains for agricultural exports. *As the global population continues to expand, what are your priorities for international trade and how can we work with you to open new markets?*

**RESPONSE:** I am well aware of the importance of international trade to U.S. agriculture and the positive benefits agricultural exports provide for our overall economy. If confirmed, I will work with USTR and Congress to help ensure that our future trade agreements represent a fair and balanced approach to creating new export opportunities for agricultural producers and the broader agriculture export sector.

Senator Pat Roberts

- 1) Congress cut roughly \$6 billion from the crop insurance program in the latest Farm Bill. If Congress continues to cut financial support for the program, either through reduced producer premium assistance, or underwriting gains, or administration and operating expense reimbursements, or through other means, what can Congress expect the effect of those cuts to be on the overall effectiveness of the program?

**RESPONSE:** I am well aware of the importance of the federal crop insurance program to our producers. If confirmed, I will do all that I can to ensure the crop insurance program is adequately funded to meet the needs of our farmers and ranchers as well as represent an appropriate investment by U.S. taxpayers. I know that you have been a champion for crop insurance and, if confirmed, I look forward to working with you on this very important issue.

- 2) Under your leadership, how will FAS help ensure that our beef trade is completely resumed with countries such as South Korea and Japan? Furthermore, how will FAS help protect our existing markets?

**RESPONSE:** I am well aware of the negative impact the trade restrictions imposed by several of our trading partners has had on our domestic beef industry. If confirmed, I will work with USTR and other federal agencies to press all our trading partners, including



South Korea and Japan to adopt a generally accepted international science-based approach relating to trade restrictions and work toward ensuring their import requirements are consistent with those international guidelines.

Senator Charles E. Grassley

- 1) As far as impacting producers go, implementation of the 2008 Farm Bill in your mission area is by far the most critical. You have a large task in front of you. In your testimony you mention 7 or 8 areas in which work needs to be done across the mission area. However, if you had to pick out the top 2 issues you want to address right out of the box, what will they be?

**RESPONSE:** As you are aware, the mission areas for the Under Secretary of Farm and Foreign Agricultural Services at USDA are extremely broad and each of the agencies over which I will have authority has important responsibilities. If confirmed, my top priority will be to review and expedite the rule-making process for each of the 2008 Farm Bill and other legislative provisions in a way that is consistent with the intent of Congress and provides our farmers, ranchers and other program participants an adequate opportunity to make decisions concerning the options available to them in as timely a manner as is practical.

In addition, if confirmed, I am committed to resolving two additional issues within the mission areas of this position. First, and I believe of critical importance to the future of USDA and many of the programs over which I will have authority, is resolving the issues pertaining to discrimination in employment practices and program participation at the Department.

Second, if confirmed, I look forward to working with Congress to address the critical information technology needs in the mission areas that I will oversee.

- 2) As you know, payment limits continue to be one of my top priorities in agriculture. I was pleased that the President recognized in his budget the need to do something in this area. While I may not have totally agreed with his approach, I was pleased to see a \$250,000 hard cap proposed and that he continues to keep the discussions going on this important issue. While legislatively we are going to have to make payment cap decisions here on the hill, USDA has a lot of flexibility in other areas in closing loopholes such as actively engaged requirements and shutting down schemes and devices that producers use to avoid payment limitations.

I realize that the extended comment period is still open until next week on this rule. However, strategically I wonder how you might handle potential changes to the rule. Would these changes apply to 2010 and beyond?

**RESPONSE:** As you have noted, the extended comment period concerning payment limitations will remain open until next week and I will not presuppose the

recommendations and valuable insight into this issue that I expect those comments to provide. If confirmed, I will review the comments that have been submitted and begin work in consultation with you and your colleagues on the Senate and House Agriculture Committees to determine what, if any modifications to the current payment limitation regulations should be proposed for 2010 and future program crop years.

- 3) Later this year, the Risk Management Agency will be undertaking a new Standard Reinsurance Agreement. Can you outline any goals or priorities that you have for the SRA?

**RESPONSE:** Because this is in fact a contract negotiation between the federal government and our private sector crop insurance providers, I cannot identify the specific proposals that will become part of the contract discussions.

However, if confirmed, I can assure you that I am committed to ensuring that federal crop insurance will continue to remain one of the primary economic safety net tools available for our farmers and ranchers to help them manage the risks associated with their operations. I also believe we must thoroughly review all the responsibilities and requirements contained in the Standard Reinsurance Agreement to ensure the program is providing the best possible products to our producers in a way that represents an appropriate investment by the U.S. taxpayer. If confirmed, I look forward to working with you on this very important issue.

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**ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD**

APRIL 1, 2009

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WASHINGTON BUREAU · NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE  
1158 15<sup>TH</sup> STREET, NW SUITE 915 · WASHINGTON, DC 20005 · P (202) 463-2940 · F (202) 463-2953  
E-MAIL: WASHINGTONBUREAU@NAACPNET.ORG · WEB ADDRESS WWW.NAACP.ORG

March 30, 2009

The Honorable Tom Harkin  
Chair  
Committee on Agriculture, Nutrition  
and Forestry  
United States Senate  
Washington, DC 20510

The Honorable Saxby Chambliss  
Ranking Minority Member  
Committee on Agriculture, Nutrition  
and Forestry  
United States Senate  
Washington, DC 20510

*via fax*

**RE: NAACP SUPPORT FOR DR. JOSEPH LEONARD, JR. TO  
SERVE AS ASSISTANT SECRETARY FOR CIVIL RIGHTS AT THE U.S.  
DEPARTMENT OF AGRICULTURE**

Dear Chairman Harkin and Ranking Member Chambliss;

On behalf of the NAACP, our nation's oldest, largest and most widely-recognized grassroots-based civil rights organization, I am writing to express our strong support for Dr. Joseph Leonard, Jr. to serve as the Assistant Secretary for Civil Rights at the USDA. As you are well aware, the USDA's office of Civil Rights has a long and at times questionable history of enforcement and it is my experience that Dr. Leonard is the right person to make this office a much more effective advocate for the rights of all Americans, including racial and ethnic minorities.

Joe has a long, proven history serving the concerns of racial and ethnic minorities, and especially in addressing issues important to African Americans, most recently as a Senior Advisor to Rep. Carolyn Cheeks Kilpatrick (MI), and former Executive Director of the Congressional Black Caucus (CBC). While at the CBC, Mr. Leonard managed the daily activities of the Caucus and helped guide the legislative policy for its 43 congressional members. Prior to his role at the CBC, Mr. Leonard served as the Executive Director of the Black Leadership Forum, an umbrella organization of 32 national member groups that together work to develop and implement progressive public policies for social change. Joe has also served as the Washington, D.C. Bureau Chief of the Rainbow/PUSH Coalition and Director of the Arthur Fleming Institute of the Center for Policy Alternatives.

Thank you in advance for your attention to the NAACP position; again, I urge you to support Mr. Leonard's nomination. Should you have any questions or comments, please do not hesitate to contact me at my office at (202) 463-2940.

Sincerely,

Hilary O. Shelton  
Vice President for Advocacy and  
Director, NAACP Washington Bureau



## Congressional Black Caucus

OF THE 111<sup>th</sup> UNITED STATES CONGRESS

2444 RAYBURN HOB • WASHINGTON, D.C. 20515 •  
TEL (202) 226-9776 • FAX (202) 225-9817  
www.thecongressionalblackcaucus.com

### Change Course, Confront Crises, Continue the Legacy

March 30, 2009

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Secretary

**Yvette D. Clarke**  
Whip

Honorable Tom Harkin  
Chairman  
United States Senate  
Committee on Agriculture,  
Nutrition, and Forestry  
328A Russell Senate Office Building  
Washington, D.C. 20510

Honorable Saxby Chambliss  
Ranking Member  
United States Senate  
Committee on Agriculture,  
Nutrition and Forestry  
328A Russell Senate Office Building  
Washington, D.C. 20510

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The U.S. House of Representatives  
and the U.S. Senate

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André Carson, IN - '08  
Donna F. Edwards, MD - '08  
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Dear Chairman Harkin and Ranking Member Chambliss:

On behalf of the membership of the Congressional Black Caucus ("CBC"), I am honored to offer strong and unqualified support of the nomination of Dr. Joe Leonard Jr. for the position of United States Assistant Secretary for Civil Rights, United States Department of Agriculture.

Over the past two years, the CBC has had the pleasure of working with Dr. Leonard during his tenure as Executive Director of the Congressional Black Caucus. Although we worked with Dr. Leonard over two years, his entire career has been framed by a strong commitment to civil rights. He began his career in Louisiana as a public school teacher. While in Louisiana, he earned a Master of Arts degree and completed his masters thesis on the civil rights movement in Plaquemine, Louisiana. After leaving Louisiana, Dr. Leonard moved to Washington, D.C. to work on behalf of progressive causes. In 2004, Joe Leonard completed the requirements for the Ph.D. in civil rights history at Howard University.

Dr. Leonard is well suited to serve in the Civil Rights Division of the U.S. Department of Agriculture. As Executive Director of the Congressional Black Caucus, he was instrumental in directing legislative priorities during the 110<sup>th</sup> Congress. Dr. Leonard's leadership provided strong support to pass the Second Chance Act, SCHIP, Higher Education Act Reauthorizations, as well as reauthorization of the Farm Bill.

The CBC's activities during the 110<sup>th</sup> Congress reflected a period of great prominence and influence. Dr. Leonard's understanding of legislative and political processes, government, advocates, and sensitivity to civil rights issues proved invaluable in amplifying the CBC's response to those most in need.



Senator Tom Harkin  
Senator Saxby Chambliss  
Page 2  
March 30, 2009

In each of the positions Dr. Leonard has held, he has demonstrated the highest levels of intellectual acumen, integrity, and concern that government fulfill its obligation to empower and protect. As government confronts the challenge to fulfill this role, Dr. Leonard exemplifies the very best our nation can hope for in support of civil rights. We respectfully urge you to swiftly act to confirm Dr. Leonard's nomination.

Thank you for your consideration. Should you have questions, please do not hesitate to contact me at (202) 225-2661.

Sincerely,

A handwritten signature in black ink that reads "Barbara Lee". The signature is written in a cursive, flowing style.

Barbara Lee  
Chairwoman



March 23, 2009

The Honorable Tom Harkin  
Chairman  
Committee on Agriculture, Nutrition and Forestry  
  
United States Senate  
Washington, DC 20510

The Honorable Saxby Chambliss  
Ranking Member  
Committee on Agriculture, Nutrition  
and Forestry  
United States Senate  
Washington, DC 20510

Dear Chairman Harkin and Senator Chambliss:

On behalf of the American Nursery and Landscape Association and the Society of American Florists, we write in strong support of Dr. Kathleen Merrigan for the position of Deputy Secretary of Agriculture.

ANLA is the national trade organization representing the U.S. nursery and landscape industry. ANLA represents 2,500 production nurseries, landscape firms, retail garden centers and horticultural distribution centers, and the 16,000 additional family farm and small business members of the state and regional nursery and landscape associations. ANLA's grower members produce all types of landscape plant material for domestic and export markets. Members also produce various plants used in the commercial production of tree and small fruits.

SAF is the national trade association representing the entire floriculture industry, a \$19 billion component, at retail, of the U.S. economy. Membership includes some 10,000 small businesses, including growers, wholesalers, retailers, importers and related organizations, located in communities nationwide and abroad. The industry produces and sells cut flowers and foliage, foliage plants, potted flowering plants, and bedding plants, which compete in the international marketplace.

Our industry represents a vibrant, fast-growing part of American agriculture. Nursery and floriculture crops represent about 15 percent of total U.S. crop receipts, and comprise \$16 billion of the U.S. farmgate economy. They are produced in every state in the U.S.

The Department of Agriculture's policies, decisions, and ongoing efforts are obviously of great importance to our industry and to our memberships. Our ongoing partnership with the Agricultural Research Service in support of the Floriculture & Nursery Research Initiative; with the Animal and Plant Health Inspection Service on efforts to prevent introduction and establishment of foreign pests and diseases and ensure fair representation of our industry and in international trade; and our work with the Cooperative State Research, Education and Extension Service, the National Agricultural Statistics Service, the Economic Research

Service, the Forest Service, the Agricultural Marketing Service, the Natural Resources Conservation Service, the Foreign Agricultural Service, the Risk Management Agency, and the Farm Service Agency as the new Farm Bill is implemented, make our industry a key stakeholder of USDA.

We applaud Dr. Merrigan's selection. Her leadership, policy and management expertise, and knowledge of the wide range of issues facing USDA make her an excellent choice for Deputy Secretary of Agriculture. We respectfully request that the Senate confirm her to this important position as quickly as possible.

Thank you for your consideration of our opinion, and for your ongoing leadership on behalf of U.S. agriculture.

Sincerely,



Vice President, Government Relations  
and Research  
American Nursery & Landscape Association  
1000 Vermont Ave NW, 3rd Floor  
Washington, DC 20005  
202/789-2900  
cregelbrugge@anla.org



Senior Director – Government Relations  
Society of American Florists  
1601 Duke Street  
Alexandria, VA 22314  
703/838-5232  
lschmale@safnow.org



March 30, 2009

The Honorable Tom Harkin, Chairman  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate  
328 Russell Senate Office Building  
Washington, DC 20510

The Honorable Saxby Chambliss, Ranking Member  
Committee on Agriculture, Nutrition and Forestry  
United States Senate  
416 Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Harkin and Ranking Member Chambliss:

We write in support of President Obama's nomination of Dr. Kathleen Merrigan to the post of Deputy Secretary for the United States Department of Agriculture (USDA).

Dr. Merrigan has shown her dedication to a healthy and prosperous agricultural sector through her years of service on Capitol Hill, in previous capacities at USDA and in numerous academic and organizational experiences.

Dr. Merrigan has the proven intellectual capacity and innovative spirit needed to confront the unique challenges and opportunities confronting agriculture. As a former staff member of the Senate Agriculture Committee during the late 1980's and early 1990's, Dr. Merrigan understands the intricacies of policy development and has the ability to navigate through the complex legislative process. Furthermore, her experience as Administrator of USDA's Agricultural Marketing Service has given Dr. Merrigan the requisite familiarity with USDA's functioning and experience in creating sound, yet complex regulatory programs.

Through the years, Dr. Merrigan has consistently shown an openness to work with a diverse set of interests across the agricultural spectrum to improve the lives of this nation's producers and consumers. She has exhibited leadership in numerous positions, including the USDA National Organics Standards Board, the United Nations Food and Agricultural Organization and the U.S. EPA Food Safety Advisory Committee.

Because of Dr. Merrigan's extensive experience, intellectual rigor, and commitment to working with all of the stakeholders within the agricultural community, we support Dr. Merrigan for the position of Deputy Secretary and urge swift approval of her nomination.

Sincerely,

American Agriculture Movement  
American Beekeeping Federation  
American Corn Growers Association  
American Farm Bureau Federation  
American Farmland Trust  
American Sheep Industry Association  
American Soybean Association  
American Sugar Alliance  
Campaign for Contract Agriculture Reform  
Environmental Defense Fund  
Farm Credit Council  
Food & Water Watch  
Izaak Walton League of America  
National Association of Conservation Districts

National Association of Farmer Elected Committees  
National Barley Growers Association  
National Council of Farmer Cooperatives  
National Farmers Union  
National Organic Coalition  
National Sorghum Producers  
National Sunflower Association  
Northwest Bean Growers Association  
Pollinator Partnership  
Union of Concerned Scientists  
United Fresh Produce Association  
US Canola Association  
USA Dry Pea & Lentil Council  
Western Growers



*Desert Grape Growers League  
of California*

March 30, 2009

Honorable Tom Harkin  
U.S. Senate  
328 Senate Committee on Agriculture  
Washington, D.C. 20510

Dear Chairman Harkin:

On behalf of our membership we support Dr. Kathleen Merrigan for Deputy Secretary, U.S. Department of Agriculture. Dr. Merrigan is well qualified for the position having served in both the Federal executive and legislative branches. We first learned about her when she worked on the Senate Committee on Agriculture. Because of her knowledge of specialty crop issues, many of our growers learned about new methods of production and marketing.

When Dr. Merrigan served as Administrator, Agriculture Marketing Service, her handling of the Hunts Point corruption case was resolved in a successful manner, and it reinstated shippers' trust in the marketing of their fruits and vegetables. In shepherding regulations for the organic law through the rulemaking process, Dr. Merrigan also demonstrated her considerable skills to find common ground among disparate interest groups.

We are most impressed with her tenure at Tufts University where she taught food policy. At a time when our country is finally focusing on food safety, her expertise will serve both consumers and growers.

We urge the Committee to report out her nomination to the full Senate as soon as possible. We know of no opposition to her nomination, only support.

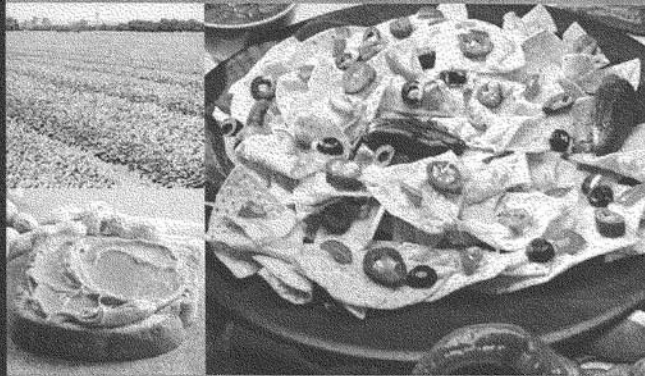
Sincerely yours,

cc: Senator Saxby Chambliss

ISSUE REPORT

# Keeping America's Food Safe:

A BLUEPRINT FOR FIXING THE FOOD SAFETY SYSTEM AT THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES



 Trust for  
America's Health  
[WWW.HEALTHYAMERICANS.ORG](http://WWW.HEALTHYAMERICANS.ORG)

PREVENTING EPIDEMICS.  
PROTECTING PEOPLE.



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## Introduction

“ TO SAY THAT FOOD SAFETY IN THIS COUNTRY IS A PATCHWORK SYSTEM IS GIVING IT TOO MUCH CREDIT. FOOD SAFETY IN AMERICA HAS BECOME A HIT-OR-MISS GAMBLE, AND THAT IS TRULY FRIGHTENING. IT’S TIME TO FIND THE GAPS IN THE SYSTEM AND REMEDY THEM. ”

-- SEN. TOM HARKIN (D-IA), CHAIRMAN OF THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY<sup>1</sup>

“ WHETHER PRODUCED DOMESTICALLY OR IMPORTED, AMERICANS MUST BE ABLE TO TRUST THAT THE FOOD SOLD IN THEIR GROCERY STORES AND RESTAURANTS IS SAFE. IT IS CRITICAL TO ENSURE THAT THE FOOD AND DRUG ADMINISTRATION HAS THE TOOLS IT NEEDS TO PROPERLY MONITOR AND INSPECT THE FOOD THAT IS CONSUMED IN THIS COUNTRY. ”

-- SEN. SAXBY CHAMBLISS (R-GA), RANKING REPUBLICAN ON THE SENATE AGRICULTURE COMMITTEE<sup>2</sup>

The U.S. food safety system is in crisis. The recent *Salmonella* contamination of peanut butter products and jalapeño and Serrano peppers, *E. coli* outbreaks in spinach and lettuce, and reports about cattle slaughter practices and the safety of farm-raised fish in China have all heightened anxieties about the vulnerability of the nation’s food supply.<sup>3,4</sup>

Approximately 76 million Americans – one in four – are sickened by foodborne disease each year. Of these, an estimated 325,000 are hospitalized and 5,000 die.<sup>5</sup> According to the World Health Organization (WHO), foodborne illnesses include “...diseases, usually either infectious or toxic in nature, caused by agents that enter the body through the ingestion of food.”<sup>6</sup>

Foodborne diseases caused by major pathogens alone are estimated to cost up to \$44 billion annually in medical costs and lost productivity.<sup>7,8</sup> Major outbreaks can also contribute to significant economic losses in the agriculture and food retail industries, which account for approximately 13 percent of the U.S. gross domestic product (GDP)

and are the largest industries and employers in the United States.<sup>9</sup> Americans spend more than \$1 trillion on food annually.

A November 2008 public opinion poll conducted by the Consumer Reports National Research Center found that 83 percent of Americans are very concerned or concerned about food safety, particularly the contamination of food with harmful pathogens, and 81 percent of Americans are very concerned or concerned about the safety of imported foods.<sup>10</sup>

Studies from the National Academy of Sciences (NAS), the Institute of Medicine (IOM), the U.S. Government Accountability Office (GAO), and the U.S. Food and Drug Administration (FDA) Science Board, which serves as an advi-

sory committee to FDA, have all raised serious concerns about the system that is responsible for keeping the country's food safe.<sup>11, 12, 13, 14</sup>

These reports describe how the current system is fractionalized and focuses on antiquated threats instead of taking a strategic approach to protecting the nation's food

supply through state-of-the-art technologies, practices, and policies.

Yet despite all these challenges, experts estimate that most foodborne illnesses could be prevented if the right measures were taken to improve the U.S. food safety system.

#### Top concerns that experts have identified include:

##### ■ Outdated Laws and Policies

▲ Current laws and policies are disproportionately focused on monitoring the end of production, instead of trying to detect and prevent problems throughout the entire production process.

▲ No federal agency has statutory authority or a practical mandate to forge an integrated strategy that puts the research, regulatory, and educational tools of government to work in a coherent way to minimize risks.

▲ The U.S. food safety system has not been fundamentally modernized since its inception over 100 years ago. Current food safety policies are largely based on early 20th-century laws written to deal with concerns that rarely pose significant threats today because of changes in farming and processing practices and technologies.<sup>15</sup>

▲ FDA has limited legal tools for enforcing prevention-oriented food safety standards (detecting and preventing outbreaks throughout the entire production process).

##### ■ Inadequate Federal Leadership, Coordination, and Resources

▲ No federal agency has ultimate authority or responsibility. No one person in the federal government has the oversight and is held accountable for carrying out comprehensive, preventive strategies for reducing foodborne illnesses.

▲ Without clear leadership or authority, there is no systemic ability to set risk-based priorities and deploy resources.

▲ Food safety agencies are underfunded and understaffed for dealing with the range and scope of modern food safety threats.

▲ There is limited federal, state, and local coordination and only voluntary uniform standards.

Many food safety advocates believe the long-term goal should be to consolidate and align all federal food safety functions into a single agency to increase effectiveness, responsibility, and accountability. Currently, according to a 2007 GAO report, "the federal oversight of food safety is fragmented, with 15 agencies collectively administering at least 30 laws related to food safety."<sup>16</sup> The GAO has called for a "fundamental re-examination of the federal food safety system."<sup>17</sup>

However, most experts recognize that changing the entire system would likely be "extremely difficult, time-consuming, and highly controversial" since the major functions span across three different agencies – the U.S. Department of Health and Human Services (HHS), the U.S. Department of Agriculture (USDA), and the U.S. Environmental Protection Agency (EPA). All of these agencies have different authorities, responsibilities, and cultures.<sup>18</sup>

There are a number of advocates who proposed more immediate potential solutions by focusing on strategically reorganizing the existing system. One way to do this is to start by addressing the food safety functions within HHS first. This report examines the existing programs at HHS and examines ways to strategically restructure the agencies at HHS to better protect the nation's food supply.

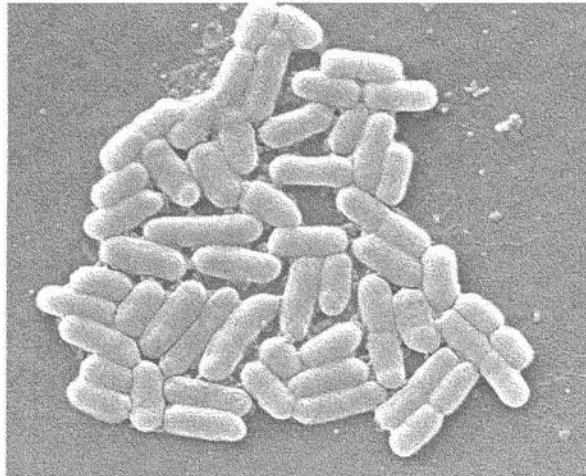
## I. FOOD SAFETY PROGRAMS AT HHS: THE CURRENT STRUCTURE

Agencies within HHS are responsible for a significant majority of the federal food safety functions. The FDA regulates numerous aspects of the food system, including millions of food producers, processors, transporters, storage facilities, and grocery stores and restaurants. It regulates 80 percent of the nation's food supply, including \$417 billion

worth of domestic food and \$49 billion in imported food annually.<sup>19</sup> Experts estimate the vast majority of known foodborne illness outbreaks are associated with products regulated by FDA. The U.S. Centers for Disease Control and Prevention (CDC), also part of HHS, is responsible for detecting and tracking foodborne disease outbreaks.

### MAJOR FOOD SAFETY RESPONSIBILITIES AT HHS

- FDA includes three major food safety divisions, including:
  - ▲ The **Center for Food Safety and Applied Nutrition (CFSAN)**, which has the responsibility for overseeing the safety of all domestic and imported foods with the exceptions of meat, poultry, and frozen, dried, and liquid eggs, which are under the authority of USDA's Food Safety and Inspection Service (FSIS).
  - ▲ The **Center for Veterinary Medicine (CVM)**, which makes food safety policy for animal drug and antibiotic residues, animal feed, pet foods, and cloned and genetically engineered animals.
  - ▲ The **Office of Regulatory Affairs (ORA)**, which is the field organization for FDA that conducts food inspections, oversees imported food, manages food testing laboratories, develops enforcement cases, and manages the majority of FDA's food safety resources.
- At CDC, the **Office of Food Safety** is responsible for surveillance and identification of foodborne illness outbreaks.



RECENT FOODBORNE DISEASE OUTBREAKS IN PRODUCTS  
REGULATED BY FDA

- August and September 2006: *E. coli* in bagged spinach sickens 199 people in 26 states, killing three.<sup>28</sup> Growers in California, where the majority of U.S. spinach and lettuce is grown, estimate losses to be as high as \$200 million.<sup>21</sup>
- September 2006: Tomatoes contaminated with *Salmonella* cause 183 cases of illness in 21 states.<sup>22</sup>
- November and December 2006: Spring onions contaminated with *E. coli* served at Taco Bell restaurants in the northeast United States sicken 71 people.<sup>23</sup>
- February 2007: *Salmonella* in Peter Pan peanut butter causes 425 illnesses in 44 states.<sup>24</sup> ConAgra estimated that its recall of Peter Pan and Great Value peanut butter cost \$50 to \$60 million.<sup>25</sup>
- February and March 2007: FDA receives more than 17,000 consumer complaints about tainted pet food, including the deaths of 1,950 cats and 2,200 dogs. Melamine-contaminated pet food imported from China is to blame for the deaths and illnesses among pets; 60 million packages of nearly 100 brands of pet food are recalled.<sup>26</sup>
- June 2007: Veggie Booty snacks contaminated with *Salmonella* sicken 65 people in 20 states.<sup>27</sup>
- January 2008: A produce handler at a grocery store in Buffalo, N.Y., is diagnosed with hepatitis A. As a precaution, county health officials issue a warning to anyone who may have purchased and consumed certain kinds of produce from the store in the prior three-week period. Health officials vaccinate more than 8,300 people over a five-day period at a cost of some \$500,000.<sup>28</sup>
- April 2008: Imported cantaloupes from Honduras contaminated with *Salmonella* sicken 60 people in 16 states and Canada; at least 16 are hospitalized.<sup>29</sup>
- June 2008: *Salmonella* found in jalapeño and Serrano peppers sickens 1,442 people in 43 states, the District of Columbia, and Canada. At least 286 persons are hospitalized, and the infection may have contributed to two deaths.<sup>30</sup> Prior to the identification of peppers as the vehicle of the outbreak, food safety officials had warned Americans to avoid raw red round, red Roma, and red plum tomatoes, leading tomato growers to post losses upwards of \$100 million in sales during the investigation.<sup>31</sup>
- September 2008: Melamine-contaminated infant formula and related dairy products produced in China are found in countries across the globe. FDA issues an advisory that warns members of Asian communities in the United States that infant formula manufactured in China and imported illegally into the United States could pose a risk to infants.<sup>32</sup>
- January 2009: Peanut butter and peanut butter products contaminated with *Salmonella* sicken more than 690 people in 46 states. More than one-fifth of those infected are hospitalized and the infection may have contributed to nine deaths.<sup>33</sup> FDA recalls more than 2,700 peanut butter products from store shelves across the country.



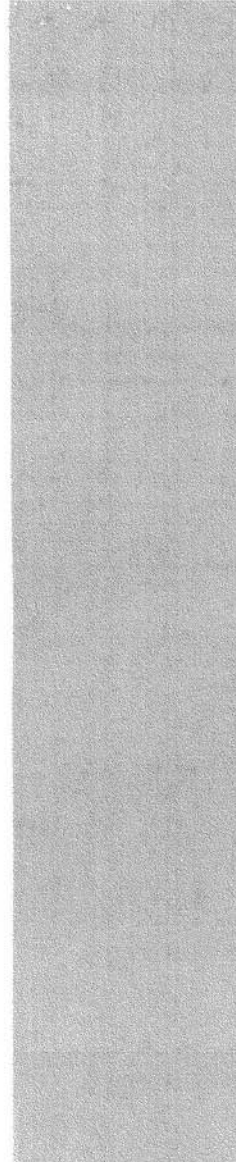
## 2 CURRENT HHS FOOD SAFETY FUNCTIONS DO NOT MEET TODAY'S THREATS

“WHEN WE LOOK AT RECENT HEADLINES, IT IS HARD NOT TO SEE A FOOD SAFETY SYSTEM IN CRISIS, A DYSFUNCTIONAL FEDERAL AGENCY AND THE FDA UNABLE TO PERFORM ITS MISSION AND TO PROTECT THE AMERICAN PEOPLE.”

— REP ROSA DE LAURO (D-CT), CHAIRWOMAN OF THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON AGRICULTURE, RURAL DEVELOPMENT, FDA, AND RELATED AGENCIES<sup>14</sup>

Key problems with the food safety functions at HHS include:

- **Inadequate leadership, prioritization, and coordination.** FDA commissioners and staff are responsible for regulating food, drugs, and medical devices. *There is no single official at FDA whose full-time job is food safety and who has line authority over all elements of FDA's food safety program.*
  - ▲ Top FDA managers usually focus on drugs and medical devices. They often only get involved in food safety during crises, such as major disease outbreaks.
  - ▲ The main FDA offices that have a focus on food safety – CFSAN, CVM, and ORA – are managed separately and have their own priorities. The directors of these three offices report to the FDA commissioner, although responsibility for coordinating FDA's strategy for improving food safety rests with an associate commissioner for foods who has no line management or budget authority over CFSAN, CVM, or ORA.
  - ▲ Detection and surveillance functions are housed at CDC and are not well-coordinated with FDA's regulatory functions; there is little connection between monitoring threats and outbreaks and how food is regulated and inspected.
- **Inadequate staffing and resources.** A 2008 report by the FDA Science Board's Subcommittee on Science and Technology found that continual underfunding of FDA has forced the agency to severely curtail food inspections (a 78 percent reduction over 35 years) at a time when the number of food producers has grown exponentially at home and abroad.
  - ▲ According to the subcommittee, the continual underfunding of food safety activities has exposed Americans to increasing risk from both imported and domestically produced foods. The subcommittee has urged Congress to increase the food safety funding base by \$755 million over five years (2009-2013), including \$350 million to strengthen food import safety and \$100 million to strengthen federal food safety oversight of nutritional supplements and animal feed.<sup>35</sup>
  - ▲ Between 2003 and 2007, the main food safety function at FDA lost 20 percent of its science staff and 600 inspectors.<sup>36</sup> According to GAO, the turnover rate in FDA science staff is twice that of other government agencies.<sup>37</sup> FDA's food program received \$542 million in FY 2009; the total FDA budget for FY 2009 was estimated at \$2.399 billion. More than half of the total food-related dollars and staff time at FDA is managed by the regulatory affairs staff, without line accountability to the directors of CFSAN and CVM, whose programs the field resources are intended to support.
- **Inadequate hazard detection throughout the production process.** The system has too few inspection points and resources. The inspections that are conducted concentrate primarily on products after they have already been produced. FDA does not have a good system in place for regulating prod-



ucts through the entire production process. Food can become contaminated at multiple points during production.

■ **Inadequate modernization.** Current statutes that provide the foundation for FDA's food safety functions date back to 1906 and 1938. FDA's laws were drafted to respond to problems prevalent in an early 20th-century agricultural and food system. These laws empower FDA to act primarily only after food safety problems occur, rather than to act to prevent them. The technology and practices for producing food is changing rapidly. The food inspection and regulation procedures are out of date and have not kept pace with scientific advancements, such as biotechnology and high-tech packaging, or with changes in consumer culture, such as an increased interest in ready-to-eat meals and increased frequency in eating out at restaurants. FDA is permitted to inspect pro-

cessing plants and warehouses and remove harmful or potentially harmful food from the market through court enforcement action, and to block imports if it detects potential problems, but it is not structured or funded to ensure prevention is built in throughout the entire production process.

■ **Inadequate inspection of imports.** Only one percent of imported foods are inspected. According to USDA's Economic Research Service, approximately 15 percent of the nation's food supply is imported,<sup>38</sup> including approximately 60 percent of the fresh fruits and vegetables and 75 percent of the seafood Americans consume.<sup>39, 40</sup>

■ **Inadequate standards.** There is limited coordination of food safety programs among federal, state, and local agencies, and states and localities are not required to meet uniform national standards for food inspections.

#### INADEQUATE COORDINATION WITH STATE AND LOCAL FOOD AGENCIES

The food safety system is a network of national, state, and local agencies. The current decentralized governmental food safety system means state and local governments currently have jurisdiction for food safety issues in their communities beyond those that are directly regulated and monitored by federal agencies. In lieu of official required national standards, two voluntary efforts have been developed to try to create more uniform standards and practices as well as enhancing the efficiency and effectiveness of the nation's food safety system: the FDA's Food Code and a Voluntary National Retail Food Regulatory Program.

### 3. THE BENEFITS OF ALIGNING FOOD SAFETY FUNCTIONS AT HHS

Bringing the food safety functions at HHS together under one agency would provide HHS with an organizational structure and operational capacity to implement a science- and risk-based food safety program that is effective in preventing foodborne illness. This would improve the HHS food safety program in a number of ways, including:

■ **Identifying and responding to threats and outbreaks quickly and efficiently.** To better protect the food supply, officials need data and analysis of outbreaks and the causes of foodborne illnesses, as well as in-

formation about chemical and microbiological contaminants. A unified food safety agency at HHS would result in an integrated, systems approach that coordinates the functions at CDC, FDA, and private research organizations to help prevent, detect, and contain threats.

■ **Setting and enforcing science-based, prevention-oriented food safety standards.** The food industry takes many measures to ensure that the food it produces is safe, but the government has the responsibility for establishing and regulating the standard of care

the industry must meet in preventing food safety problems and minimizing potential exposure to particular hazards. A unified food safety agency within HHS could have the stature and ability to set sound standards and deploy its inspection and enforcement resources strategically and flexibly to achieve a high level of compliance and maximum public health protection.

■ **Responding effectively to food safety crises.** When multi-state outbreaks of food-borne illness occur or major food contamination problems are discovered, a separate, unified food agency at HHS could provide clear, strong leadership, and bring together the CDC and FDA, and work with USDA, EPA, state and local agencies, and foreign governments. Having a single food safety leader within HHS would result in clear lines of responsibility and authority within government and clear and coherent communication with the public.

■ **Provide food safety leadership nationally and internationally.** A unified agency at HHS could serve as a national and international food safety leader. It could take responsibility for improving the integration of the federal-state-local food safety

system, promoting the industry's adoption of food safety best practices, and enhancing food safety standards and practices among foreign governments and foreign suppliers of food to the U.S. market.

In addition to strengthening the HHS food safety program, this new structure also would benefit FDA's medical products side. FDA's three medical product centers oversee a very large medical products industry in the United States. This industry is also globalizing rapidly and harnessing new technologies, thus presenting new opportunities and new challenges for the health system and patients alike. As with the food program, the medical product programs should have full-time leadership at a level that can both drive needed internal change on such issues as drug safety and post-market oversight of medical products, and represent FDA effectively in the coming health care reform debate.

Furthermore, Congress is currently considering a tobacco regulation bill that would place a major new regulatory program within FDA. If this change occurs, placing FDA's food program under separate management would allow for more focus on food safety responsibilities and issues.

“THE TRAGEDIES ARE PREVENTABLE IF WE HAVE THE WILL TO FIX THE SYSTEM. AND TO TRULY FIX THE SYSTEMIC PROBLEMS IN OUR FOOD SAFETY SYSTEM, WE MUST FUNDAMENTALLY RESTRUCTURE THE FOOD SAFETY BUREAUCRACY AT THE FDA.”

-- REP. ROSA DELAURO<sup>11</sup>

“AMERICANS SPEND MORE THAN \$1 TRILLION ON FOOD EACH YEAR -- WHEN FAMILIES GO TO THE LOCAL RESTAURANT OR TO THE GROCERY STORE, OR WHEN CHILDREN GO TO SCHOOL, THEY SHOULDN'T HAVE TO WORRY ABOUT WHETHER OR NOT THEY WILL BECOME ILL FROM THE FOOD THEY EAT. RECENT OUTBREAKS OF FOOD-BORNE ILLNESS AND NATIONWIDE RECALLS OF CONTAMINATED FOOD FROM BOTH DOMESTIC AND FOREIGN SOURCES HIGHLIGHT THE NEED FOR CONGRESS TO ACT TO MODERNIZE AND STRENGTHEN OUR NATION'S FOOD SAFETY LAWS.”

-- SEN. JUDD GREGG (R-NH)<sup>12</sup>

#### 4. BACKGROUND ON REFORM EFFORTS

“THE NEAR UNANIMITY ABOUT THE AGENCY’S WEAKNESSES -- AMONG CONGRESSIONAL DEMOCRATS AND REPUBLICANS, INDUSTRY AND CONSUMER GROUPS, AND AUTHORITATIVE INDEPENDENT ANALYSTS -- IS STRIKING. BUT HAND WRINGING IS NOT ENOUGH. THE FDA DESPERATELY NEEDS AN INFUSION OF MONEY AND TALENT.”<sup>43</sup>

-- THE NEW YORK TIMES, EDITORIAL, FEB. 3, 2008

“WE NEED A SINGLE AGENCY THAT’S WORKING IN A MODERN FRAMEWORK. WE DON’T HAVE THAT TODAY.”<sup>44</sup>

-- U.S. AGRICULTURE SECRETARY TOM VILSACK

“CONGRESS MUST IMPROVE FDA AND BRING IT INTO THE 21ST CENTURY SO THAT AMERICANS CAN MAKE SAFE AND HEALTHY FOOD CHOICES AT GROCERY STORES, MARKETS, AND RESTAURANTS.”<sup>45</sup>

-- SEN. RICHARD BURR (R-NC)

Over the years, Congress and other government watchdogs, including GAO and FDA itself, have issued calls for reform. Back in 1977,

the U.S. Senate Committee on Governmental Affairs recommended combining the food safety inspection services of HHS and USDA.<sup>46</sup>

#### Legislative Proposals

In the 110th Congress, more than 80 pieces of legislation related to food safety were introduced and dozens of Congressional hearings were held on the topic of food safety. A number of bills have already been introduced in the 111th Congress.

For instance, the Food Safety Modernization Act, introduced by Rep. Rosa DeLauro (D-CT), would both modernize the food safety law under which the current FDA program operates and create within HHS a new Food Safety Administration (FSA) to implement the law. FSA would include all food-related functions and resources now housed within FDA. The proposed FSA would report directly to the HHS secretary. This bill focuses on enhancing and improving food safety functions within HHS.

The FDA Food Safety Modernization Act, sponsored by Sen. Richard Durbin (D-IL), Sen. Judd Gregg (R-NH), Sen. Richard Burr (R-NC), Sen. Edward Kennedy (D-MA), and Sen.

Saxby Chambliss (R-GA) would require more preventive controls and performance standards, and give the HHS secretary additional authority to regulate food, including suspending the registration of a food facility and the power to request voluntary recalls of contaminated or suspect food products. Currently, FDA only has the power to work with the food industry to voluntarily recall contaminated or suspect food products. The proposed FDA Globalization Act, sponsored by Rep. John Dingell (D-MI), includes language that would impose user fees for food facilities based on costs to defray implementation of the bill, and incorporates hazard analysis into a facility’s food plan. This bill also would set safety standards for produce; mandate the traceability of foods; provide FDA with access to records; and give the agency mandatory recall authority.

Another bipartisan proposal is the Safe FEAST Act (Safe Food Enforcement, Assessment, Stan-

dards and Targeting Act), introduced by Rep. Jim Costa (D-CA) and Rep. Adam Putnam (R-FL). This bill requires food facilities to take steps regarding hazard evaluation and implementation of risk-based preventive controls and re-

#### Internal Attempts at Reform

FDA and FDA's Science Board, an advisory board to the agency, have both released recommendations for ways to improve food safety activities within FDA. In November 2007, FDA released its own plan to strengthen and update its food safety system. FDA's "Food Protection Plan" stresses the need to realign roles and responsibilities within the agency and for legislative action.<sup>67</sup> The 10 recommended legislative changes include authorizing the agency to require food facilities to renew their FDA registrations every two years, which the agency argues will allow for superior prevention, and empowering the agency to issue mandatory recalls of contaminated products when voluntary recalls fall short. GAO has called the Food Protection Plan an important step forward in articulating a framework for improving food safety. However, GAO criticized FDA for failing to outline what the "...overall resource need is for implementing the plan, which could be significant."<sup>68</sup>

Also in November 2007, the FDA Science Board issued a report, "FDA Science and Mis-

#### External Calls for Reform

A number of independent organizations, including GAO, IOM, and NAS, have all issued reports and recommendations for improving food safety oversight within FDA. GAO has issued a series of reports on federal food safety programs over the past decade. In 1998, GAO highlighted the limitations in FDA's authority and the agency's need to more effectively target its limited resources. "A decade later, the story remains the same and has only taken on a greater sense of urgency due to changing demographics and consumption patterns that, according to FDA, have put more of the U.S. population at risk of contracting foodborne illness."<sup>69</sup> According to GAO, it has made a total of 34 food safety related recommendations to FDA since

quires the HHS secretary to establish minimum standards for implementation of those requirements. It includes mandatory recall authority. U.S. importers must also ensure compliance of foreign facilities with U.S. safety standards.

sion at Risk," warning that the agency does not have the capacity to ensure the nation's food safety. The report underscored many reasons for the crisis at FDA, including a dramatic increase in and diversification of food safety responsibilities; increasing complexity due to globalization and lack of cross-sector coordination; increased scientific demands as technology and science change; and, finally, inadequate resources. The report recommended that FDA leverage other resource programs to handle some of the increased scientific demands and make agency-wide changes in staffing and science administration. A follow-up report presented to Congress estimated that in order to implement these recommendations and improve FDA's food safety oversight, the agency would need to increase its budget by an additional \$755 million by fiscal year 2013, phased in over five years.<sup>69</sup> In 2008, Congress provided an additional \$150 million to FDA in emergency supplemental funding, of which \$72.9 million was to improve food safety functions.

2004; however, as of May 2008, FDA had implemented only seven of these recommendations.<sup>61</sup>

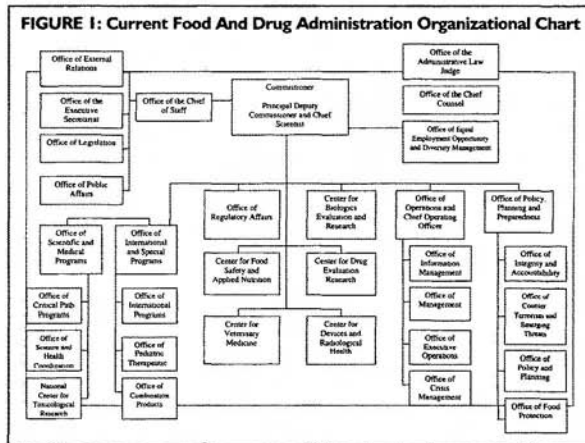
Most recently, in December 2008, IOM issued "HHS in the 21st Century: Charting a New Course for a Healthier America," which called the problems with the U.S. food safety system "...a public health issue that HHS cannot address adequately within its current structure," and added that some reorganization "...would be both logical and advantageous, despite the difficulties."<sup>70</sup> The IOM report recommended unifying the food safety responsibilities of FDA and FSIS under one agency housed within HHS, which it deemed "...the most appropriate locus for comprehensive regulation."<sup>70</sup>

**5. RECOMMENDATIONS: MAKING FOOD SAFETY A PRIORITY AT HHS**

Trust for America's Health (TFAH), in collaboration with the Department of Health Policy at the George Washington University School of Public Health and Health Services, proposes unifying and elevating within HHS the food safety policy, inspection, and enforcement activities currently spread throughout FDA and better integrating them with CDC's disease surveillance and epidemiology functions to create a more streamlined, effective agency within HHS focused solely on food safety. To achieve this goal, we propose the creation of a new agency—the Food Safety Administration (FSA).

(See Appendix A: Restructuring Food Safety at HHS for more detail). The proposed FSA would report directly to the secretary of HHS.

The new FSA would be created by separating FDA's food functions from its medical product functions and creating two agencies operating within HHS. The drug and devices sections of FDA could be renamed the Federal Drug and Device Administration (FDA). The FDA and new FSA could continue to share facilities and other resources as appropriate for the sake of efficiency and effectiveness.



Note. The boxes outlined in red represent FDA offices with food-related responsibilities

First, unifying FDA's food functions together under one top administrator reporting to the HHS secretary would result in a clearly designated, accountable individual who would be responsible for the success of all HHS food safety activities, provide clear leadership during crises, and ensure that food safety functions are coordinated and streamlined at the department.

Second, this leader would be charged with deploying the department's food safety re-

sources to achieve the greatest possible benefit and integrating federal, state and local food safety activities.

And third, the food safety administrator would have the standing to work effectively within the federal government – in dealings with the Office of Management and Budget (OMB) and other agencies – and to provide leadership on food safety nationally and internationally.

FIGURE 2: Proposed Food Safety Administration (FSA) Organizational Chart



A MODERNIZED FOOD SAFETY AGENCY

A streamlined, coordinated FSA would result in:

- **An Integrated and Accountable Senior Leadership.** The FSA administrator would bear ultimate responsibility for the management and success of the food safety program, but the management structure should include an FSA Leadership Council that places the headquarters and field operating units on an equal footing and unites them as members of the agency's senior leadership. FSA would be a deliberative body responsible for strategic planning, setting agency-wide priorities, and resource allocation.
- **An Integrated Public Health and Science Function.** The proposed structure would consolidate in one unit the scientific divisions of CFSAN and CVM to form an integrated, farm-to-table scientific capacity. This would include a new epidemiology unit staffed with professional epidemiologists who would

support FSA's priority-setting and prevention initiatives and build an active partnership with CDC to develop human illness data and perform the analyses needed for prevention.

- **An Integrated Compliance and Enforcement Program.** The proposed structure consolidates the compliance and enforcement elements of CFSAN, CVM and related ORA units and resources into a single operating unit. This unit would work in collaboration with the Leadership Council to design and implement data collection, inspection, and enforcement programs to achieve compliance with prevention-oriented food safety standards. This change would enable the field force to function as an integral, flexible component of the public health prevention program and would strengthen enforcement by streamlining the case review process.

#### POTENTIAL STRUCTURE FOR A UNIFIED FOOD SAFETY ADMINISTRATION AT HHS

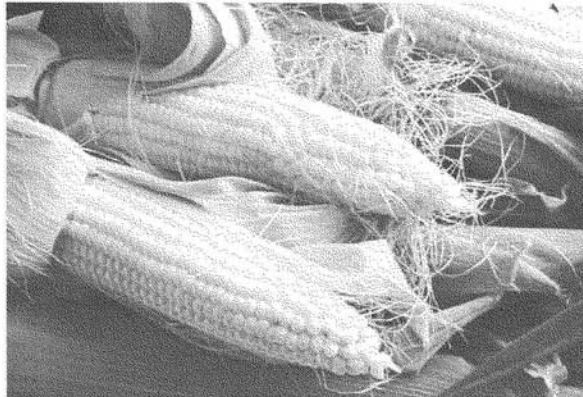
Centers and offices at FDA that would move to the new FSA include:

- **Center for Food Safety and Applied Nutrition (CFSAN)**, the headquarters unit that makes most food safety policy for FDA, houses most of the relevant scientific capacity (except food testing capacity), and manages pre-market oversight of food and color additives, infant formula, and nutrient claims.
- **Center for Veterinary Medicine (CVM)**, the headquarters unit that makes food safety policy for animal drug and antibiotic residues, animal feeds, pet foods, and cloned and genetically engineered animals.
- **Office of Regulatory Affairs (ORA)**, the field organization for FDA that conducts food inspections, oversees imported food, manages food testing laboratories, develops enforcement cases, and manages the majority of FDA's food safety resources.
- **National Center for Toxicological Research (NCTR)**, a research unit in FDA that develops methods for detecting, assessing, managing, and preventing contamination and other threats to the food supply.

The new FSA could also have offices set up to handle certain food-related functions and resources currently handled by the Office of the FDA Commissioner. These staff resources include:

- **Office of Food Protection**, a relatively new unit that serves as liaison to HHS on food protection issues, and is charged with developing and implementing the FDA Food Protection Plan, an agency-wide strategy for domestic and imported food protection.

- **Office of Policy**, which develops and coordinates the review and analysis of broad agency policy, ensures consistency in the development and content of policy, and ensures that regulations and other agency documents published in the Federal Register meet applicable requirements.
- **Office of Chief Counsel**, a legal office that handles both civil and criminal cases involving the agency, provides legal advice and policy guidance for agency programs, and participates in rulemaking proceedings, legislative matters, policy deliberations, and international negotiations on agency-related matters.
- **Office of Operations**, an administrative management office that includes information technology (IT) functions as well as a crisis staff.
- **Office of International and Special Programs**, a staff office that coordinates FDA's international activities.
- **Office of Scientific and Medical Programs**, a staff office that includes oversight of scientific capacity-building and liaison with the scientific community.
- **Office of Legislation**, an office that drafts congressional testimony, responds to congressional inquiries, and assists in the development of agency-related legislation.
- **Office of Public Affairs**, a communications office that interfaces with the media on FSA-related issues.





#### SOME MAJOR CHALLENGES TO RESTRUCTURING

- **Structure of the Field Program.** One of the most challenging set of design issues concerns the FSA field program. This includes unifying the compliance and enforcement policy processes that now exist in separate FDA headquarters and field units, and determining how FSA field units should interact with the field units of the medical products agency. There is a strong case that each of the food and medical products agencies should have a dedicated, specialized inspection force, but there may be opportunities for shared services with respect to offices and laboratories, as well as the sharing of staff to meet surge capacity needs in emergencies.
- **Achieving Headquarters Efficiencies.** FDA currently achieves administrative efficiencies through the centralization at the agency or HHS level of many of the support services that CFSAN, CVM, and ORA need to operate, including financial management and payroll, procurement, facilities management, and human resources. Shared service mechanisms would be needed to maintain these efficiencies. Information technology (IT), on the other hand, is an "overhead" function that is so integral to managing a risk-based, prevention-oriented food safety program that FSA would need an in-house IT leadership capacity (a chief information officer) to be part of the FSA management team and work with the FSA Leadership Council to help build the needed information systems. This would not necessarily preclude having the procurement and other support services associated with IT systems being provided on the shared services basis outlined above.
- **The FSA Relationship with CDC.** CDC has traditionally maintained food safety epidemiology functions independently. The proposed structure does not recommend shifting CDC's functions to FDA, but instead envisions an active partnership with CDC through FSA's Public Health and Science Unit. To work, such a partnership requires a funding mechanism through which FSA and CDC could enter into "reimbursable agreements" under which CDC would receive FSA funds to provide the specific data and analysis FSA needs to do its job. This would put more resources into the badly underfunded food safety program at CDC, and it would create a contractual, client-service provider relationship in which FSA's information needs and CDC's accountability for meeting them would be clear.
- ▲ **Implementation Planning.** A careful implementation plan and process is essential to minimizing the cost and disruption entailed in any major reorganization and to ensure the long-term success of FSA. Many lessons have been learned from past efforts at organizational change in both the public and private sectors.<sup>34</sup> To successfully transition to a new food safety agency in HHS, it is particularly important to:
  - ▲ **Fully engage employees and stakeholders** to benefit from diverse perspectives and expertise and to build buy-in for the new agency and its structure.
  - ▲ **Invest in staff training and development** to build on the significant human capital at FDA and expand opportunities for employees in the new structure.
  - ▲ **Ensure maintenance of effort and program effectiveness** to make certain that food safety protection is maintained.
  - ▲ **Anticipate and budget for transition costs** to ensure that the costs needed for a successful transition are fully understood and provided for.

## 6. A STAGED PATHWAY TO COMPREHENSIVE FOOD SAFETY REFORM

Solving the structural problems in the HHS food safety program is an important element of food safety reform, but TFAH believes it

should be understood as part of a comprehensive food safety reform strategy that can be pursued in stages.

### Immediate Steps

#### 1. Increase Funding for HHS Food Safety Programs and Align Resources with the Highest-Risk Threats

Funding for FDA's food program must grow substantially to meet today's threats. This would mean at least doubling the funding in real terms over the next five years. FDA is responsible for overseeing the biggest threats to the country's food safety, but the agency lacks the resources needed to carry out its programs and adequately protect the nation from foodborne disease threats. Funding for CDC's food safety epidemiology program should also be increased significantly. Government funding should be strategically allocated to food safety research, regulation, and education to maximize reduction in foodborne disease. Resources for inspections should be distributed and used in the manner most likely to contribute to disease reduction.

#### 2. Modernize the Mandate and Legal Authority of the HHS Secretary to Prevent Illness

Congress should give the HHS secretary a statutory mandate and broadened legal tools to prevent foodborne illness by enforcing the duty of food companies to implement modern preventive controls and meet government-established food safety performance standards. A new food safety law should also strengthen oversight of food imports and provide needed new authorities to: (1) access company food safety records; (2) suspend the registration of a food facility; (3) order a cessation of distribution or recall of food; (4) enact user fees for food facilities based on costs to help strengthen food safety functions; (5) set performance standards, including safety standards for produce; and (6) mandate the traceability of food.

#### 3. Create a Deputy Commissioner with Line Authority over All Food Safety Programs

Pending legislative establishment of a new Food Safety Administration, the HHS secretary has ample authority to place the existing components of FDA's food safety program under the line management authority of a single official and should do so immediately. This would address an important part of the structural problem at FDA, which is that no official whose full-time job is food safety has line management authority over the entire program's operating units. It would also create a focal point for planning and implementing the modernization of the HHS food safety program contemplated by pending reform legislation and makes an identifiable official accountable for the overall success of the reform effort. On an interim basis, the existing structures of CFSAN and CVM could be maintained, which would minimize disruption and costs as the longer-term management solution embodied in the proposed FSA is developed and implemented.

#### 4. Improve Coordination Among Federal, State, and Local Food Agencies

While the states play a critical food safety role, particularly at the retail level, the federal-state relationship is not well defined or financed. States should be encouraged and incentivized to adopt and comply with the uniform standards and practices of the FDA's Food Code and the National Retail Food Regulatory Program.

### Medium-Term Steps

#### 5. Strategically Realign and Elevate Food Safety Functions at HHS

Currently, FDA's senior management focus is split between regulating medical products (drugs and devices) and food, with its food functions typically taking a backseat in terms of resources and management attention. Congress should pass legislation mandating that FDA's food functions be brought together under unified leadership at a newly created Food Safety Administration (FSA) within HHS, with a single official, reporting to the

secretary, focusing full-time on, and being responsible and accountable for, providing food safety leadership nationally and internationally and effectively implementing a modern, prevention-oriented food safety system.

FSA would include the functions and resources now housed within CFSAN and CVM, as well as the food-related functions and resources of ORA's field program and the FDA Office of the Commissioner.

### Long-Term Steps

#### 6. Modernize Meat and Poultry Inspection Laws

While this report focuses on changes at HHS, over time, Congress should also address USDA's FSIS and modernize meat and poultry inspection laws. FSIS currently operates under an antiquated inspection mandate and with weak powers to carry out a modern, prevention-oriented, farm-to-table food safety program. The result is the wasteful use of resources and a program that is less effective than it could be in preventing foodborne illness.

#### 7. Set a Long-Term Goal to Integrate Federal Food Safety Agencies

As a long-term goal, Congress should consider consolidating all federal food safety

functions into a single agency. This would mean aligning the functions currently at HHS, USDA, and EPA. This would allow the government to evaluate and allocate where to best focus resources and attention so they are in line with modern threats. With the charge to address the food supply as a whole, this agency could set priorities and deploy resources in a manner most likely to reduce foodborne illness and be fairly held accountable for the results. The single food safety agency should oversee regulation and inspection, but also must also have research and surveillance functions as part of its mandate. It should also be required to report on accomplishments, progress, and problems.

## APPENDIX A:

# Restructuring Food Safety at HHS:

## DESIGN AND IMPLEMENTATION

BY MICHAEL R. TAYLOR, J.D.; STEPHANIE D. DAVID, J.D.

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*Prepared for a project on "Restructuring Food Safety at the Department of Health and Human Services" Funded by the Robert Wood Johnson Foundation  
March 10, 2009*

### INTRODUCTION

This paper is part of a project funded by the Robert Wood Johnson Foundation to examine options for improving the leadership and management structure for food safety at the Department of Health and Human Services (HHS).<sup>55</sup> The project is being pursued as Congress considers much-needed food safety legislative reforms to shift from today's largely reactive approach to one based on risk-based prevention throughout the food system. The broad goal of the project is to ensure that the organizations within HHS that will be charged with implementing the reforms are designed for success.

A companion paper produced for the project cited leadership and management problems arising from the current structure of the Food and Drug Administration (FDA) and FDA's interaction with the Centers for Disease Control and Prevention (CDC).<sup>56</sup> As explained more fully in the companion paper, FDA's food safety activities are spread across three separately-managed operating units—the Center for Food Safety and Applied Nutrition (CFSAN), the Center for Veterinary Medicine (CVM), and the Office of Regulatory Affairs (ORA)—as well as a research center, the National Center for Toxicological Research (NCTR). These organizations work at relatively low levels in the

HHS hierarchy, and no official whose fulltime job is food safety has line management authority over them and thus meaningful accountability for their overall success.

The consequences of this fragmented structure and leadership gap are evident in the failures of prevention and response seen in recent nationwide outbreaks of illness associated with fresh produce and peanut butter. While the HHS/FDA food safety program is certainly hampered by obsolete statutes and inadequate resources, stronger statutes and more resources will yield minimal benefit if HHS is not equipped organizationally to make good use of them.

To address these structural problems, the companion paper calls for unifying and elevating within HHS FDA's food safety policy, inspection and enforcement activities and better integrating them with CDC's critical epidemiological functions to create an effective HHS program to improve food safety. Taking that direction as its starting point, this paper takes the next step by outlining how a restructured food safety program at HHS might be designed and by identifying issues that need to be addressed in both the design and implementation of a new structure.

This paper is grounded not only in the belief that some restructuring of the food safety program at HHS is needed, but that consolidating FDA's food safety functions in a new Food Safety Administration within HHS, as proposed in pending legislation,<sup>37</sup> would provide the most complete solution to the leadership and management problems posed by the current structure. It is critical to recognize, however, that organizational change on this scale is a major undertaking and requires careful consideration of both the destination – the design of a new structure – and how to get there, including a well-planned transition and implementation.

In light of this, the authors convened a group of experts,<sup>38</sup> consisting primarily of former FDA and CDC officials, to provide input on the design of a Food Safety Administration and help identify issues that must be addressed in the transition to a new structure. This paper benefits greatly from the information and perspectives they provided, though the authors alone are responsible for its content.

It is crystal clear from discussions with the expert group that there is more than one way to design a new food safety agency within

HHS. Getting to at least a right answer and implementing it successfully will require careful deliberation by Congress and the executive branch. This brief paper can at best stimulate and inform, not substitute for, those deliberations, which must be inclusive and transparent. While Congress and senior political officials in the executive branch will set the broad direction of restructuring to improve the HHS food safety program, many stakeholders will have views, and only the people working in the program can make a new structure work.

The first sections of this paper suggest the key leadership attributes of an effective food safety organizational structure at HHS and the program improvements that the new structure should be designed to achieve. The paper then proposes a structure that would have these attributes and be equipped to achieve the needed program improvements; it also notes alternative design approaches. The final section of the paper identifies a number of procedural and substantive issues that must be addressed to achieve the benefits of restructuring while minimizing program disruption and cost.

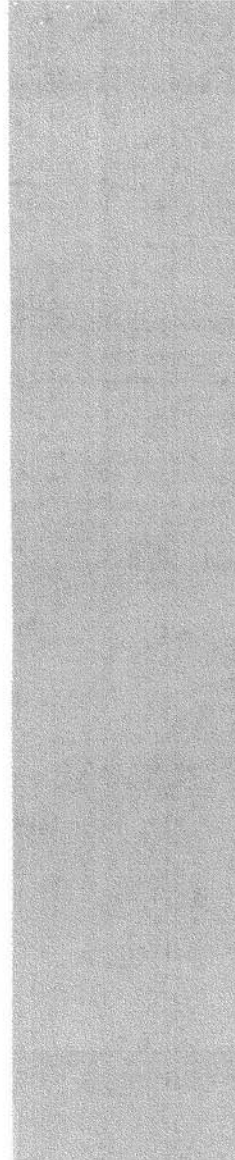
#### **Leadership Attributes of an Effective Food Safety Structure at HHS**

To be successful in both addressing immediate problems and implementing reform, the HHS food safety leadership and management structure should have these attributes:

- **Clearly-defined management responsibility, authority and accountability** – One official with full-time responsibility for food safety needs to be in charge and accountable for the success of the overall HHS food safety program and for leading the transformation to an effective, prevention-oriented food safety system.

- **Authority and mandate to deploy all available resources strategically to prevent foodborne illness** – HHS needs to deploy its resources and work collaboratively to leverage state and local resources in a planned and integrated way to address food safety problems systemically and preventively, rather than piecemeal and reactively.

- **Stature within the government system as the basis for national and international leadership on food safety** – To provide leadership and drive progress on food safety externally, the HHS food safety program needs to have visibility and standing within government.



### Specific Program Improvement Capacities of an Effective Structure

Food safety reform is being driven by the widely recognized need to achieve specific improvements in the HHS food safety program. Any new structure for food safety at HHS should be analyzed in relation to its capacity to implement a science- and risk-based food safety program that is effective in preventing foodborne illness, which includes achieving:

- More systematic and integrated food safety data collection, research and analysis by FDA and CDC to inform food safety prevention efforts, set priorities and evaluate progress;
- More effective joint response by FDA and CDC to multi-state foodborne illness outbreaks to detect outbreaks earlier, contain outbreaks sooner, and draw lessons for future prevention;
- Better deployment of FDA's field force and enforcement tools as integral components of a prevention-oriented food safety strategy;
- Improved risk-based priority setting and use of scarce resources to improve food safety;
- More timely and effective implementation of new regulatory initiatives, such as the promulgation of produce safety standards integrated with an effective inspection and compliance plan;
- Improved federal leadership to build a true and effective food safety partnership among federal, state and local agencies; and
- Design and implementation of a modern, preventive approach to ensuring the safety of food imports.

### Basic Configuration of a Food Safety Administration

On February 4, 2009, Rep. Rosa DeLauro introduced the Food Safety Modernization Act of 2009 (H.R.875), which would both modernize the food safety law under which the FDA program operates and create within HHS a new Food Safety Administration (FSA) to implement the law. The FSA would include all the functions and resources now housed within CFSAN, CVM, and NCTR, including not only food safety functions but also nutrition, food labeling, animal drug regulation and all other functions of these units. The FSA would also include the food-related functions and resources of ORA's field program and the Office of the FDA Commissioner (see box below). The proposed FSA would report directly to the Secretary of HHS.

In essence, this bill would separate FDA's food functions from its medical product functions and create two agencies operating on the same plane within HHS. Under the bill, the Food and Drug Administration would be renamed the Federal Drug and Device Administration and continue to be referred to as FDA. While creating separate agencies, the

bill calls for FDA and the FSA to share facilities and other resources as appropriate for the sake of efficiency and effectiveness.

On its face, such a Food Safety Administration would have at least some of the leadership and management attributes required for success. The Administrator of Food Safety would have responsibility and accountability for the success of all HHS food safety activities, including better integrating the activities of CDC and the FSA. The Administrator would be charged specifically with deploying the Department's food safety resources to achieve the greatest possible benefit in preventing foodborne illness and with better integrating federal, state and local food safety activities. By providing a single, elevated focal point for food safety leadership and accountability within HHS, the FSA would have the standing to work effectively within the federal government – in dealings with the Office of Management and Budget and other agencies – and to provide leadership on food safety nationally and internationally.

## FDA OFFICES WITH FOOD-RELATED RESPONSIBILITIES

### PROGRAM LEVEL CENTERS AND OFFICES

Center for Food Safety and Applied Nutrition (CFSAN) – the headquarters unit that makes most food safety policy for FDA, houses most of the relevant scientific capacity (except food testing capacity), and manages pre-market oversight of food and color additives, infant formula, and nutrient claims.

■ **Center for Veterinary Medicine (CVM)** – the headquarters unit that makes food safety policy for animal drug and antibiotic residues, animal feeds, pet foods, and cloned and genetically engineered animals.

■ **Office of Regulatory Affairs (ORA)** – the field organization for FDA that conducts food inspections, oversees imported food, manages food testing laboratories, develops enforcement cases, and manages the majority of FDA's food safety resources.

■ **National Center for Toxicological Research (NCTR)** – a research unit in FDA that develops methods for detecting, assessing, managing, and preventing contamination and other threats to the food supply.

### STAFF OFFICES (Within the Office of the Commissioner)

■ **Office of Food Protection** – a relatively new unit that serves as liaison to the Department of Health and Human Services on food protection issues, and is charged with developing and implementing the FDA Food Protection Plan, an agency-wide strategy for domestic and import food protection.

■ **Office of Policy** – a policy unit that develops and coordinates the review and analysis of broad agency policy, ensures consistency in the development and content of agency policy, and ensures that regulations and other agency documents published in the Federal Register meet applicable requirements.

■ **Office of Chief Counsel** – a legal office that handles both civil and criminal cases involving the agency, provides legal advice and policy guidance for agency programs, and participates in rulemaking proceedings, legislative matters, policy deliberations, and international negotiations on agency-related matters.

■ **Office of Operations** – an administrative management office that includes IT functions and budget, as well as a crisis management staff.

■ **Office of International and Special Programs** – a staff office that coordinates FDA's international activities.

■ **Office of Scientific and Medical Programs** – a staff office that includes oversight of scientific capacity building and liaison with the scientific community.

■ **Office of Legislation** – a legislative office that drafts congressional testimony, responds to congressional inquiries and assists in the development of agency-related legislation.

■ **Office of Public Affairs** – a communications office that interfaces with the media and press on FDA-related issues.

Whether the FSA would fulfill its leadership potential, however, would depend on how the new agency is structured and managed. It would be possible to place the food safety elements of FDA under a single, new management umbrella and still not achieve the leadership goals or be capable of achieving the specific program improvements outlined above. That will depend not only on how the

elements of the new agency are put together on paper but on whether they overcome the fragmentation in the current structure and operate instead as an integrated unit.

The following schematic provides an overview of the FSA's key functions and how they could be structured organizationally to exercise food safety leadership and achieve the desired program improvements.



The key objective of the proposed structure is to break down the organizational barriers to effective collaboration that hamper FDA in its current structure and form instead a functionally seamless organization that is able to implement a common, coherent food safety strategy.

For this reason, Figure 1 is not in the form of a conventional, hierarchical organizational

chart but rather is intended to convey the idea of all elements of the FSA working as an organic whole to design and implement a food safety strategy.

The following brief synopsis of roles to be played by the various elements of the FSA will emphasize the management features that are key to fulfilling the "one program, one strategy" aspiration underlying the proposed FSA.



### Senior Leadership

The senior leadership structure of the FSA must lodge full management responsibility and authority for food safety in a single accountable official, namely the FSA Administrator, who would report to the Secretary of HHS. In addition, however, the FSA leadership structure should include a chief operating officer and mechanisms for engaging other senior managers as members of an integrated, collaborative leadership team.

■ **Administrator** – provides executive leadership to the FSA in its implementation of the food safety laws and strategies to prevent foodborne illness; serves as the food safety leader within HHS, with ultimate accountability for the success of the FSA and the HHS food safety program.

■ **Deputy Administrator** – serves on behalf of the Administrator as the chief operating officer of the FSA with primary responsibility for internal management of the agency and oversight of staff offices.

■ **Leadership Council** – chaired by the Administrator and comprised of the heads of all FSA operating units (both headquarters and field);<sup>59</sup> functions as a deliberative

### Operating Units

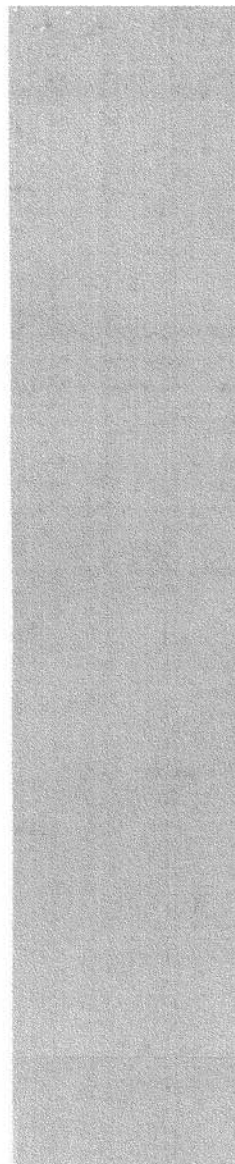
■ **Public Health and Science** – consolidates in one unit the scientific divisions of CFSAN<sup>60</sup> and CVM,<sup>62</sup> as well as possibly NCTR, to form an integrated, farm-to-table scientific capacity for data collection and analysis and development of an integrated food safety research program; includes the CFSAN and CVM research laboratories; would include a new epidemiology unit that would support FSA's priority setting and prevention initiatives with respect to foodborne illness and build an active partnership with CDC to develop human illness data and perform analyses needed for prevention; also interacts with USDA agencies, including Food Safety and Inspection Service, the Animal and Plant Health Inspection Service and the Agricultural Research Service on matters of common scientific concern, such as the on-farm etiology of foodborne hazards.

body responsible for strategic planning and agency-wide priority setting and resource allocation; the Council places headquarters and field units on an equal footing in setting the FSA's direction and provides a focal point for developing integrated solutions to major food safety challenges, such as implementing preventive controls domestically and ensuring that food imports are produced under the same preventive control standards applicable to domestic products; the staff offices in the office of the Administrator provide staff support to the members of the Leadership Council and their operating units.

■ **Outbreak Response Center** – serves as the focal point for integrating all aspects of the FSA and HHS response to foodborne illness outbreaks and other food safety and food defense emergencies, including interface with CDC, USDA, and state and local health officials, traceback and other investigatory work, recalls and public communications; staffing includes one or more designated representatives of the FSA operating units and staff offices that play a role in outbreak response.<sup>60</sup>

■ **Food Safety Prevention and Standards** – responsible, working in collaboration with Public Health and Science, for food safety priority setting, policymaking and standard setting and for planning strategies and targeted initiatives to prevent foodborne illness; houses the FSA's expertise on food systems and the food industry and the intervention tools that are available to prevent or minimize foodborne hazards; draws primarily from the CFSAN and CVM offices involved in sector-specific food safety regulation.<sup>63</sup>

■ **Pre-Market Review** – responsible for managing the animal drug and medicated feed programs; the food additive, animal feed additive, and color additive programs; the GRAS and biotech pre-market notification programs; and the color certification program; comprised of the elements of



CFSAN and CVM currently responsible for these programs.<sup>64</sup>

- **Nutrition and Labeling** – responsible for all nutrition and labeling policy and regulatory activities, including regulation of nutrition labeling and claims, infant formula, and dietary supplements, and the promulgation of food standards; consists essentially of the current CFSAN Office of Nutrition, Labeling and Dietary Supplements.
- **Compliance Policy and Enforcement** – consolidates the compliance and enforcement elements of CFSAN, CVM and related ORA resources into a single operating unit; responsible, working in collaboration with the Leadership Council and all other operating units, for developing and implementing field-based data collection, inspection, and enforcement programs and taking enforcement actions to achieve compliance with food safety standards and to deter and penalize violations; collaborates with Public Health and Science and Food Safety Prevention and Standards to establish risk-based criteria for responding to inspection findings and ensure that the compliance and en-

forcement program supports achievement of the FSA's public health prevention goals.

- **Inspection and Investigations** – manages, in close collaboration with Compliance Policy and Enforcement and the Leadership Council, the FSA's inspection and investigations program for both domestic and imported foods and collaborates with Compliance Policy and Enforcement and Chief Counsel in taking enforcement action; works on behalf of the Leadership Council to build state and local food safety capacity and collaboration that leverages state and local resources to ensure compliance with food safety standards; performs food-related functions now performed by ORA's field inspection and federal-state relations staffs and the Office of Criminal Investigations.
- **Field Laboratories** – analyzes food and feed for chemical and microbial contaminants and performs other laboratory work to meet the data needs of FSA's operating units; comprised of food-related facilities and resources drawn from FDA's current field lab system but restructured to meet the needs of the FSA (a challenge discussed further below).

#### Staff Offices

The staff offices provide critical services in support of the FSA's senior leadership and all operating units.

- **Infrastructure, Management and Budget** – ensures that the FSA has the human and physical resources it needs to be successful, develops and manages implementation of FSA's budget, oversees human resources and other administrative management activities within the FSA, and interacts with other elements of HHS on management issues; the Chief Information Officer is housed here with responsibility for IT initiatives agency wide.
- **Policy, Planning and Program Evaluation** – provides policy analysis and program planning and evaluation services to operating units; includes a staff responsible for ensuring integrity and accountability in the FSA's

implementation of its program, through its own analysis and investigations and collaboration with the HHS Inspector General.

- **Chief Counsel** – provides legal services to the FSA senior leadership and all FSA operating units; in the current structure, the FDA chief counsel is housed administratively in the HHS Office of General Counsel, as presumably the FSA chief counsel would be.
- **Communications and Stakeholder Outreach** – manages internal and external communications via the internet and other communication tools and by maintaining the FSA's relationship with the press; conducts active outreach to consumer, industry, professional, and scientific/academic stakeholders to ensure two-way communication on issues of interest to FSA and its stakeholders.

■ **Legislative Affairs** – manages the FSA’s relationship with Congress on legislative and oversight matters.

■ **International Affairs** – serves as the focal point for coordinating FSA’s policy, standard

setting, and technical assistance relations with foreign governments and international organizations; and supports the operational units in carrying out the international activities inherent in their missions.

**Key Features**

The key feature of the structure outlined above is that it creates a single agency with unified management to replace the three major, separately-managed organizations now working on food safety within FDA. The structure de-emphasizes traditional bureaucratic lines between sub-components of the agency and emphasizes that all elements of the agency are connected to and set up to collaborate with all other elements, as indicated in the schematic presented earlier.

This “one agency” design is key to achieving each of the program improvements outlined earlier in the paper – improvements that have been impeded by the current structure. The lodging of overall accountability for the program’s success in a single administrator and the establishment of the Leadership Council are the key management tools for ensuring that all elements of the FSA operate as a sin-

gle agency with “one program/one strategy” when it comes to protecting food safety.

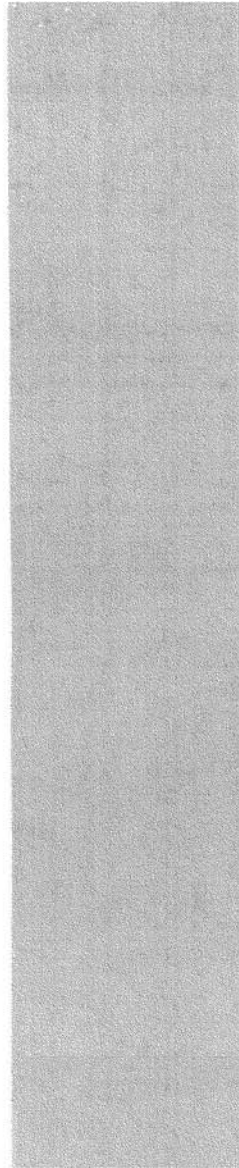
A further feature of the proposed structure is that it would make a single official accountable for optimal allocation of all available food-related resources. As indicated in the table below, FDA’s food-related resources in 2008 totaled about \$696 million and about 3,400 staff years. These resources are distributed primarily across CFSAN and CVM and their corresponding field programs managed by ORA. In addition, FDA attributes \$33.5 in Office of the Commissioner (OC) program funding to food safety, including resources for the Office of Food Protection in the Office of the Commissioner (OC/OFP), as well as crisis management, international activities, and other staff costs. NCTR’s budget is devoted substantially, though by no means exclusively, to food-related research and testing.<sup>65</sup>

FDA FOOD-RELATED RESOURCES -- FY 2008 Budget					
Dollars in Millions					
	CFSAN	CVM	NCTR	OC	Total Resources
Center	\$172.0	\$71.3	\$44.0	\$33.5	\$320.8
FTE	780	376	190	—	1,346
Field	\$337.8	\$37.3	—	—	\$375.1
FTE	1,853	219	—	—	2,072
Total Budget	\$509.8	\$108.6	\$44.0	\$33.5	\$695.9
Total FTE	2,633	595	190	—	3,418

Source: FDA Congressional Budget Justification FY 2009

Well over half of the total food-related dollars and staff time at FDA is managed by ORA, without line accountability to the directors of CFSAN and CVM, whose programs the field resources are intended to support. The new structure would lodge management

of these resources with a single Administrator and a unified agency leadership structure, which would be responsible for their optimal allocation across the entire food program, within limits imposed by Congress.<sup>66</sup>



### A Caveat

The FSA organizational schematic presented on p. 20 and the discussion that follows do not substitute for a formal and complete organizational chart for a new Food Safety Administration. They are offered instead to illustrate the functions that should be included in the FSA and how they should interact. Nor, by any means, do they provide the last word. A number of design and management issues deserve discussion, as outlined below, and there are al-

ternative ways the FSA could be organized, for the long run or on an interim basis. Moreover, each operating unit and staff office requires an internal management structure that will enable it to operate efficiently and in an integrated way with other units, in keeping with the objectives of the overall FSA structure.

To stimulate discussion, key structural issues are noted in the next section.

### Design and Management Issues

Several significant design and management issues arose during the development of the structural approach outlined in this paper – issues that merit further discussion. These include:

*1. Whether, as an alternative to creating the new structure for the FSA outlined above, the FSA should be formed simply by placing the current CFSAN, CVM and ORA structures under an Administrator for Food Safety.*

**Comment:** Putting the existing components of FDA's food safety program under the line management authority of a single official would address an important part of the structural problem at FDA, namely the fact that no official whose fulltime job is food safety has line management authority over all of the program's operating units. Lodging such authority with a single official would create a focal point for planning and implementing an integrated, preventive program and make an identifiable official accountable for its overall success. Maintaining the existing structures of CFSAN and CVM would also minimize the disruption and costs associated with a more comprehensive reorganization.

The principal reasons for considering a more complete reorganization are, first, to overcome the history of organizational fragmentation and lack of a common food safety culture within FDA, and, second, to equip the new FSA to implement a fully integrated, farm-to-table food safety strategy, based on the principle of prevention. Implementing such a strategy requires all of the food safety operating units to work together in new ways.

In particular, it requires the work of FDA's field force to be fully integrated with the work of the scientific, standard-setting, and policy units in headquarters in a collective effort to set and enforce food safety standards. This necessitates some structural change.

Merging at least some elements of CFSAN and CVM should also bring some performance and efficiency improvements. For example, merging the current scientific divisions of these two centers, along with NCTR, within a single Office of Public Health and Science could increase critical mass and promote synergy in such key disciplines as chemistry, microbiology and toxicology, foster more interaction between program and research scientists, and promote a farm-to-table orientation in the deployment of scientific resources.

*2. How to structure the FSA's field program – compliance policy, inspection, and laboratories – and its relationship with FDA's field program for drugs and medical devices.*

**Comment:** One of the most significant features of the proposed structure is the merger of the separate compliance offices in CFSAN, CVM and ORA into a single Compliance Policy and Enforcement office that is field-based but an integral part of the FSA's senior leadership. This seems essential for two reasons: first, to overcome the fragmentation in the current FDA structure that can slow enforcement decision making and, second, to enable the flexible, risk-based deployment of

resources and targeting of actions needed to implement a prevention-oriented food safety strategy. It is, however, a major change from current practice that will generate much discussion within the current organization.

The relationship between the food safety and medical products inspection forces is one of the most challenging design and transition issues raised by the creation of a Food Safety Administration. The proposed structure is premised in part on the assumption that, as food safety systems and problems become more sophisticated, the food safety inspection force needs to become more specialized, which is part of what justifies creating a separate food-oriented inspection force.

Many FDA inspectors already specialize in conducting drug and medical device inspections, and some specialize in inspecting certain food facilities. Many FDA inspectors are currently called upon, however, to conduct both food and medical product inspections, to varying degrees. This no doubt provides FDA field managers with desirable flexibility in deploying scarce inspection resources, especially in response to emergencies. On the other hand, current calls for substantially increasing FDA's resources for food inspection may permit changes in staffing levels and geographic distribution that would diminish the importance of this flexibility advantage; and it might be desirable and feasible for separate food and medical product inspection programs to establish agreements under which staff and other resources could be shared in emergencies.

In any event, the creation of separate inspection programs will require careful analysis of how both can make optimal use of their resources, followed by a well-planned transition. This analysis should include how to manage the necessary criminal investigation function, which is currently performed by the Office of Criminal Investigations in FDA's Office of Regulatory Affairs.

Similar issues arise with respect to FDA's 13 field laboratories. While there is considerable specialization in some FDA laboratories,

with some devoted largely to drug testing and others mostly analyzing food samples,<sup>67</sup> most FDA labs perform at least some analysis in both areas. Sharing of lab facilities and staff between food and medical product programs should remain a possibility.

Regardless of any higher level organizational change within FDA, however, the issue of how to make optimal use of FDA's field lab capacity – and how to upgrade it to support a more prevention-oriented food safety strategy – will have to be addressed. Increasingly specialized analytical capacity and higher volume microbial testing of food samples are likely needed to support a more prevention-oriented strategy and enforce stricter accountability for meeting food safety standards. These needs will have to be considered in planning the transition to a new food safety agency and deciding how field labs should be structured.

Consideration should also be given to whether the current structure of FDA regional and field offices would be optimal for the FSA from a management and efficiency standpoint. This would include revisiting the need for regional offices as a management layer between the frontline inspection and compliance force and the headquarters units, in light of the goal of more tightly integrating headquarters and field operations.

### *3. How the relationship between CDC and the FSA should be structured.*

**Comment:** Integrating the food safety efforts of CDC and FSA is essential for the future success of the HHS food safety program. Scientists at CDC play a critical role in investigating and responding to multi-state outbreaks of foodborne illness, along with state and local health officials and federal food safety regulators at FDA and USDA. CDC and FDA were widely criticized, however, for their seemingly disjointed response to the 2008 Salmonella Saintpaul outbreak. There is a clear need to improve collaboration between CDC and FDA in the management of multi-state outbreaks.

Beyond outbreak response, CDC is the federal government focal point for foodborne illness surveillance and reporting and thus has an even larger role to play in a modernized, prevention-oriented food safety system by generating the data and analysis on foodborne illness needed to set public health priorities and plan prevention strategies. Currently, however, CDC lacks the resources, clear mandate and institutional incentives to play this broader role. The result is that food safety regulators at FDA lack the data they need to mount risk-based prevention strategies and targeted interventions to reduce foodborne illness. In any restructuring of food safety at HHS, this problem must be solved.

It could be argued that, to address these problems, the elements of CDC that work on foodborne illness should be transferred to a new Food Safety Administration. This would ensure clear accountability on the part of a single official, the FSA administrator, for the management of multi-state illness outbreaks that fall within FDA's current jurisdiction. It would also be the most direct way to build closer working relationships and clear accountability between CDC's food safety epidemiologists and FSA's food safety regulators for purposes of generating the epidemiological data and analysis required for prevention.

There are, however, some important barriers and disadvantages to transferring the food safety elements of CDC to a new FSA. The most significant barrier is that these elements are embedded in eight different CDC offices and programs that address the epidemiological and environmental health aspects of many problems, of which food safety is only one.<sup>68</sup> CDC scientists are also tied into networks of state and local health officials who work on food safety along with other public health problems at the same time. Extracting CDC's food safety activities from their current institutional framework and moving them to the FSA would disrupt important working relationships within CDC and with the states.

Another argument against organizationally consolidating the CDC's food safety activities with the FSA is that, in the current configura-

tion, CDC can function as an independent source of data on rates of foodborne illness and thus provide an independent measure of progress on food safety for both FSA and the USDA food safety program for meat and poultry. In fact, the Secretary of HHS should charge CDC with regularly updating its now ten-year-old estimates of the number of illnesses, hospitalizations and deaths associated with foodborne pathogens. Such independent, periodic estimates are important both as a benchmark for society's progress in reducing foodborne illness and an indicator of where intensified efforts are needed.

Notwithstanding the advantages of leaving the CDC food safety functions organizationally separate, as in the proposed structure, significant change is needed in the relationship between CDC and food safety policymakers and regulators, both to improve outbreak investigation and response and meet the data needs of the FSA. The head of the FSA should be charged with overseeing, in close collaboration with CDC, the HHS role in investigation and response to major illness outbreaks. Most outbreaks do not involve an active HHS role because they are local in nature and are handled by state and local officials, with CDC providing back up when requested. Under the proposed FSA structure, the epidemiological interaction with state and local agencies in these local cases, as well as in larger national outbreaks, would remain with CDC. Mechanisms should be developed, however, to facilitate close collaboration between CDC and FSA in all phases of major outbreaks, including an FSA role in product tracing and food testing to assist with the epidemiology, and to provide a single focal point for HHS leadership and accountability in managing multi-state outbreaks. Overall, there should be a seamless, real time flow of information between CDC and the FSA during any outbreak investigation involving FSA-regulated products.

In addition to improving outbreak response, mechanisms are required to ensure that CDC has both capacity and accountability to provide FSA the epidemiological data and analysis FSA needs to prevent illness. In July 2008,

then-Senator Barack Obama introduced the Food-borne Illness Surveillance and Response Act of 2008 (S.3358, 110th Cong.), which would address this issue by giving CDC a clear mandate to generate the needed data and by establishing "partnership" mechanisms for defining data needs. Consistent with this approach, the proposed FSA structure envisions that the FSA's Public Health and Science (PHS) unit would include professional epidemiologists who would be the FSA focal point for building an active partnership with CDC and for defining and meeting FSA's epidemiological data needs.

For such a partnership to go beyond words, a funding mechanism would be required to ensure that CDC has both resources and accountability for generating the needed data and analysis. One such mechanism would be for FSA to have a mandate and resources to enter into contracts ("reimbursable agreements") with CDC under which CDC would receive FSA funds to provide the specific data and analysis FSA needs to do its job. This would put more resources into the badly underfunded food safety program at CDC; and it would create a contractual, client-service provider relationship in which FSA's information needs and CDC's accountability for meeting them would be clear.

An effective partnership between the CDC units working on food safety epidemiology and the FSA units working on food safety regulation is an essential element of a risk-based, prevention-oriented food safety system at HHS. Building that partnership should thus be one of the Department's highest food safety reform priorities. Given the history of the CDC-FDA relationship, active commitment to the partnership by the Secretary of HHS will be required, especially if the CDC functions remain organizationally separate from FSA.

*4. Whether NCTR should be incorporated in the FSA in whole or in part.*

**Comment:** FDA's National Center for Toxicological Research is a world class toxicology research facility, located in Jefferson, Arkansas. NCTR performs advanced toxico-

logical methods research, as well as research related to the safety of specific chemical and microbiological agents and hazards and possible risk-reduction interventions. Although NCTR performs work of interest to all of FDA's program areas, significant work relates directly to food safety and nutrition. NCTR is, however, under-utilized as a scientific resource by FDA's operating units. To enhance the contribution of NCTR to the food safety mission, the proposed FSA structure outlined above incorporates NCTR into the FSA's Public Health and Science unit. This would substantially bolster the ability of the FSA to generate the scientific tools and data it needs to do its job by giving it direct line management and budget authority over a first-rate research facility.

A legitimate argument against this approach is that much of NCTR's work is genuinely cross-cutting in its application, especially its toxicological methods research, and significant work relates directly to FDA's drug regulatory mission. It makes no sense, however, to split NCTR between the FSA and the medical products agency. Its scientific divisions are, for good reason, organized by discipline, not product category. Separating them would be highly disruptive and diminish the overall scientific capacity that now exists.

More worthy of consideration is the possibility of configuring NCTR more as a contract research facility, with a substantial share of its budget coming via reimbursable agreements with FSA and the medical products agency. It could be housed administratively within either agency, or even elsewhere within HHS, such as with the National Toxicology Program at the National Institute of Environmental Health Sciences. As in the proposed relationship between FSA and CDC, however, clarity of program-related research needs and NCTR accountability for meeting them would be achieved through the contract mechanism. In any event, NCTR is an important scientific asset whose productivity for the food safety program needs to be considered and enhanced in any reorganization.

*5. Where to house FDA's cosmetics and dietary supplement programs.*

FDA's cosmetic and dietary supplement regulatory programs do not fit comfortably in a structure that is divided between medical product and food regulation. Cosmetic regulation is currently housed in CFSAN, but the scientific and safety issues it raises are more akin to those addressed by the dermatology division of FDA's Center for Drug Evaluation and Research; and one of the recurring issues in cosmetic regulation is whether marketing claims and intended uses for some cosmetic products render them legally drugs. Likewise, dietary supplements are categorized legally as foods and housed in CFSAN, but the supplement category includes not only vitamins, minerals and other clearly nutritional substances but also herbal products and others that are marketed and sought after for their drug-like effects. In fact, the issue of whether supplement claims cross the line to become, legally, drug claims is a recurring issue.

There are thus legitimate arguments on both sides of the issue of whether these programs should be in the FSA or the medical products agency. The issue is of great interest to the regulated industries and other stakeholders and thus requires careful consideration.

*6. How to achieve efficiency in administrative and staff support functions.*

**Comment:** FDA currently achieves administrative efficiencies through the centralization at the agency or HHS level of many of the support services that CFSAN, CVM, ORA and NCTR, as well as the medical products components of FDA, need to operate. These include services related to financial management and payroll, procurement, facilities management, human resources, equal employment opportunity (EEO), and information technology. In some cases, such as financial and facilities management, the provision of services is split between FDA agency-level offices and HHS. In any event, mechanisms need to be established to maintain these efficiencies.

As a general rule, for administrative services being provided by FDA-level offices, the FDA offices providing them should remain intact and could be attached administratively either to the FSA or the medical products agency. They could continue to function as shared services units for both agencies, with costs allocated accordingly and performance measures in place to ensure that the FSA's administrative needs are met at an agreed upon level of timeliness and quality. In the case of services centralized at the HHS level, such as most human resources work (hiring and promotion), this arrangement would continue, and thus the creation of the FSA would not affect the efficiency with which these services are currently provided.

With regard to information technology (IT), the FSA would need an in-house IT leadership capacity (a Chief Information Officer) to be part of the FSA management team and work with the FSA Leadership Council to help build the information systems needed to manage a risk-based, prevention-oriented food safety program. This would not preclude having the procurement and other support services associated with IT systems being provided on the shared services basis outlined above. A key IT need is to modernize the tools and systems needed to oversee imports, and some efficiencies might be obtainable in that arena by sharing data systems and services with the medical products agency.

While EEO services are now provided at the FDA agency level, the FSA should have its own EEO capacity so that the Administrator can be held accountable for the FSA's EEO performance. The FSA would also require its own administrative law judge to carry out hearing functions required by law.

Beyond administrative and management services, certain staff functions are essential to the functioning of a government agency, especially one that is required to deal extensively with Congress, the media, stakeholders, and the general public. These include, as reflected in the earlier schematic, Legislative Affairs and Communications and Stake-



holder Outreach. These services are provided by relatively small staffs that ideally have specialized program knowledge to back up the other skills needed for this work. There are minimal economies of scale in such functions, in contrast to functions like payroll and procurement, and thus minimal cost in dividing the existing FDA staffs in

these areas between the FSA and the medical products agency. To the extent shared services can yield efficiencies, however, they should be considered.

Likewise, the FSA leadership needs its own legal, policy, and management support to be successful.

### Implementation Issues

A good design for a Food Safety Administration remains words on a page until successfully implemented. And the challenge of implementing the transformative restructuring proposed here should not be underestimated. Many lessons have been learned, however, from past efforts at organizational change in both the public and private sectors.<sup>69</sup> These lessons, many of which amount to simple common sense, should be applied here. The central message is this: planning the implementation of a good organizational design requires just as much care, analysis and attention as the design itself.

Among other things, an implementation plan for a new Food Safety Administration in HHS should address the following needs:

**1. An active process to engage employees and learn from their experience** – Restructuring is done to improve agency performance for the public good. More than anyone else, however, agency employees know what works and what does not work, and the goals of restructuring will not be met without the buy in and sustained effort of employees. It is thus critical that agency employees be systematically engaged through a transparent process in the design and implementation of any restructuring.

**2. Maximizing opportunities for employees in the new organization** – For most employees, the strongest incentive for buy in on the restructuring of their agency is the prospect that it will significantly improve the agency's performance. Employee support will also be influenced by the perceived opportunities for professional growth and enhanced personal productivity. Thus, careful attention needs to be given to such core personnel issues as preserving grades and advancement opportunities.

**3. Working closely with employee unions** – The majority of FDA employees are represented by unions and work under collective bargaining agreements that ensure the employees' right to bargain over changes in working conditions.<sup>70</sup> Collective bargaining can be a constructive process if well managed on both sides, but it takes time and needs to be considered as part of the process of designing and implementing a new structure.

**4. Dialogue with government partners and public stakeholders** – Many other organizations and individuals, inside and outside government, will have an interest in and be affected by the creation of a Food Safety Administration. These include other government agencies involved in food safety (such as USDA, EPA and state and local agencies), congressional members and staff, consumer and public health groups, and the food industry. These groups should be consulted through transparent processes during the planning and implementation phases of restructuring.

**5. Division of personnel and facilities with the medical products program** – Under the proposed structure, some headquarters staff offices will be divided, with some personnel going to the FSA and some to the medical products agency. A process will be required that assures a fair allocation of personnel slots and that appropriately qualified people occupy those slots in both agencies. A process will also be required to allocate and/or replace facilities and equipment currently assigned to these staff offices. As noted earlier, the transition of field personnel and resources to separate food and medical product inspection and compliance programs presents an even larger challenge and will also require a well-planned

process. The allocation of personnel slots in the Senior Executive Service and Senior Biomedical Research Service is another critical transition issue. Sufficient numbers of these positions is critical to recruiting and retaining the senior managers and scientific leaders that will be essential to the success of the FSA.

**6. Staff training and development** – The new structure and integrated operational approach of the FSA will change the way people work throughout the agency, as will the new inspectional and compliance strategies required to make the FSA's field force an integral part of a prevention-oriented food safety strategy. An investment in staff training will thus be required during the transition to prepare for new ways of working, and ongoing investment in staff training and development will be required to implement an increasingly science- and risk-based program. Staff training and development should be a built-in feature of all operating components, but the Leadership Council should consider how best to manage the upfront transition training, as well as on going staff training and development.

**7. Delegations of authority** – The legal authority to implement the Federal Food, Drug and Cosmetic Act (FDCA) is vested in the Secretary of HHS, who has delegated most of that authority to the FDA Commissioner, who has in turn delegated most of the food-related authorities to CFSAN, CVM and ORA. These delegations will have to be reviewed and revised as appropriate to ensure that the FSA has full legal authority to implement the FDCA, taking into account assignments of authority responsibility in the law establishing the FSA.

### Conclusion

As this paper makes clear, the transition to a new structure for food safety at HHS will require an investment of time and effort. It is an investment, however, in the long-term success of the HHS food safety program that will pay dividends for many years to come. And the cost of not acting is great. A fragmented, disempowered food safety program makes

**8. Maintenance of effort and effectiveness during the transition** – Any transition to a new structure has the potential to distract employees from the agency's mission. This potential should be carefully assessed in planning the transition to a new FSA and steps taken to minimize disruption, such as prioritizing critical functions that cannot be allowed to lapse and phasing in personnel and facility transitions in a carefully paced and predictable manner.

**9. Cost of the transition** – The transition to a new agency will incur costs. These would include staff time required for planning and implementing the new agency and the transition to it, possible one-time added facility and equipment costs, and possibly employee relocation costs. These should be estimated in advance and budgeted for so that resource issues do not prevent an on-time implementation of the transition.

**10. Interim structure** – As discussed in the companion paper, the Secretary of HHS has broad authority to change reporting relationships and establish new leadership positions within HHS. The Secretary could thus act administratively to vest in a single FDA official line management authority over all FDA food safety activities, as well as authority and accountability for better integrating FDA and CDC food safety activities. Whether done administratively prior to the enactment of legislation creating the FSA or as part of a legislatively-mandated process, such an interim structure might be advisable to provide a focal point for leadership in planning and implementing the transition to the FSA, as well as making immediate progress on pressing food safety issues facing FDA and the Department.

poor use of taxpayer dollars, and it imposes substantial economic and personal costs on people who experience preventable food-borne illness. We should begin now the carefully planned transition to a food safety agency that can do the job expected and deserved by America's consumers.

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- 50 U.S. Government Accountability Office. *Federal Oversight of Food Safety: FDA Has Provided Few Details on the Resources and Strategies Needed to Implement its Food Protection Plan*. Washington, D.C.: U.S. Government Printing Office, 2008, p. 1-2.
- 51 U.S. Government Accountability Office. *Federal Oversight of Food Safety: FDA Has Provided Few Details on the Resources and Strategies Needed to Implement its Food Protection Plan*. Washington, D.C.: U.S. Government Printing Office, 2008, p. 10.
- 52 The Institute of Medicine. *HHS in the 21st Century: Charting a New Course for a Healthier America*. Washington, D.C.: National Academy Press, 2008, p. 75.
- 53 The Institute of Medicine. *HHS in the 21st Century: Charting a New Course for a Healthier America*. Washington, D.C.: National Academy Press, 2008, p. 79.
- 54 See, for example, GAO. *Results-Oriented Cultures - Implementation Steps to Assist Mergers and Organizational Transformations* (GAO-03-669, 2003 July).

- 55 The project is based in the Department of Health Policy at the George Washington University School of Public Health and Health Services and is being undertaken in collaboration with Trust for America's Health. For further information on this paper or the project, contact Mr Taylor at [mike.taylor@gwuvmc.edu](mailto:mike.taylor@gwuvmc.edu) or 202-994-4234 or Ms. David at [Stephanie.david@gwuvmc.edu](mailto:Stephanie.david@gwuvmc.edu) or 202-994-4249.
- 56 Taylor, M. and David, S. *Unifying and Elevating Food Safety Leadership at HHS – The Need for Organizational Change to Improve Food Safety* (January 2009) (available on request from the authors).
- 57 "Food Safety Modernization Act of 2009" (H.R. 875, 111th Cong. 1st Sess.), introduced by Rep. Rosa DeLauro on February 4, 2009.
- 58 Robert Brackett, former Director of FDA's Center for Food Safety and Applied Nutrition; Gail Cassell, Member, FDA Science Board; Margaret Glavin, former FDA Associate Commissioner for Regulatory Affairs; William Hubbard, former FDA Associate Commissioner for Policy and Planning; Jim Hughes, professor, Rollins School of Public Health, Emory University and former director of CDC's Center for Infectious Disease; Tim Jones, State Epidemiologist of Tennessee; Jeff Leva, Executive Director, Trust for America's Health; Bob MacLeod, former FDA Director of Budget Execution; Glenn Morris, director of the Emerging Pathogens Institute, University of Florida and former CDC EIS officer and FoodNet site principal investigator; Jim O'Hara, former FDA Associate Commissioner for Public Affairs and HHS Deputy Assistant Secretary for Health; and Bob Sauer, former FDA Director of Personnel.
- 59 FDA operating units include Public Health and Science, Food Safety Prevention & Standards, Pre-Market Review, Nutrition & Labeling, Inspection & Investigations, Field Laboratories, and Compliance Policy and Enforcement.
- 60 These include Public Health and Science, Food Safety Prevention & Standards, Inspection & Investigations, Field Laboratories, Compliance Policy and Enforcement, Chief Counsel, Stakeholder Outreach, and Communications.
- 61 CFSAN has seven science divisions housed in three different offices. The Office of Regulatory Science includes the Divisions of Analytical Chemistry, Microbiology, and Bioanalytical Chemistry. The Office of Applied Research and Safety Assessment includes the Divisions of Molecular Biology, Mycotoxicology, and Toxicology. The Office of Regulations, Policy and Social Sciences includes the Division of Social Sciences
- 62 CVM has three science divisions, all housed in the Office of Research, including the Divisions of Residue Chemistry, Animal Research, and Animal and Food Microbiology.
- 63 This includes from CFSAN the Office of Food Safety and elements of the Offices of Food Defense, Communication and Emergency Response; Cosmetics and Colors; and Regulations Policy and Social Sciences; and, from CVM, elements of the Office of Surveillance and Compliance.
- 64 This includes from CFSAN the Office of Food Additive Safety and elements of the Office of Cosmetics and Colors; and from CVM the Offices of New Animal Drug Evaluation and Minor Use & Minor Species Animal Drug Development and elements of the Office of Surveillance and Compliance.
- 65 It is difficult to determine the share of NCTR resources that is "food related." NCTR does significant work that relates to medical products, and much of its research cuts across FDA product categories. The over-reporting of food-related resources in the table is more than offset by the fact that the table does not include rent and other facilities costs related to the food programs in CFSAN, CVM and ORA. A fair share of these resources would have to be allocated to the FSA.
- 66 A significant portion of the CVM budget, for example, is used to pre-market review of animal drugs under user fee legislation and thus cannot be reallocated to address foodborne illness or other public health concerns.
- 67 For example, FDA's San Juan, Philadelphia and Detroit labs focus on drug testing, while labs in San Francisco, Denver and Kansas City labs do more food-related work.
- 68 While CDC has created a Food Safety Office to coordinate its food safety activities, the scientists who do most of the food safety work are assigned to eight different CDC offices and programs, including the Division of Adolescent and School Health, the Division of Bacterial and Mycotic Diseases, the Division of Parasitic Diseases, the Division of Viral and Rickettsial Diseases, the Epidemiology Program Office, NCEH Environmental Health Services, Public Health Practice Program Office, and Travelers Health.
- 69 See, for example, GAO, *Results-Oriented Cultures – Implementation Steps to Assist Mergers and Organizational Transformations* (GAO-03-669, 2003 July).
- 70 Most unionized FDA employees are members of the National Treasury Employees Union or the American Federation of Government Employees.



March 24, 2009

Honorable Tom Harkin  
Chairman  
Committee on Agriculture, Nutrition & Forestry  
United States Senate  
328-A Russell Senate Office Building  
Washington, DC 20510

Honorable Saxby Chambliss  
Ranking Minority Member  
Committee on Agriculture, Nutrition & forestry  
United States Senate  
328-A Russell Senate Office Building  
Washington, D. C. 20510

Dear Senator Harkin and Senator Chambliss:

On behalf of the members of the National Meat Association and the National Pork Producers Council, we are writing to express our support of Dr. Kathleen Merrigan's nomination to be Deputy Secretary of Agriculture.

Dr. Merrigan's extensive and varied experience in the field of agriculture, food and nutrition make her superbly qualified for this position. She currently serves as Director of the Center for Agriculture, Food and Environment at Tufts University. Prior service as Administrator of USDA's Agricultural Marketing Service, with the Texas Department of Agriculture, with the Staff of the Senate Committee on Agriculture, Nutrition & Forestry, and as a consultant to the United Nations indicate the breadth of experience she will bring to USDA, if confirmed..

The members of our organizations support Dr. Merrigan's confirmation and hope that the Senate will act on her nomination as quickly as possible.

With warm regards.

Sincerely,

A handwritten signature in cursive script that reads "Barry L. Carpenter".

Barry L. Carpenter  
Chief Executive Officer  
National Meat Association

A handwritten signature in cursive script that reads "Don Butler".

Don Butler  
President  
National Pork Producers Council



2/25/09

Senator Tom Harkin, Chair  
Committee on Agriculture, Nutrition, and Forestry  
Russell Senate Building, Room 328-A  
Washington, DC 20210

Dear Sen. Harkin,

The Organic Trade Association (OTA) extends its congratulations to Kathleen Merrigan on being nominated to serve as Deputy Secretary of Agriculture.

Since before the Organic Foods Production Act of 1990 established the National Organic Program, OTA has been an advocate for the funding needed to support the National Organic Program and other services the organic business community needs to succeed in an increasingly complex global market. OTA has over 1,500 member businesses (large and small) from all parts of the supply chain, including organic farming, processing, distribution, exporting, and retailing, for food, textiles and personal care products. The members of the Organic Trade Association represent the majority of the organic products produced and sold across America.

As the leading voice for the organic industry, OTA looks forward to working with Ms. Merrigan, the Under Secretaries, and the entire staff of the Department of Agriculture on issues critical to not only the organic agriculture and business community but the Department and American consumers as a whole. Organic agriculture, products and processing are an important and growing sector of the economy, even during these turbulent economic times. U.S. sales of organic products are expected to reach 23 billion dollars in 2008. Organic food and beverages are the fastest-growing sector of the food industry, with average growth rates in the high teens for the past decade.

OTA works on issues crucial to the organic business community including key provisions in the 2008 Farm Bill important to organic agriculture, such as the Environmental Quality Incentives Program (EQIP)'s support for farmers transitioning to organic production, the Organic Certification Cost Share Program, the Organic Research and

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**Christine Bushway**  
Greenfield, MA



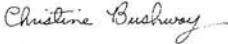

Extension Initiative, and a review of the Federal Crop Insurance Program as it relates to organic producers.

Ms. Merrigan's groundbreaking work in the creation of the Organic Foods Production Act set the course for the vigorous development of the organic industry. Her work as Administrator of the Agricultural Marketing Service resulted in a rule which has allowed tremendous growth in this exciting American and indeed global method of ecological agricultural production.

The industry has now grown to a \$23 billion business in annual sales. A strict and workable Organic Foods Production Act and implementing regulation were critical in ensuring the integrity of the organic label to the American consumer, and Ms. Merrigan was instrumental in making this happen.

OTA looks forward to a productive working relationship with Ms. Merrigan, her office, and across USDA.

Sincerely,

Christine Bushway  
Executive Director  
Organic Trade Association

Julia Sabin  
OTA Board President





**Produce Marketing Association**

Mail: PO Box 6038 • Newark, Delaware 19714-6036 • USA  
Address: 1500 Casho Mill Road • Newark, Delaware 19711 • USA  
Tel: +1 (302) 738-7100 Fax: +1 (302) 731-2409  
Web: [www.pma.com](http://www.pma.com)

March 17, 2009

The Honorable Tom Harkin  
Chair  
Committee on Agriculture, Nutrition and Forestry  
United States Senate  
Washington, DC 20510

The Honorable Saxby Chambliss  
Ranking Member  
Committee on Agriculture, Nutrition and Forestry  
United States Senate  
Washington, DC 20510

Dear Chairman Harkin and Senator Chambliss:

On behalf of the Produce Marketing Association (PMA) and its members, I write in strong support of Kathleen Merrigan for the position of Deputy Secretary of Agriculture.

PMA represents 3,000 companies that span the global supply chain for fresh produce from field to fork: from production through wholesale channels and ultimately to retail and foodservice outlets. During Dr. Merrigan's service as administrator of the Agricultural Marketing Service, the produce industry had the privilege of working closely with her. We witnessed first-hand that she is an innovative leader dedicated to working with all stakeholders. Her demonstrated policy expertise combined with management experience make her a great choice for deputy secretary. She will play an important role in carrying out the priorities of President Obama and Secretary Vilsack, including increasing fresh fruits and vegetables in the American diet.

Like the many issues across the diverse mission of the USDA, our issues demand knowledgeable and conscientious leadership. Dr. Merrigan offers that and we respectfully request Senators confirm her to this important post. Thank you for your consideration of this information and thank you for your leadership on behalf of America's farmers and consumers.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bryan Silbermann", written over a horizontal line.

Bryan Silbermann  
President and CEO

Sen. Tom Harkin  
U.S. Senate  
Washington, D.C. 20510

December 2, 2008

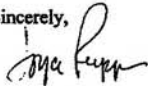
Dear Senator Harkin,

I am writing to ask for your endorsement of Kathleen Merrigan, PhD for the position of Under Secretary of Marketing and Regulatory Programs at USDA. She would be an excellent person regarding U.S. agricultural interests. She has an impressive career in Congress, USDA, academia and the non-profit sector has won her the respect of a wide swath of the agriculture community. The breadth and depth of her experience will be invaluable to MRP under the new administration.

Her leadership within the national organic program is perhaps the best demonstration of her qualifications for Under Secretary of MRP. Dr. Merrigan oversaw the process from standards development to implementation; from the perspective of congressional staff member, regulator, non-governmental advocate, and academic researcher. Through her hard work and leadership, she has helped to position U.S. farmers as leaders in the global market for sustainable food. She has also demonstrated the potential of a rigorous, science-based and transparent standard to boost farm incomes, open new markets, meet consumer demand, protect food safety, and deliver concrete environmental benefits.

I hope you will seriously consider Dr. Merrigan as Under Secretary of MRP and I ask for your endorsement of her candidacy.

Sincerely,



Joyce Rupp  
2816 Shady Oak Dr.  
Des Moines, IA 50310



## United Egg Producers

UEP Headquarters  
1720 Windward Concourse • Suite 230 • Alpharetta, Georgia 30005  
(770) 360-9220 • Fax (770) 360-7058



March 27, 2009

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Sr. Government Relations Rep.



Official U.S. Council Representative

The Honorable Tom Harkin  
Chair  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate  
328 Russell Senate Office Building  
Washington, DC 20510

The Honorable Saxby Chambliss  
Ranking Member  
Committee on Agriculture, Nutrition  
and Forestry  
United States Senate  
416 Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Harkin and Ranking Member Chambliss:

On behalf of the United Egg Producers (UEP) and United Egg Association (UEA), I write in support of President Obama's nomination of Kathleen Merrigan to the post of Deputy Secretary for the United States Department of Agriculture (USDA).

United Egg Producers is a cooperative whose members represent 98% of the shell eggs produced in the United States. United Egg Association is a trade association of liquid, frozen and dried egg products processors. UEA members produce about 80% of the egg products sold in this country.

Dr. Merrigan has shown her dedication to a healthy and prosperous agricultural sector through her years of service on Capitol Hill, in previous capacities at USDA, and in numerous academic and organizational experiences. During Dr. Merrigan's service as administrator of the Agricultural Marketing Service, our industries had the privilege of working with her and witnessed first-hand that she is an innovative leader dedicated to working with all stakeholders. Her demonstrated policy expertise combined with management experience make her a great choice for deputy secretary.

Dr. Merrigan has the proven intellectual capacity and innovative spirit needed to confront the unique challenges and opportunities confronting agriculture. As a former staff member of the Senate Agriculture Committee during the late 1980's and early 1990's, Dr. Merrigan understands the intricacies of policy development and has the ability to navigate through the complex legislative process. Because of Dr. Merrigan's extensive experience, intellectual rigor, and commitment to working with all of the stakeholders within the agricultural community, we fully support Dr. Merrigan for the position of Deputy Secretary and urge swift approval of her nomination.

Sincerely,

Gene Gregory  
President and CEO  
United Egg Producers/United Egg Association

**Washington Offices**  
UEP Government Relations  
One Massachusetts Avenue, NW, Suite 800  
Washington, D.C. 20001  
(202) 842-2345 • Fax (202) 408-7763

**UEP Iowa Office**  
Box 170  
Eldridge, IA 52748  
(563) 285-9100 • Fax (563) 285-9109



## U.S. SOYBEAN FEDERATION

151 Saint Andrews Court, Suite 710  
Mankato, MN 56001  
Phone: 888-896-9678 Fax 507-388-6751

Honorable Tom Harkin  
Chairman  
Committee on Agriculture, Nutrition & Forestry  
United States Senate  
328-A Russell Senate Office Building  
Washington, DC 20510

Dear Senator Harkin,

On behalf of the members of the U.S. Soybean Federation (USSF), I am writing to express our support of Dr. Kathleen Merrigan's nomination to serve as Deputy Secretary of Agriculture.

Dr. Merrigan's extensive and varied experience in the field of agriculture, food and nutrition make her highly qualified for this position. Along with being the current Director of the Center for Agriculture, Food and Environment at TUFTS University, Dr. Merrigan has also served as Administrator of USDA's Agricultural Marketing Service, with the Texas Department of Agriculture, with the Staff of the Senate Committee on Agriculture, Nutrition & Forestry, and as a consultant to the United Nations. If confirmed, she will bring a great amount of experience to USDA.

USSF's membership supports Dr. Merrigan's confirmation and hopes that the Senate will act on her nomination as soon as possible.

Sincerely,

A handwritten signature in black ink that reads "Warren Stemme". The signature is written in a cursive style.

Warren Stemme  
President, USSF



National Milk Producers Federation

2101 Wilson Blvd., Suite 400, Arlington, VA 22201  
703.243.6111 • www.nmpf.org

"Connecting Cows, Cooperatives, Capital Hill, and Consumers"

March 25, 2009

- AgLand, Inc.
- Address Dairy Cooperative Association
- Associated Milk Producers, Inc.
- Georgetown Dairy Products, Inc.
- Competitive Milk Producers Assn.
- Dairy Farmers of America, Inc.
- Dreyfus's Marketing Cooperative, Inc.
- Osborne Cooperative Inc.
- Blount's Cooperative Creamery
- Farmers Cooperative Creamery
- Five Dimes Association
- Farmers Peace USA
- Hanford Creamery
- Just Dairy Cooperative, Inc.
- Land O'Lakes, Inc.
- Lea Star Milk Producers, Inc.
- Madisonville Milk Producers' Club
- MD & VA Milk Producers Cooperative Association, Inc.
- Michigan Milk Producers Assn.
- Midwest Dairyman's Creamery
- National Dairy Association
- North Farms Dairy, Inc.
- St. Albans Cooperative Creamery, Inc.
- Solo's Dairy Coop Milk Producers Assn.
- Valley Milk Producers, Inc.
- Westland Milk, Inc.
- White Valley Farms, Co.
- Williams County Creamery Assn.
- United Dairyman of Alaska
- Upper Merion Cooperative, Inc.
- 26 Milk Producers

Senate Committee on Agriculture, Nutrition and Forestry  
328A Russell Senate Office Building  
Washington, DC 20510-6200

Dear Senator Harkin:

We are writing to express the support of the National Milk Producers Federation (NMPF) for James W. (Jim) Miller, the President's nominee for Under Secretary of Agriculture for Farm and Foreign Agricultural Services. NMPF acts as the national voice for America's dairy cooperatives and the dairy farmers that own them throughout the United States. We hope the Senate Finance Committee, following the necessary hearing and deliberations, will act quickly to approve Mr. Miller.

We believe Mr. Miller's lifelong experience in production agriculture will be of enormous value to Secretary Vilsack and to America's dairy producers as we work together to respond to the economic crisis that is now facing our industry. Due to his vast background in agriculture, Mr. Miller has a keen understanding of the problems that farmers deal with day in and day out, and an appreciation of what must be done to address them.

A key function of the Under Secretary for Farm and Foreign Agricultural Services is to work closely with Congress to develop and implement programs that advance U.S. domestic agricultural and trade policies. Mr. Miller will enter the job with a keen sense of how this must be done, having worked effectively both for and with Members of Congress during his career in Washington.

This ability will be essential to NMPF members as they cope with the historically low prices and high input costs they now face. In these troubling times, dairy farmers will need to count on strong and skillful leadership from the Office of the Under Secretary, which we are convinced Mr. Miller brings to the task. There are already a number of tools that Congress has made available to USDA that would be under the purview of Mr. Miller that could help to alleviate the dire situation facing the dairy producer community throughout this country.

We look forward to working with Secretary Vilsack, Mr. Miller, and the members of the Senate Agriculture Committee in the coming months and years to respond to the challenges our industry currently faces and those that will no doubt arise in the future.

Yours truly,

Jerry Kozak  
President and CEO

Jerry Kozak, President/Chief Executive Officer

Randy Mooney, Chairman

www.nmpf.org



2101 Wilson Boulevard  
 Suite 400  
 Arlington, Virginia 22201-3661  
 U.S.A.  
 Tel 703-528-3048  
 Fax 703-528-3705  
 www.usdec.org

March 25, 2009

Senate Committee on Agriculture, Nutrition and Forestry  
 328A Russell Senate Office Building  
 Washington, DC 20510-6200

Dear Senator Harkin:

On behalf of the U.S. Dairy Export Council, I would like to express support for the confirmation of James W. (Jim) Miller as Under Secretary of Agriculture for Farm and Foreign Agricultural Services. The U.S. Dairy Export Council (USDEC) is a non-profit, independent membership organization that represents the export trade interests of U.S. milk producers, dairy cooperatives, proprietary processors, and export traders. The Council's mission is to increase the volume and value of U.S. dairy product exports. USDEC works closely with the National Milk Producers Federation (NMPF), as well as other dairy industry organizations, to develop a broad agenda concerning dairy trade policies that will advance the interests of the U.S. dairy industry as a whole.

USDEC has worked closely over the years with the Office of the Under Secretary of Agriculture for Farm and Foreign Agricultural Services and with the staff of the Foreign Agricultural Service both to develop export markets and address trade issues of concern to America's dairy industry. We have also had the opportunity to participate in the extremely valuable Market Access Program and Foreign Market Development program, both of which FAS oversees as cost-share ventures with organizations such as USDEC in order to help cultivate markets abroad. This cooperation, coupled with the recognition of the vital role that FAS plays in helping shape trade policy, resolve SPS issues and foster commercial market development, has made clear to our members the tremendous importance of a vibrant FAS that is able to fully carry out its mission. The relationships we have established throughout our close work with FAS have served our industry well and we have every confidence that this will continue under the leadership of Mr. Miller.

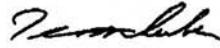
Mr. Miller has a strong background in agriculture – both on the farm and in defending farmers' interests in Washington. He will bring to the Under Secretary's office a keen understanding of both the politics and the economics that shape U.S. domestic and trade policies, as well as the need for those policies to operate together seamlessly to the benefit of producers. Due to his vast experience in agriculture and as a farmer, Mr. Miller understands the importance of trade to U.S. agriculture. We look forward to working with him and his staff at USDA to ensure that trade agreements are negotiated and implemented in a manner that achieves for our producers all of the benefits intended. Important agreements include the pending FTAs with South Korea, Panama and Colombia – which will create substantial new access opportunities for U.S. dairy exporters – and the World Trade Organization Doha Round, which remains the best mechanism for removing the significant trade distortions present in the global dairy market.

The benefits of trade agreements can only be achieved, however, through deals that fairly balance the rights and obligations of all participants. This critical requirement in our view is missing from the U.S.-New Zealand dairy trading relationship, which is why we have opposed including it in the U.S.-Trans-Pacific Partnership FTA, if that initiative moves forward. We look forward to working with Mr. Miller to address our concerns regarding that proposed negotiation and to ensure that the Administration is fully aware of our positions on the myriad of other trade issues around the world.

Managed by Dairy Management Inc.™

We are confident that Mr. Miller has both the qualifications and leadership ability to be a strong and effective Under Secretary and a voice for U.S. agricultural trade interests.

Sincerely,



Thomas M. Suber  
President

March 30, 2009

Honorable Tom Harkin, Chairman  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate  
328-A Russell Senate Office Building  
Washington, DC 20510

Honorable Saxby Chambliss, Ranking Member  
Committee on Agriculture, Nutrition and Forestry  
United States Senate  
328-A Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Harkin and Ranking Member Chambliss:

We are writing to convey our strong support for the nomination of Jim Miller as Under Secretary for Farm and Foreign Agricultural Services at the U.S. Department of Agriculture.

Over the years of his direct, diverse, and important involvement in U.S. agriculture, Jim Miller has exhibited the very qualities needed to be a successful Under Secretary. As a producer, Jim knows what it takes to manage a successful farming operation. He chose to look at issues well beyond the farm, though, by taking leadership positions within the National Association of Wheat Growers. His fellow growers regularly turned to him to tackle tough issues on the state, national, and international level. Later, as an employee of the Wheat Growers and subsequently the National Farmers Union, Jim developed and advocated policies on farm programs, conservation, international trade, risk management, commodity futures, research, transportation, disaster assistance, and agricultural credit.

Jim was a critical Senate staff member during the development of the 2008 Farm Bill. As the senior analyst on the Senate Committee on the Budget under the leadership of Senator Kent Conrad, Jim helped not only preserve the resources needed to write the Farm Bill, he was extremely influential throughout the policymaking process. With tireless determination, foresight, wisdom, and bipartisanship, Jim helped enact one of the most complicated and delicately balanced farm bills in our nation's history.

The U.S. agriculture sector is diverse, with regional and political differences and a broad array of domestic and international challenges. This is true during normal economic times. But now, during this economic crisis, it is even more important for the USDA to have solid, experienced leadership. We can think of no one better than Jim Miller, and we ask that this committee and the full Senate swiftly approve his nomination.

Sincerely,



Honorable Tom Harkin  
Honorable Saxby Chambliss  
March 30, 2009  
Page 2

Agricultural Retailers Association  
Agro National LLC  
Amalgamated Sugar Company  
American Association of Crop Insurers  
American Beekeeping Federation  
American Coalition for Ethanol  
American Cotton Shippers Association  
American Crystal Sugar Company  
American Farm Bureau Federation  
American Farmers & Ranchers  
American Farmland Trust  
American Fruit & Vegetable Processors and Growers Coalition  
American Meat Institute  
American Sesame Growers Association  
American Sheep Industry Association  
American Society of Farm Managers & Rural Appraisers  
American Soybean Association  
American Sugar Alliance  
American Sugar Cane League  
American Sugarbeet Growers Association  
Arkansas Farmers Union  
Arkansas Rice Federation  
ARMtech Insurance Services, Inc.  
Big Horn Basin Sugarbeet Growers Association  
Big Horn County Sugarbeet Growers Association  
California Agricultural Commissioners & Sealers Association  
California Beet Growers Association  
California Rice Commission  
CoBank  
Corn Producers Association of Texas  
Corn Refiners Association  
Cotton Warehouse Association of America  
Crop Insurance Professionals Association  
Crop Insurance Research Bureau  
Crop Life America  
Dairy Farmers of America

Honorable Tom Harkin  
Honorable Saxby Chambliss  
March 30, 2009  
Page 3

Domino Sugar, Inc.  
Dunavant Enterprises  
Elwyhee Beet Growers Association  
Farm Credit Council  
Florida Crystals Corporation  
Florida Sugar Cane League  
Great American Insurance Company  
Hawaiian Commercial & Sugar Company  
Independent Community Bankers of America  
Indiana Farmers Union  
International Dairy Foods Association  
Kansas Farmers Union  
Levinson & Associates  
Lula-Westfield, LLC  
Michigan Sugar Company  
Minn-Dak Farmers Cooperative  
Minnesota Corn Growers Association  
Minnesota Farmers Union  
Mountain States Beet Growers Association of Montana  
Montana-Dakota Beet Growers Association  
National Association of Conservation Districts  
National Association of Crop Insurance Agents  
National Association of Wheat Growers  
National Barley Growers Association  
National Cattlemen's Beef Association  
National Corn Growers Association  
National Cotton Council  
National Council of Farmer Cooperatives  
National Farmers Union  
National Milk Producers Federation  
National Potato Council  
National Sorghum Producers  
National Sunflower Association  
National Wild Turkey Federation  
NAU Country Insurance Company  
NEBCO Beet Growers Association

Honorable Tom Harkin  
Honorable Saxby Chambliss  
March 30, 2009  
Page 4

Nebraska Farmers Union  
Nebraska Sugarbeet Growers Association  
North Carolina Peanut Growers  
North Dakota Farmers Union  
North Dakota Grain Growers Association  
Northharvest Bean Growers Association  
Nyssa-Nampa Beet Growers Association  
Ohio Farmers Union  
Oklahoma Farmers Union  
Parsons Strategies  
Peanut Growers Cooperative Marketing Association  
Plains Cotton Growers  
POET  
Producers Agriculture Insurance Company  
Rain & Hail, LLC  
Red River Valley Sugarbeet Growers Association  
Renewable Fuels Association  
Rio Grande Valley Sugar Growers  
Rocky Mountain Farmers Union  
Rural Community Insurance Services  
Sidney Sugars Incorporated  
South East Dairy Farmers Association  
Southern Minnesota Beet Sugar Cooperative  
Southwest Council of Agribusiness  
Spreckels Sugar Company  
Sugarcane Growers Cooperative of Florida  
Sweetener Users Association  
Texas Grain Sorghum Association  
Texas Wheat Producers Association  
The American Sheep Industry Association  
The Fertilizer Institute  
The Macon Edwards Company  
U.S. Beet Sugar Association  
U.S. Dairy Export Council  
United Dairymen of Arizona  
United Egg Association

Honorable Tom Harkin  
Honorable Saxby Chambliss  
March 30, 2009  
Page 5

United Egg Producers  
United Fresh Produce Association  
United States Cattlemen's Association  
United States Dry Bean Council  
United States Sugar Corporation  
US Canola Association  
US Rice Producers Association  
USA Dry Pea & Lentil Council  
USA Rice Federation  
Virginia Peanut Growers  
Washakie Beet Growers Association  
Western Growers  
Western Peanut Growers Association  
Western Sugar Cooperative  
Wisconsin Farmers Union

