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## USDA's settlement with black farmers

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[Delta Farm Press](#)

[David Bennett](#)

Byline: David Bennett, Farm Press Editorial Staff

U.S. District Judge Paul Friedman has a monumental decision to make. Presiding over *Pigford vs. Glickman* (more commonly known in coffee shops as “the black farmers' lawsuit”), Friedman, having already pushed signup deadlines back several times, must now figure out what to do with an additional 50,000 black U.S. citizens wanting into the lawsuit as claimants. His yea or nay is expected shortly. Many millions, perhaps billions, of taxpayer dollars hinge on his pen-stroke.

Meanwhile, from all colors of the ethnic rainbow, copycat lawsuits have sprung up. American Indians, Asians, Hispanics and whites have all filed, or are preparing to file, separate suits alleging discrimination and incompetence at the hands of USDA agencies.

Few would argue that there haven't been instances of discrimination within USDA agencies in the past. But with so many groups leveling the charge and telling essentially the same story (late FSA loans resulting in late planting and poor yields, bad book-keeping, failure to disclose loan options or new programs properly, etc.), the overriding charge should perhaps shift from discrimination to simple bureaucratic ineptitude. And in dealing with the black farmers' lawsuit, the former brass at USDA certainly didn't do much to dispel such criticism.

### Prior lawsuits

*Pigford* is actually the last of several lawsuits brought by black farmers against USDA. As late as 1995, a lawsuit charging USDA with racism against not only blacks but also Hispanics was filed in Washington, D.C. Titled *Williams vs. Glickman*, the suit was quickly given the boot by Judge Tom Flannery, who said the suit wasn't worthy of class-action status.

Attorneys filed *Pigford* in 1997. The suit is actually an amalgamation (at the direction of Judge Friedman) of two suits — one filed by Timothy Pigford and the second by Cecil Brewington. Both men hail from North Carolina, where the suits were brought.

What made these cases viable when their forerunners weren't? Chief among the reasons are that *Pigford* was filed on behalf of black farmers alone for a specific time period and, most importantly, the political climate was ripe for the charges.

In 1994, Dan Glickman was named secretary of agriculture, replacing Mississippian Mike Espy.

Two years later, a group of black farmers assembled outside the White House gates to protest racism within USDA. The national media covered the assemblage and aired the group's charges.

Shortly thereafter, following a quick investigation, Glickman said that the charges were indeed true: the agency he'd looked after for two years was shot through with racism.

No evidence of the found racism was offered. Instead, several things took place. First, Glickman created a Civil Rights Action Team (CRAT). Then, in January 1997, an 11-stop, coast-to-coast jaunt (termed a "listening tour") was scheduled. According to reports, the tour was well-attended, and the 11-member CRAT did plenty of note-taking.

The touring personnel eventually returned to Washington, D.C., and CRAT began blaming USDA's Civil Rights Division (CRD) as having been derelict. That charge was proven true when it was discovered that over 900 discrimination complaints were waiting to be handled by CRD. This was largely due, CRAT claimed, to perpetual reorganization within the office.

CRAT wanted action and Glickman accepted the findings and recommendations of the team. First, the 900-plus discrimination complaints were quickly reviewed (at a cost of millions of dollars). Reportedly, only a handful were found to hold discrimination-proving potential. That was, apparently, enough for Glickman and colleagues to start looking for cover.

Still, no one — not USDA, not the attorneys, not black farmers — had a clue that with these original USDA actions a seed was being planted. That seed would soon bloom into a demon flower.

### **Lowering the bar**

Into this setting came the aforementioned Pigford and Brewington lawsuits. Judge Friedman combined the two and, in the fall of 1998, certified the suit class-action. Class attorneys began to salivate.

There were still hurdles, however. One potential problem was dispatched by the Congressional Black Caucus. The federal statute of limitations for discrimination claims is two years. The black caucus pushed legislation through Congress that opened the window of discrimination complaints to include anything between Jan. 1, 1981, and Dec. 31, 1996. The waiver was passed as an amendment to the (fiscal year) 1999 agriculture appropriations bill.

Cowed by mounting criticism from black politicians and a well-executed public relations push by class counsel and black farmer organizations, USDA folded. In April 1999, a consent decree was okayed by Judge Friedman.

While steady criticism of USDA had originally come from black farmers and attorneys, once the decree was signed, a torrent of venom was unleashed by many outside the suit. Was any of this true? If discrimination hadn't been definitively proven, why settle? Why not just go to trial? And, most pertinent: why agree to such a flawed document in the first place?

In retrospect, the last question is the most haunting.

Regardless, class counsel needed suit members. Criss-crossing the country, attorneys held meetings everywhere. Meanwhile, USDA spent over \$400,000 taking out ads on the settlement in a variety of print media and on television. The push was on.

According to one Delta farmer who attended class-counsel meetings, attorneys promised “easy money quick. They wanted as many names on the signup sheet as possible. They did a great job selling this thing. I'd be surprised if more than a few farmers walked out without signing up. You know, \$50,000 and debts getting forgiven ain't nothing to sneeze at. Who wouldn't want a piece of that?”

Who indeed? And that's why a group of claimants originally estimated to number some 2,500 when the decree came down has swelled to around 22,000. And just offstage, waiting for Friedman's next big announcement, are an additional 50,000 people clamoring for a piece of the USDA settlement pie.

That pie is made up of two tracks: A and B, which are the options claimants have for resolving their cases.

Winning a Track A claim is easier and means a \$50,000 payment, loan forgiveness, and prime future loan positioning. Each case is heard by an adjudicator. The overwhelming majority of claimants go with Track A.

Few claimants have chosen to go Track B, which is reserved for those wanting more than the awards listed above. Evidence requirements are much more stringent than with Track A cases. Winners of Track B cases, however, stand to get millions of dollars along with loan forgiveness and other considerations.

There were early signs that USDA had agreed to a terribly flawed settlement. Just a few months into the signup, even claimants say they had trepidation about how the case was being handled.

“There are legitimate cases of discrimination. People don't want to hear that, but it happens, man. There's no doubt about that. But when you open up this suit like they did, people are gonna come out of the woodwork. There's no doubt there's been fraud. Anyone who says that ain't happening doesn't know human nature. But the fraud slows things down and (taints) those of us with legitimate claims,” says a black farmer.

How easy is it to claim USDA discrimination and join the suit? Well, if one is criminally inclined, it isn't too hard. Get over the moral hurdle, and it's easy sailing.

To become a claimant (other than skin color, obviously) three criteria must be met. First, you have to have been discriminated against during the “window” outlined above. Second, you must claim to have applied for a loan or payment and been turned down for discriminatory reasons. Third, you must have filed a discrimination complaint prior to July 1997.

Taken at face value these criteria would seem to do a good job of weeding out fraud attempts. But there are caveats. For example, the key word in the second criteria is “claim.” A claimant doesn't need a shred of evidence beyond a spoken sentence or two.

The third criteria is hardly an impediment to fraud. In fact, it's practically an invitation to it. If no record exists of a complaint being filed, a claimant need only have one of three things:

- A statement from a non-family member stating the claimant filed such a complaint.
- A statement from a non-family member that they were in earshot when USDA personnel were told of a complaint by the claimant.
- Copies of a letter to a government official (state or federal) stating the claimant has been discriminated against.

Obviously, any bogus claimant can find an accomplice to corroborate his story or back-date a letter or two. This, apparently, never occurred to Mr. Glickman or his colleagues.

USDA apparently didn't anticipate a problem arising from USDA recordkeeping. The agency keeps records on unsuccessful loans for only three years. As *Pigford* was open to complaints from 1981 to 1997, FSA had no records prior to 1994 to combat discrimination claims.

"Surely Glickman and the lawyers up there knew that (FSA) had to take (claimants') word as truth prior to 1994. They had to have known we didn't have those records," says a current FSA employee.

FSA, however, keeps records of successful loans for up to 30 years. This, say black farmers *Delta Farm Press* has spoken with, means fraudulent claims are paid quicker because FSA has less to fight with.

"If you've got some FSA fellow that you've been having trouble with for 10 years, he can make your life hell out on the farm. But (claim in the lawsuit that) the guy has discriminated against you and watch the papers fly. These guys know the ins-and-outs of my operation and can manipulate things in their favor. It may not be racism now," says a claimant, "it may be that that FSA (fellow) is trying to cover his own (rear)."

Or maybe not. However, the facts are that as of December 2000, the government had won some 40 percent of nearly 20,000 cases heard by adjudicators. The vast majority of their wins came against claimants who have been farming legitimately and thus have a paper trail.

Undoubtedly, the files on record helped refute most of those 8,000 discrimination claims. This is brought home by pointing out that of the 12,000 cases the government has lost, less than 10 percent were refuted by FSA documents.

### **Which is it?**

Who is to blame for the predicament one unpaid claimant finds himself in?

"Everyone shares the blame. I haven't been paid yet going on three years! What some (lawsuit) members are doing is wrong and class counsel has made lots of mistakes. But USDA gets its share, too. No one made them agree on that settlement. They try and blame everybody else for how it's turned out, but no one was holding a gun to (Glickman's) head when he signed the thing."

Ladle some blame out for Congress, too, says another current FSA employee. "During the 1980s, getting money appropriated for the loan programs on time was a constant irritant. It wasn't that we weren't doing our job, it was that there just wasn't any money to disperse. That falls on Congress.

"Then during the 1990s, Congress appropriated money on time but our personnel and resources were drastically cut back. Either way, farmers are hurt and FSA gets slapped around. That's not right."

So which is it: discrimination or ineptitude? According to the majority of farmers and FSA employees *Delta Farm Press* has spoken to, with few exceptions it's mostly ineptitude.

"We're under major pressure and don't have enough resources," says an FSA employee. "With budget cuts, USDA keeps piling work on us and it's hard to keep up. Anyone with half a brain could see USDA was setting itself up for a lawsuit years ago. Farmers don't need loans coming through in July. They need

money early. I talked to other (FSA) employees about this way back. A lawsuit was inevitable. I just didn't think it'd take this form.

“There are going to be bad apples in every work place. I don't doubt there are a few racists running around FSA and that there are black farmers with legitimate claims. But racism has nothing to do with 99.9 percent of late checks and stupid regulations. White farmers' checks are late, too.

“And here's the other thing, if Glickman was right and there really were a bunch of racists at USDA, what happened to them? Has anyone asked about that? Do you think they're still on the job? No one seems to know, and Glickman isn't around to ask.”

Abraham Carpenter Jr., (a claimant *Delta Farm Press* profiled in-depth last fall) says the promises of USDA, class counsel and the lawsuit have vaporized. He wants resolution.

“The same problems black farmers experienced have been experienced by other races. But, for whatever reason our lawsuit was settled for, the facts are that injustices occurred,” says Carpenter.

Even black caucus leader Bennie Thompson, D-Miss., in comments about the white farmer lawsuit against USDA, has said, “I can see little difference in the way black farmers were treated in *Pigford* and what has happened to the farmers in this suit... I believe (the white farmers' lawsuit) has the potential to be larger than the black farmers' suit once word gets out.”

If Thompson is correct, then discrimination isn't the crowning problem at USDA. Instead, a solid argument can be made that the major problem at USDA is foolish leadership overseeing an antiquated system. Whatever the case, it needs fixing.

*EDITOR'S NOTE:* Class counsel didn't return numerous calls for comment on this story. Also, a USDA spokesperson says that at this time the department has no comment on questions raised in this story. The text of the consent decree along with updated statistical data from the *Pigford* case can be found at: [www.usda.gov/da/consent.htm](http://www.usda.gov/da/consent.htm).

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## FSA takes big hit from Pigford case

Fri, 2002-04-19 11:00

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Byline: David Bennett Farm Press Editorial Staff

Ugly wreckage lies in the wake of Pigford vs. Glickman, the discrimination lawsuit black farmers filed years ago against USDA's Farm Service Agency.

Pigford and its 1999 consent decree struck FSA like a fist to the gut. Years later, morale is low, agents are hard-pressed from all sides, and proposed farm bills threaten to make things worse.

On the horizon are lawsuits by Hispanics, American Indians and women also claiming FSA discrimination in the handling of loan applications and seeking compensation and loan forgiveness.

American taxpayers will foot the bill, perhaps paying billions of dollars to resolve the suits. The settlement was supposed to cost taxpayers \$300 million. Already, *Delta Farm Press* has discovered, the Pigford case has cost almost \$700 million without being close to an end.

FSA absorbs high administrative costs of Pigford, fielding three teams of 50 to 60 people from current staffs to work the case. The teams go to Washington, assemble files, and write summaries that state FSA's side on claimant cases. The files then go to an adjudicator.

FSA pays travel, overtime, and per diem to team members. That money comes from FSA's regular budget.

Of \$50 million appropriated for salary and expenses to administer Title VIII (disaster provisions) in 2000, almost \$15 million was spent on consent decree work, according to one FSA official.

An April 2001 GAO report is telling. In fiscal 1999 and 2000, FSA paid \$17.7 million from its budget for Pigford facilitators, adjudicators, arbitrators and a monitor. The report estimated FSA obligations would total \$13 million for fiscal 2001. \$4.5 million from FSA's budget went for administrative assistance for the settlement in 1999 and 2000. GAO estimated administrative assistance to total \$2.5 million for 2001.

(The same report says that as of mid-February 2001, class counsel and related attorney fees had cost taxpayers \$8 million. That money came from a judgment fund separate from FSA books.)

USDA doesn't want Pigford administrative costs listed as a separate line item because the department doesn't want taxpayers to know how much (Pigford) is costing, says one FSA official.

FSA employees say they have no records for many claimants winning cases, indicating some probably were never in an FSA office and are, therefore, filing false claims.

The Pigford settlement covers claims on USDA loans requested between Jan. 1, 1981, and Dec. 31, 1996, but FSA practice has been to keep records of disallowed loans for only three years because of limited storage space. Without documents, FSA offices are unable to dispute many claims of discrimination that go back as much 20 years.

Did anyone at FSA warn USDA about decree loopholes and document storage? FSA staffers claim they never had the opportunity. Before a serious investigation was done, they say, (former Agriculture Secretary Dan) Glickman declared FSA guilty of mass discrimination.

Discrimination didn't occur on nearly the scale that was portrayed, say FSA officials. The Pigford suit painted all of FSA with a broad brush of racism, and USDA allowed it — actually, in a way, *encouraged* it. Agreeing to the consent decree, USDA set itself up for other suits it must shortly address.

“Some counties deserved some heat, but the vast majority of counties did and do a great job,” says Randy Cook, president of the National Association of FSA State and County Office Employees.

FSA's county committee system drew criticism under the Clinton administration. The current county system usually has three to five committee members elected by farmers every three years. Since Pigford, minority and under-served advisors have been put on nearly every county committee in the country.

“Within USDA, there were some who wanted to eliminate county committees. NASCOE believes county committees are vital. We need to be sure minorities are elected to committees where minorities are present.

“NASCOE also supports voting rights for minorities members. Now they're just advisors, but they need voting rights,” says Cook.

“We have a female advisor on our county committee (in northern Wisconsin), but she doesn't vote. We believe she should have a say in who is hired as county FSA director, in the appeal processes and in all other actions requiring committee action.”

FSA employees are upset with the toll Pigford has taken on the agency. People have retired to avoid working on (the Pigford teams). At first, the teams were in Washington for two weeks, then home for two. Marriages suffered, family life suffered, health suffered.

Working almost 120 hours every two weeks physically ruined some team members, says an FSA official. The team's long hours were essentially mandated. If members resigned or wouldn't return to Washington, they were threatened with disciplinary actions or firings.

Things are a bit better now — at least time-wise. Team members now are on two weeks and home for four.

If USDA deals with future lawsuits as it has with Pigford, the department needs to hire additional staff at the national level, says Cook. “The money spent on the teams could be used to hire full-time employees.”

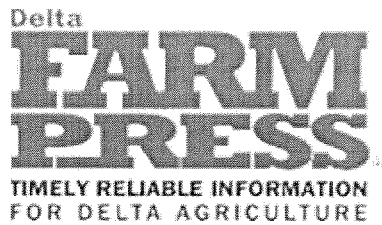
And the new farm bill — whichever version becomes law — will create even more work for FSA. USDA may have no choice but to hire more people.

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## \$1.25 billion settlement for black farmers

Fri, 2010-02-19 15:06

[Delta Farm Press](#)

[David Bennett](#)

Byline: David Bennett, Farm Press Editorial Staff

Following nearly a decade of litigation, a \$1.25 billion agreement has been struck between the USDA and a class consisting of black farmers. Congress is now being asked to provide the needed funds and several prominent farm-state politicians seem keen to do so.

"I am pleased that a settlement has been reached between USDA and African American farmers," said Arkansas Sen. Blanche Lincoln in a statement. "As chairman of the Senate Agriculture Committee, I am committed to ensuring that every farmer in America receives equal access and treatment in the delivery of USDA's programs and services. I look forward to working with my colleagues in Congress to help provide the compensation owed to African American farmers who have been victims of discrimination."

The current deal comes after the original 1990s *Pigford v. Glickman* settlement that cost taxpayers some \$1 billion. In the original settlement, roughly 22,000 claims were filed and 16,000 claimants received funds.

For more, see [Delta Farm Press: Pigford](#).

Saying they'd been left out of the earlier suit, the current class claims USDA's widespread discriminatory loan-lending practices harmed tens of thousands of black farmers.

"Today's announcement moves us an important step closer to a just resolution of the black farmers cases," said John Boyd, president of the National Black Farmers Association. "President Obama, (USDA) Secretary Vilsack and the administration have shown leadership in getting us to this moment. Next week, another black farmer will lose his farm. Others are at risk of not living to see justice. These farmers have waited for years, and simply cannot wait any longer for final resolution."

In contrast to Boyd's muted approval of the agreement, the tone at the Thursday USDA/Department of Justice press conference announcing the deal was buoyant.

"This is a great day for the USDA and the many thousands of African American farmers it serves," said Thomas Perrelli, DOJ associate attorney general. "This litigation has gone on for many years and has stood in the way of what should be a productive, cooperative relationship. The settlement we're announcing is possible because Secretary Vilsack was, and is, committed to changing that relationship."

The second round of Pigford litigation “has lasted through the terms of several previous (USDA secretaries) but Secretary Vilsack was determined from Day One to be the one who turned the page. He’s been personally involved, making sure the deal was done in a way that was right by the farmers and was responsible for the government.”

The \$1.25 billion — \$100 million of which is accounted for in the 2008 farm bill — was included in President Obama’s latest budget and will “completely resolve the claims that arose out of the original litigation, addressing the claims of late filers,” continued Perrelli.

“Once we have that appropriation, we’ll seek approval from the court where interested parties will have an opportunity to review the settlement and make any comments for the court to consider. If the court approves it ... class members will have six months to submit claims.”

- The class consists of anyone who, prior to the passage of the 2008 farm bill, submitted a late claim in the original Pigford litigation and hasn’t had his discrimination complaint heard.
- The process for participating will be similar to the one used in the original case.

Acknowledging major complaints from both sides in earlier cases, Perrelli vowed this time would be “a much, much more streamlined process.”

- As in the earlier cases, farmers who submit claims will choose between two tracks.

“Track A provides for a simplified claims process designed to provide quick relief of up to \$50,000 plus debt relief. Track B will be a more rigorous process but will permit successful claimants an opportunity to receive actual damages up to \$250,000.”

- The actual amount any claimant will receive depends on how many successful claimants there are.

So, Track A awards of \$50,000 could end up being much less if there are too many successful claimants?

“I don’t want to put a particular number on it,” said Perrelli. “But, like I said, it could be *up to* \$50,000. It could be lower if there are significantly more plaintiffs.”

The process “will take time. But we feel we’ve learned, over the last decade, how to make it more streamlined and efficient. And we hope the \$1.25 billion will be distributed quickly and appropriately.”

- If funds aren’t appropriated by Congress by the end of March, plaintiffs have the opportunity to walk away from the agreement.

One problem: last year, Congress didn’t approve a similar budget request and amount. Why will it approve the \$1.25 billion this time?

In refusing the earlier request, “one of the concerns Congress expressed was the lack of signed settlement agreement in which there was an acknowledgement by the plaintiffs that this would be a sufficient amount to resolve the dispute and would be a structure they’d be satisfied with,” said Vilsack. “We now have a signed settlement agreement. ... Our hope and belief is Congress will pass this appropriation expeditiously and allow us to begin the process of getting folks paid.”

To ensure the settlement funding, Vilsack pledged to “focus all my time, attention and resources. ... I think there’s bipartisan support for this. One of the senators I talked to about this recently ... is (Republican) Charles Grassley from Iowa.”

Indeed, in a statement, Grassley said he’d “originally hoped that the *Pigford v. Glickman* settlement would take care of the injustice that had been left untouched for decades. Unfortunately, many people were shut out of the process. When it became apparent that the USDA would not act, we took further steps and introduced legislation to right the wrongs. We finally got something included in the last farm bill and now, with today’s announcement, African American farmers who were wronged by the USDA are one step closer to a full resolution and well-deserved justice.”

Such statements are unlikely to placate farmers who claim it isn’t only blacks who have had trouble with the USDA through the years. And Vilsack did himself no favors during the press conference when asked for the “most egregious example” of USDA’s racial bias.

“Here’s an example: you had two farmers — one white, one black — go into Farm Service Agency in state ‘X,’” said Vilsack. “The white farmer applied for an operating loan, had it processed rapidly, had it approved and had the resources available so he could put a crop in. The black farmer was either denied the operating loan without due diligence to determine if he could repay the loan or he was strung out for such a long time that he didn’t get the operating loan in a timely (manner). That compromised (the black farmers’) capacity to put a crop in the ground and therefore made it more difficult to make payments and keep their farming operation. The result was either people got deeply in debt or, in some cases, they lost the farm.”

If that is the most “egregious” example Vilsack can find, Congress will surely be reluctant to fund such a settlement. In coming weeks, there will be plenty of people pointing Congress to the fact that for years numerous U.S. farmers, of all racial make-ups, received late operating loans. In fact, lawsuits similar to *Pigford* have been filed by other ethnicities, including whites. A class made up of Native Americans has already been certified.

In addition, Vilsack dodged questions about potential fraud, the possibility that more than \$1.25 billion will be needed, and the number of potential claimants. “I’m not going to get into hypothetical circumstances,” he said. “There are numbers all over the place in terms of this. ... I don’t know how many claims there will be. I don’t know if it’ll be 75,000 or 10,000. I don’t know if it’ll be 28,000 or 42,000.”

What about class attorney fees? Fees for “a lengthy list” of class attorneys “are part of the settlement negotiation,” said Perrelli. “It is a relatively complicated set of attorney fee provisions because it includes both prior work and a significant amount of future work with (Track A and Track B cases). There are also provisions that attempt to address both payments to class counsel as well as payments to non-class counsel. That’s because we want to ensure the maximum amount of funds actually reach individual farmers.

“The broad outline is ... that the party will put before the court the issue of attorney fees. We’ll litigate between a range of potentially 4.1 percent and 7.4 percent of the total funds made available. That puts (attorney fees between) \$49 million and \$89 million.”

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## Black farmers settlement to miss funding date

Fri, 2010-03-26 14:30

[Delta Farm Press](#)

[David Bennett](#)

Byline: David Bennett, Farm Press Editorial Staff

In mid-February, a \$1.25 billion settlement was announced between the USDA and a class of black farmers.

The settlement would provide payments for black farmers who claim widespread, long-term, discriminatory loan-lending practices by USDA.

At the time of the agreement, John Boyd, president of the National Black Farmers Association (NBFA) said, "Today's announcement moves us an important step closer to a just resolution of the black farmers' cases. President Obama, (USDA) Secretary Vilsack and the administration have shown leadership in getting us to this moment. Next week, another black farmer will lose his farm. Others are at risk of not living to see justice. These farmers have waited for years, and simply cannot wait any longer for final resolution."

For more, see [\\$1.25 billion settlement for black farmers](#).

That was then. Skip ahead to a March 26 press conference and Boyd's attitude had shifted from hope to exasperation and disappointment.

The reason? The February settlement stipulated that Congress had to act on the \$1.25 billion in funding by March 31. Without that, plaintiffs can vacate the agreement. Now, with Congress heading home for Easter break, the deadline won't be met and Boyd is enthusiastically pointing at those to blame.

"The (Obama) administration announced this as if it was over with back in February. But we don't have the money.

"Basically, we've been in Washington pushing members of Congress since we entered into the agreement. ... The deadline has crept up on us and nothing has passed in either the House or the Senate...

"I'm reminding everyone that the president made a strong commitment to show leadership to get this done. We haven't seen him show that leadership over the last couple of weeks. We haven't heard him voice his opinion on this issue. The president failed to step up and make the final step to get this done for our nation's black farmers.

“The president (hasn’t) helped us finish the job. What happened here? I’ve asked (that of) ... leaders in the White House and it has fallen on deaf ears.”

Boyd said when black farmers miss a deadline, “we lose our farms and lose the ability to take part in federal programs. We even miss the opportunity to take part in the original (*Pigford v. Glickman*) settlement. What happens when Congress, the president and the secretary of agriculture misses a deadline? Who oversees that?”

Congress may get a large dose of blame for the missed funding date, but Boyd places even more blame on the Obama administration.

“When they sent over the emergency package that had FEMA/Katrina, the black farmers and the Indian case, they failed to mark it as an ‘emergency.’ I know for a fact that leaders in Congress asked the White House for an emergency designation. They failed to respond.

“I’ve reached out to the White House to urge them to mark this as an emergency. It could have moved through the Senate two or three weeks ago (when) there was an opportunity. It wasn’t marked as an emergency by the administration and they failed to provide offsets — where the money would come from if we have to go pay-go.”

Black farmers have “been caught between the White House and Congress. That’s been our problem for a very long time.”

President Obama, Boyd reminded, “made a statement during one his speeches. He said the buck stops with him. I’m saying if the buck stops with him then step out and help the black farmers finish the job by asking Congress to appropriate this money.”

Black farmers are “very disappointed that the leadership didn’t work together better. I don’t want to take away from the efforts (of Michigan Rep. John Conyers, chairman of the House Judiciary Committee) in late March — he’s certainly leaned on Secretary Vilsack and others in Congress to get something moving. And I think there’s a little movement in the House, I don’t want to (downgrade) that, at all.”

However, while members of Congress are home on recess “our nation’s black farmers are dying, are losing their farms, and will miss another opportunity to plant their crops and harvest on time.”

When Conyers met with Vilsack in late March to discuss the settlement funding, Vilsack “said he was working on it and that his staff had reached out to Conyers,” reported Boyd. “Conyers quickly said that (Vilsack’s) staff had not reached out.

“That was the whole bait-and-chase game for weeks on the Hill when I was attending meetings. One would say, ‘Hey, we haven’t heard from the administration. We need more guidance from the administration.’”

Boyd was asked if the deal will fall apart.

“I don’t know. But I’m holding people accountable because when we entered into this agreement, the (Obama) administration agreed to put it on fast-track. That’s one of our reasons for taking the deal.

“We were looking for \$2.5 billion” before settling for “about half” that amount. Boyd and others “urged our legal team to take the deal because the farmers are older and the administration — including

Secretary (Vilsack) — said they'd go to the Hill and push to get this done by March 31. ... (Vilsack) said, in a very candid meeting, that he was doing that.”

At this point, allowing the government to “say ‘oh, we have plenty of time to do this’ would be letting them off very lightly. They agreed to do this and agreed to put this on the fast track.”

The NBFA has hired “a phone bank and other things to take an abundance of calls. Black farmers think the money is in place, we’ve settled and this is a done deal. But it’s not — Congress hasn’t acted and the administration has failed to show the leadership to close the deal.”

Boyd wants to meet with the president face-to-face. “I want to hear from the president why this can’t be marked as an emergency. This is an emergency: thousands of people have lost their lives and livelihoods waiting for justice. I call that an emergency. I don’t know what everyone else calls it.”

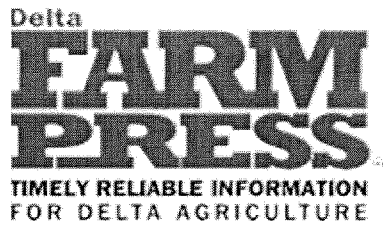
This is “more of the same” for black farmers, said Boyd. “We’re told, ‘It’s okay to continue to wait. You guys just wait and do nothing while members of Congress go home on vacation.’”

Considering the years of legal wrangling with USDA, will black farmers say “enough is enough?”

“That’s what I’m saying today,” answered Boyd. “That’s exactly what I’m saying: ‘enough is enough.’ I’m putting the accountability where the president said it should be — the buck stops with him.”

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**Source URL:** <http://deltafarmpress.com/government/black-farmers-settlement-miss-funding-date>

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## Pigford v Glickman update

Fri, 2010-04-23 09:31

[Delta Farm Press](#)

[David Bennett](#)

Byline: David Bennett, Farm Press Editorial Staff

*Pigford v Glickman* — more commonly known as “the black farmers’ lawsuit” — was brought up during Wednesday’s House Agriculture Committee hearing. Despite a \$1.25 billion settlement between the USDA (which was accused of entrenched racism in the case) and claimants being announced in February, those eligible for payment have yet to see a penny.

“What’s the status on the Pigford case?” asked Georgia Rep. David Scott of USDA Secretary Tom Vilsack.

“My understanding is that Congress, under the settlement, is required to appropriate the money to satisfy the agreed upon amount,” replied Vilsack. “Under the system you’ve engaged under pay-go, there’s a responsibility to identify offsets or designate that settlement as an emergency, which would supersede pay-go responsibilities.

“The challenge is that when Pigford was reopened by activity in the 2008 farm bill, you made the determination not to make the judgment fund available for payment. If you were trying to reverse that — say, ‘now that we think about it, we’d like to use the judgment fund’ — our understanding of your rules is that legislative action triggers pay-go.

“So, we’re working ... to identify precisely the course of action that will allow Congress to move forward and appropriate the money.”

For more on the case, see <http://deltafarmpress.com/legislative/black-farmers-settlement-funding-date-0326/index.html> and <http://deltafarmpress.com/legislative/black-farmers-0219/index.html>.

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## USDA's Pigford case: More claims than Black farmers

By Sara Wyant

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Washington, May 27— "The Pigford case is controversial, and always will be."

That statement, made by Attorney Alex Pires during a House Judiciary Subcommittee hearing six years ago could not be truer today. As part of a April 14, 1999 class action case settlement, commonly known as the Pigford case, U.S. taxpayers have already provided over \$1 billion in cash, non-credit awards and debt relief to almost 16,000 black farmers who claimed that they were discriminated against by USDA officials as they "farmed or attempted to farm." In addition, USDA's Farm Service Agency spent over \$166 million on salaries and expenses on this case from 1999-2009, according to agency records.

Members of Congress may approve another \$1.15 billion this week to settle cases from what some estimate may be an additional 80,000 African-Americans who have also claimed to have been discriminated against by USDA staff.

It's an emotional and racially-charged issue, especially for John Boyd Jr., the head of the National Black Farmers Association, who has fought tirelessly on behalf of his fellow farmers. Boyd says many of the farmers seeking help are elderly and may not live to see these cases resolved.

**"We needed \$2.5 billion, but I didn't want to tie us up in federal court anymore,"** Boyd told *Agri-Pulse* during an interview earlier this year. "I looked at the faces in the South and these people are old. That made me say, hey, let's settle this case and let's get the money to the farmers and help as many as we can." He estimated that only about half of the 80,000 farmers seeking restitution will eventually get it.

Settling this case is clearly a priority for the White House and USDA. Secretary Vilsack described the funding agreement reached between the Administration and advocates for black farmers early this year as "an important milestone in putting these discriminatory claims behind us for good and in achieving finality for this group of farmers with longstanding grievances."

However, confronted with the skyrocketing federal deficit, more officials are taking a critical look at the billion dollars spent thus far and wondering when these discrimination cases will ever end. **Already, the number of people who have been paid and are still seeking payment will likely exceed the 26,785 black farmers who were considered to even be operating back in 1997,** according to USDA. That's the year the case initially began as Pigford v. (then Agriculture Secretary) Glickman and sources predicted that, at most, 3,000 might qualify.

At least one source who is extremely familiar with the issue and who asked to remain anonymous because of potential retribution, says there are a number of legitimate cases who have long been denied their payments and will benefit from the additional funding. But many more appear to have been solicited in an attempt to "game" the Pigford system. For example, our

source said a large number of late filers had similar zip codes in large Ohio cities, suggesting a door to door effort might have taken place to find likely candidates.

Last summer, *Agri-Pulse* attempted to verify these allegations. We filed a Freedom of

**Pigford Track A Claimants by  
State who received payments as  
of 7-1-09**

AL	3445
AR	1532
AZ	3
CA	140
CO	8
CT	6
DC	14
DE	2
FL	273
GA	1957
HI	1
ID	1
IL	163
IN	15
KS	26
KY	64
LA	591
MA	3
MD	36
MI	81
MN	3
MO	81
MS	3193
NC	1349
NE	2
NJ	35
NY	40
OH	22
OK	607
PA	15
SC	892
TN	474
TX	302
UT	1
VA	178
VI	28
WA	3
WI	15
<b>Total</b>	<b>15,601</b>

Information Act (FOIA) request, asking USDA to provide the names and locations of those individuals who had received payments under all of the Pigford cases, both Track A and Track B, including the late filers. However, unlike the farm program payment data released by USDA and published by the Environmental Working Group on their website, the agency denied access to the Pigford information, citing an **“unwarranted invasion of personal privacy.”**

The agency did provide the total number of claims by state for cases that have already been decided as of June 30, 2009. (See table on left.) **This data does not include information on the late filers who could presumably be covered by the additional \$1.25 billion.**

As the table indicates, Alabama and Mississippi had the largest number of payment recipients under “Track A” which provided a flat \$50,000 fee —plus relief in the form of loan forgiveness and offsets of tax liability (\$12,500). These numbers seem to correspond with the outreach conducted and the large number of black farmers in those states. (See map)

However, in Illinois, 163 people received checks under the Pigford I settlement as of last year, even though Ag Census data from 2002 indicates there were only 78 black or African American operators in the state.

**USDA sources say the location of the check recipient may not be indicative of where the Pigford class member farmed or attempted to farm.** The claimant may have been denied access to USDA programs, given up farming and moved to another state.

This could explain **why 14 individuals in Washington, D.C. received payments as a result of the Pigford case.** Another possible reason for the variance in numbers between the Ag Census and the Pigford cases is that multiple individuals could be farming together, even though only one operator was identified by the Census.

USDA tried to address the potential for undercounting in the 2002 Ag Census. In addition to the principal operator, information was gathered on up to two additional operators for the first time that year. When three operators per farm could be reported, a total of 30,605 farms in the U.S. had Black or African-American operators in 2002. The 2007 Census reported 32,938 farms operated by African-Americans.

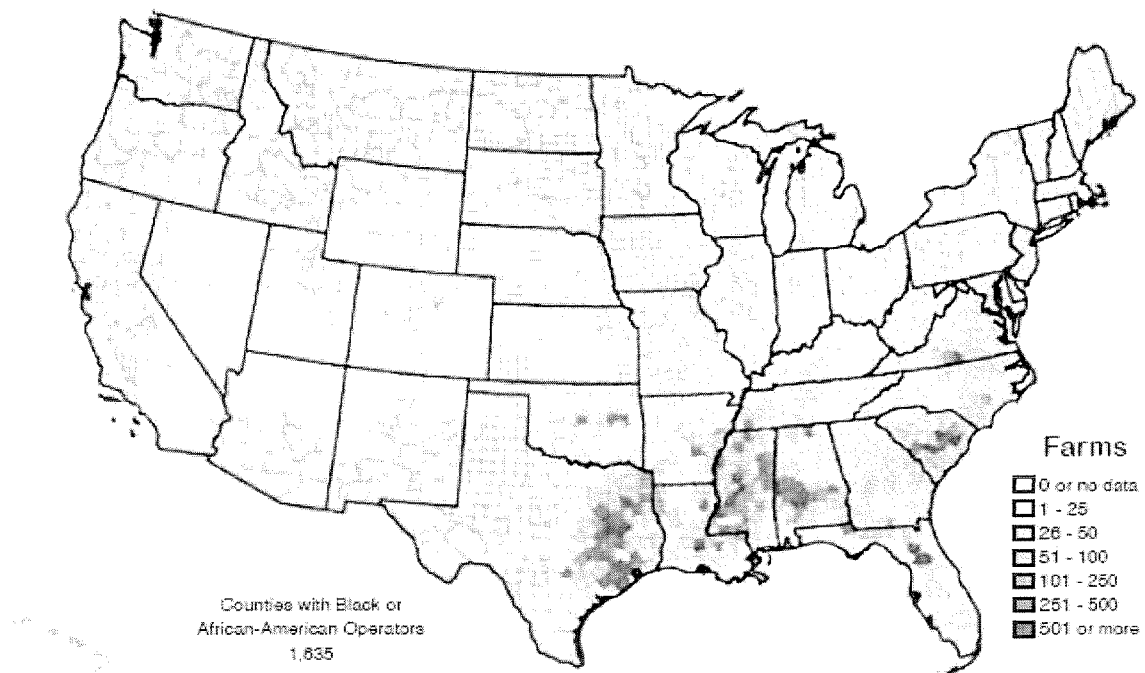
If the Ag Census data is correct, there still seems to be a disconnect between the number of people filing Pigford claims and the number of black farmers in the U.S.

### No guarantees

There is no guarantee that anyone who claims to have been discriminated against and files a claim will be awarded a payment under the Pigford class action suit or the *Consolidated Black Farmers Discrimination Litigation*, authorized by Section 14012 of the 2008 Farm Bill.

The consent decree set up a system for notice, claims submission, consideration, and review that involves a facilitator, arbitrator, adjudicator, and monitor, all with associated checks and balances. Under Pigford I, 69%, or 15,638 of the 22,549 of the Track A claims were approved, as of May 11, 2010, according to the [Pigfordmonitor.org](http://Pigfordmonitor.org)

**The majority of farms owned by Black or African-American farmers are located the South with the highest percentage of principal farm operators in Mississippi, according to the 2007 Census of Agriculture. Source: USDA.**



Under the Pigford consent decree, an eligible recipient is an African-American who:

1. Farmed or attempted to farm between January 1981 and December 31, 1996,
2. Applied to USDA for farm credit or program benefits and believes that he or she was discriminated against by the USDA on the basis of race, and
3. Made a complaint against the USDA on or before July 1, 1997.

The Pigford consent decree establishes a two-track dispute resolution mechanism for those seeking relief, according to the Congressional Research Service report, “The Pigford Case: USDA Settlement of a Discrimination Suit by Black Farmers.”

The most widely-used option—Track A—provides a monetary settlement of \$50,000 plus relief in the form of loan forgiveness and offsets of tax liability. Track A claimants had to present substantial evidence (i.e., a reasonable basis for finding that discrimination happened) that the loan was denied, provided late, approved for a lesser amount than requested, encumbered by restrictive conditions, or USDA failed to provide appropriate loan service, and such treatment was less favorable than that accorded specifically identified, similarly situated white farmers; and the USDA’s treatment of the loan application led to economic damage to the class member.

Under Track B, there is a higher burden of proof and the potential for a much higher payment. Track B claimants had to prove their claims and actual damages by a preponderance of the evidence. The documentation was reviewed by a third party arbitrator, who made a binding decision. The consent decree also provided injunctive relief, primarily in the form of priority consideration for loans and purchases, and technical assistance in filling out forms, according to the CRS report. As of January 12, 2010, the CRS reported that there were 172 eligible Track B claimants.

According to USDA data obtained by *Agri-Pulse* under a FOIA request, Track B payments have ranged from \$25,000 to over \$625,000.

### **Not enough time?**

The opportunity to participate in the Pigford class action case was publicized in a variety of traditionally black media outlets and through a series of meetings across the South. According to testimony from Attorney Alex Pires, at least 42 meetings were held in Alabama alone. In 1998, USDA’s Farm Service Agency provided \$40,000 to the National Black Farmers Association to provide training and technical assistance, according to FSA records.

Still, the Black Farmers Association has long complained that there was not sufficient time or notice for farmers to file claims. Under the original consent decree, claimants were to file their claim within 180 days of the consent decree, or no later than October 12, 1999.

The Court extended the deadline to September 15, 2000, but only for claimants who could show that “extraordinary circumstances,” such as damages incurred from Hurricane Floyd or medical problems prohibited them from filing claims.

Approximately 73,800 Pigford II petitions were filed under the late filing procedure, but only 66,000 were received on time....that is, before the September 15, 2000 late filing deadline, according to the CRS report.

Approximately 58,000 claimants who filed claims after the October 12, 1999 deadline, but before the September 15, 2000 “late-filing” cut-off, never had their discrimination claims resolved because they failed to meet the “extraordinary circumstances” test for the filing of late claims, according to the Black Farmer Claims website.

Frustrated by the delays, the Black Farmers and Agriculturalists Association (BFAA) filed a \$20.5 billion class action lawsuit in September 2004 on behalf of roughly 25,000 farmers against the USDA for alleged racial discriminatory practices against black farmers between January 1997 and August 2004. The lawsuit, however, was dismissed in March 2005 because BFAA failed to show it had standing to bring the suit.

Congress stepped in to remedy the situation, introducing the Pigford Claims Remedy Act of 2007 and the African-American Farmers Benefits Relief Act of 2007, providing relief for those that previously filed a Pigford discrimination lawsuit, but were denied as a result of late-filing. Those measures were included in the 2008 Farm Bill and authorized up to \$100 million for potential settlement costs.

On February 18, 2010, Attorney General Eric Holder and Secretary of Agriculture Tom Vilsack announced a settlement of these so-called Pigford II claims, which, if funds are appropriated, would bring the total to \$1.25 billion and presumably be enough to settle all of the remaining claims.

**Foreclosures Completed FY 2003-2008 Total by Race by Year**

<b>FISCAL YEAR</b>	<b>White</b>	<b>African American</b>	<b>Asian/PI</b>	<b>American Indian</b>	<b>Hispanic</b>	<b>Total</b>
2003	275	9	5	2	20	311
2004	253	10	2	14	19	298
2005	196	15	0	6	12	229
2006	159	24	4	2	9	198
2007	115	21	3	2	9	150
2008	111	26	5	7	19	168

Source: USDA/FSA FOIA request by Agri-Pulse.

For some farmers unable to repay USDA loans, foreclosures continue. However, USDA’s Farm Service Agency has changed their procedures in an attempt to prevent discrimination. Since 1997, USDA’s Farm Service Agency has required all foreclosure cases to be reviewed and cleared by its civil rights staff working at state offices. Under the 2008 Farm Bill, Congress directed the Office of Inspector General to determine whether or not foreclosure proceedings involving socially-disadvantaged farmers from 2003-2008 were consistent and in conformity with actual laws. The OIG found that FSA’s process was indeed consistent and conformed with the laws. “Moreover, when we compared how FSA restructured and foreclosed loans to socially disadvantaged and non-socially disadvantaged borrowers, we found that the borrowers were processed consistently.

“Putting this behind us will allow USDA to focus on the future,” emphasized Vilsack in an interview earlier this year. **“It will help socially-disadvantaged farmers become and remain successful in their efforts to farm. And hopefully it sends a strong message about the new direction for USDA.”**

Secretary Vilsack has been focused on addressing a wide variety of civil rights issues, both in the field with customers and internally, at USDA headquarters.

As one of his first orders of business after being confirmed, Secretary Vilsack issued a memo proclaiming “A new Civil Rights Era for USDA” in which he vowed to address about 3,000 complaints that had yet to be processed and to “move USDA into a new era as a model employer and premier service provider.”

A Government Accountability Office (GAO) report issued in May 2008 found that management of civil rights complaints by the USDA “continues to be deficient despite years of attention.” Vilsack’s memo incorporated many of GAO’s suggestions.

**U.S. Farms Operated by Blacks and Whites 1900-1997**

	Blacks	% Change	Whites	% Change
1997	18,451	-1.9	1,882,652	-0.9
1992	18,816	-18.0	1,900,629	-8.0
1987	22,954	-31.0	2,064,805	-6.5
1982	33,250	-41.9	2,207,726	-8.0
1978	57,271	-57.3	2,398,726	-22.4
1969	133,973	-50.8	3,089,885	-9.6
1959	272,541	-51.3	3,419,672	-28.8
1950	559,980	-17.9	4,802,520	-10.7
1940	681,790	-22.8	5,378,913	0.1
1930	882,852	-4.6	5,373,703	-2.3
1920	925,710	3.6	5,499,707	1.1
1910	893,377	19.6	5,440,619	9.5
1900	746,717	--	4,970,129	--
<b>Overall percentage loss, 1920-1997</b>				
				-65.8

Chart Source: “Returning African Farmers to the Land” by Wood and Gilbert p 45. The Review of the Black Political Economy, 2000.

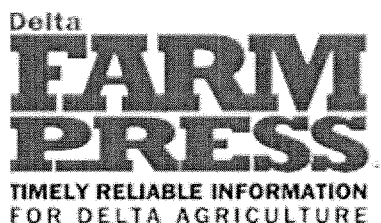
The authors noted that “establishing direct comparisons between the 1997 Census of Agriculture numbers and those from earlier years is problematic due to a change in the enumeration technique. In 1997, for the first time, the USDA conducted the count rather than the Census Bureau and found 26,785 Black farmers rather than 18,451 identified by the U.S. Census. “The farm numbers appear to be more accurate than they have been previously. Thus, while the numbers are more accurate, we cannot determine if the rate of decline has improved. The Census only identified one operator per farm.”

USDA’s renewed focus on civil rights is a mixed blessing for some of the folks who work at an agency, originally founded as “the People’s Department.” An employee who only agreed to speak on a confidential basis told *Agri-Pulse*:

“Some people think that our agency is the last plantation, that we have systemic bigotry. It really hurts morale in the agency and recruitment efforts. Why would a minority candidate want to work here after all they have heard? ”

To help document improvements in civil rights cases within USDA, *Agri-Pulse* filed another FOIA on July 2, 2009, requesting additional information on the number of minorities employed in the agency and civil rights cases filed from 1997 to present. Agency staff acknowledged receipt of our request, but almost 11 months later, no formal response has been received.

For more information, go to: [www.Agri-Pulse.com](http://www.Agri-Pulse.com)

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## Vilsack: Pigford case update

Wed, 2010-07-14 14:30

[Delta Farm Press](#)

[David Bennett](#)

Byline: David Bennett, Farm Press Editorial Staff

During a June 30 Senate Agriculture Committee hearing, Agriculture Secretary Tom Vilsack was asked about a resolution of the Pigford lawsuit. Earlier this year, black farmer plaintiffs agreed to settle a discrimination suit against the USDA. However, despite assurances that payments would be made quickly, funds have still not been made available to resolve the case.

For more, see [Black farmers settlement to miss funding date](#) and [\\$1.25 billion settlement for black farmers](#).

Also on Vilsack's to-do list: dealing with similar class-action discrimination cases brought against the USDA by Hispanics (*Garcia v. Vilsack*), Native Americans (*Keepseagle v. Vilsack*), and women (*Love v. Vilsack*).

"I think you've highlighted and tried to do a good job in the area of civil rights that had some shortcomings in a lot of previous administrations," said Iowa Sen. Charles Grassley to Vilsack during the hearing. "I've been an advocate for the Pigford/African-American settlement. ... Have you got any suggestions on how we might move forward on getting (plaintiff payments) out?"

Vilsack: "Our hope is you'll find a legislative vehicle. We've identified an offset you can tack (the necessary funds) onto so we can ... begin the process of getting these folks paid what they're entitled to.

"At the same time, we're setting up a process where we'll offer a settlement opportunity for the folks in the Garcia and Love cases. And we're in significant negotiations with the plaintiffs in the Keepseagle case.

"The goal in all of this is to close this chapter and begin a new chapter in civil rights within the USDA."

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Syndicate: Syndicate

**Source URL:** <http://deltafarmpress.com/government/vilsack-pigford-case-update>

Article from <http://www.libertynewsonline.com>

USA :: Discrimination

# **THE PIGFORD vs GLICKMAN CASE: RIPOFF OF THE AMERICAN TAXPAYERS BY BLACK ACTIVISTS**

08-02-2010 2:16 am - John Wallace



Pigford v. Glickman was a class action lawsuit against the United States Department of Agriculture (the "USDA"), alleging racial discrimination in its allocation of farm loans and assistance between 1983 and 1997. The lawsuit ended with a settlement in which the U.S. government agreed to

pay African American farmers \$50,000 each if they had attempted to get USDA help but failed.

To date, almost \$1 billion has been paid or credited to the farmers under the settlement's consent decree.

## **CASE HISTORY:**

The lawsuit was filed in 1997 by Timothy Pigford, who was joined by 400 additional African American farmer plaintiffs. Dan Glickman, the Secretary of Agriculture, was the nominal defendant. The allegations were that the USDA treated black farmers unfairly when deciding to allocate price support loans, disaster payments, "farm ownership" loans, and operating loans, and that the USDA had completely failed to process subsequent complaints about racial discrimination.[1]

After the lawsuit was filed, Pigford requested blanket mediation to cover what was thought to be about 2,000 farmers who may have been discriminated against, but the U.S. Department of Justice opposed the mediation, saying that each case had to be investigated separately. As the case moved toward trial, the presiding judge certified as a class all black farmers who filed discrimination complaints against the USDA between 1983 and 1997.

The plaintiffs settled with the government in 1999. Under the consent decree, all African American farmers would be paid a "virtually automatic" \$50,000 plus granted certain loan forgiveness and tax offsets. This process was called "Track A".[2]

Alternatively, affected farmers could follow the "Track B" process, seeking a larger payment by presenting a greater amount of evidence — the legal standard in this case was to have a



preponderance of evidence along with evidence of greater damages.

#### THE RIPOFF OF THE TAXPAYERS BY BLACK ACTIVISTS:

Originally, claimants were to have filed within 180 days of the consent decree. Late claims were accepted for an additional year afterwards, if they could show extraordinary circumstances that prevented them from filing on time.

Far beyond the anticipated 2,000 affected farmers, 22,505 "Track A" applications were heard and decided upon, of which 13,348 (59%) were approved. \$995 million had been disbursed or credited to the "Track A" applicants as of January 2009[update], including \$760 million disbursed as \$50,000 cash awards.[3] Fewer than 200 farmers opted for the "Track B" process.

#### HOW COULD THERE BE 86,000 DISCRIMINATION CLAIMS IF THERE WERE ONLY A TOTAL OF 26,785 BLACK FARMERS IN 1977?

Beyond those applications that were heard and decided upon, about 70,000 additional petitions were filed late and were not allowed to proceed. Some have argued that the notice program was defective, and others blamed the farmers' attorneys for "the inadequate notice and overall mismanagement of the settlement agreement." A provision in a 2008 farm bill essentially allowed a re-hearing in civil court for any claimant whose claim had been denied without a decision that had been based on its merits

In other words, the number of total claims filed by Black people claiming to be farmers not only exceeded the original estimate by almost 40 to 50 times, it is close to four times the USDA's estimate of 26,785 total black owned farms in 1977! One reason for this is that the settlement applied to farmers and those who "attempted to farm" and did not receive assistance from the USDA. So Black people who were thinking of going into the farming business, but never did, were also eligible for the \$50,000 fraud award, because they might have been discriminated against. It sounds like "Black Reparations" to me. Paying off the latest group of Pigford fraud application cases is said to be a high priority for the Obama administration.

#### CONNECTION TO SHIRLEY SHERROD - USDA

Remember the recent case involving a woman by the name of Shirley Sherrod, whose quick dismissal from the Obama administration may have had less to do with her comments on race before the NAACP than her long involvement in the aptly named "Picford" case. In a special article written for the Washington Examiner, Tom Blumer explained that Shirley Sherrod and the group she formed along with family members and others, New Communities, Inc. received the largest single settlement under the Pigford case.

Her organization, New Communities, is due to receive approximately \$13 million (\$8,247,560 for loss of land and \$4,241,602 for loss of income; plus \$150,000 each to Shirley and her husband Charles for pain and suffering). There may also be an unspecified amount in forgiveness of debt. This is the largest award so far in the minority farmers law suit.

What makes this even more interesting is that Charles Sherrod, Sherill's husband, appears to be the same Charles Sherrod who was a leader in the radical group Student Nonviolent Coordinating Committee in the early 1960s. The SNCC was the political womb that nurtured the Black Power movement and the Black Panthers before it faded away.

In his article, Blumer had some interesting questions about this settlement and about Sherrod's rapid departure from the USDA

- Was Ms. Sherrod's USDA appointment an unspoken condition of her organization's settlement?
- How much "debt forgiveness" is involved in USDA's settlement with New Communities?
- Why were the Sherrods so deserving of a combined \$300,000 in "pain and suffering" payments -- amounts that far exceed the average payout thus far to everyone else? (\$1.15 billion divided by 16,000 is about \$72,000)?
- Given that New Communities wound down its operations so long ago (it appears that this occurred sometime during the late 1980s), what is really being done with that \$13 million in settlement money?

Here are some other questions to consider:

- Did Shirley Sherrod resign so quickly because the circumstances

of her hiring and the lawsuit settlement with her organization that preceded it might expose some unpleasant truths about her possible and possibly sanctioned conflicts of interest?

- Is USDA worried about the exposure of possible waste, fraud, and abuse in its handling of Pigford?
- Did USDA also dispatch Sherrod hastily because her continued presence, even for another day, might have gotten in the way of settling Pigford matters quickly?

Here is another area for concern: In her position at the not for profit, "Rural Development Leadership Network," a network of activists and community builder, was Sherrod involved in any way in encouraging people to submit fraudulent claims under Pigford? Did she put Black people who owned rural land in touch with lawyers who would file the paperwork claiming attempts to farm had been prevented by the non cooperation of the local USDA?

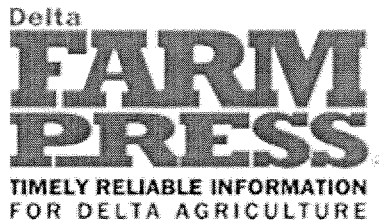
As many of you may know, there are a multitude of small parcels of non productive rural land all across the south, land unsuitable for mechanized agriculture that was once owned by subsistence farmers, black and white alike. Many of these parcels continue to be owned by family members who moved elsewhere out of sentimental reasons. The property taxes and other carrying costs are cheap and often ancestors are buried there in family plots. A drive on any country road in the South may turn up several carefully maintained postage stamp sized family cemeteries. I wonder how many of the these owners claimed they had farmed, attempted to farm, or thought about farming such acreage to score a fast \$50,000 Black Farmer Fraud Award from Uncle Sam?

I guess if you are or were a poor White, Asian, Native American or Hispanic farmer, you're just out of luck in collecting your \$50,000 fraud award.

#### FOOTNOTES:

1. Timothy Pigford, et al., v. Dan Glickman, Secretary, United States Department of Agriculture, US District Court for the District of Columbia, Civil Action No. 97-1978 (PLF). Paul L. Friedman, U.S. District Judge.
2. "The Pigford Case: USDA Settlement of a Discrimination Suit by Black Farmers", Tadlock Cowan, Congressional Research Service, January 13, 2009. Fetched February 9, 2009 from [1].

3. "The Pigford Case: USDA Settlement of a Discrimination Suit by Black Farmers", p. 5. Tadlock Cowan, Congressional Research Service, January 13, 2009. Fetched February 9, 2009 from [2].

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## Lincoln to introduce bill to fund Pigford settlement

Thu, 2010-09-23 13:54

[Forrest Laws](#)

Blanche Lincoln, D-Ark, chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, and two fellow senators announced they will introduce a bill to fund the \$1.15 billion settlement that Agriculture Secretary Tom Vilsack negotiated with black farmers in February.

Lincoln, who is in the middle of a hard-fought re-election campaign, was joined by Sens. Kay R. Hagan, D-N.C., and Mary Landrieu, D-La., in making the announcement. The settlement is the result of a lawsuit filed by black farmers alleging discrimination in USDA programs in the 1990s.

"The time is long overdue to fund the discrimination settlement for African-American farmers who have experienced decades of injustice," said Lincoln. "All farmers should receive equal access and treatment in the delivery of USDA's programs and services and we must finally close this chapter of discrimination within USDA.

"While funding this settlement will not erase the anxiety and frustrations so many hard-working farmers experienced, it will help compensate their financial losses and finally begin laying the foundation in restoring their faith in the United States government."

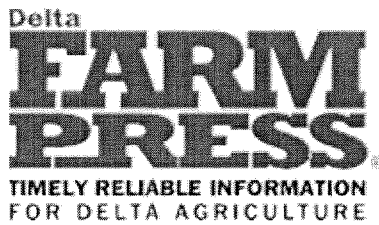
"We want to ensure black farmers in our country finally receive the justice they deserve," said Hagan. "More than 4,000 African American farmers in North Carolina and over 75,000 nationwide have been discriminated against and denied just compensation for decades."

"This injustice has gone on for far too long," added Landrieu. "The U.S. Congress needs to make this right, and the reality is that we are running out of options. That is why Senator Hagan, Senator Lincoln and I have introduced a standalone bill today."

Landrieu said the senators plan to attach the bill to "any moving legislative vehicle in the Senate. But if the political environment is such that no bill is moving, Senate Leadership will need to call up this stand alone bill and debate it on its merits. I think that Senate Leadership is going to need to take a good, long look at that option."

They said they plan to introduce the bill Thursday (Sept. 23). The legislation is aimed at ensuring that African-American farmers who were unfairly discriminated against when applying for loans, credit and other forms of financial help will receive the settlement to which they are entitled. The bill will also extend the statute of limitations on certain outstanding discrimination complaints at USDA. Lincoln and Hagan joined John Boyd, president of the National Black Farmers Association, at a press conference earlier today to highlight the need to fund the settlement.

**Source URL:** <http://deltafarmpress.com/lincoln-introduce-bill-fund-pigford-settlement>

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## Bill on Pigford funding to be introduced

Thu, 2010-09-23 18:44

[David Bennett](#)

Congress has failed to fund, or even vote on, the \$1.15 billion Pigford settlement that was announced last February. The settlement would put to bed a class action brought by black farmers claiming long-term discrimination by the USDA.

In an August interview with *Delta Farm Press*, John Boyd, president of the Black Farmers Association, said September action on the settlement was urgently needed. To draw attention to the situation, in mid-September Boyd said he'd drive a tractor into Washington, D.C., and hold a press conference.

To read the Boyd interview, see <http://deltafarmpress.com/government/pigford-needs-september-action-boyd>

Boyd did just that and, shortly thereafter, several farm-state legislators announced they would propose a bill to fund the settlement.

On Thursday afternoon, the Senate Agriculture Committee released a statement on the legislation – which will be introduced by Arkansas Sen. Blanche Lincoln, Louisiana Sen. Mary Landrieu and North Carolina Sen. Kay R. Hagen.

The three senators, will “introduce a bill to fund the \$1.15 billion settlement that black farmers reached with U.S. Department of Agriculture (USDA) Secretary Tom Vilsack in February,” reads the press release.

Lincoln, chairman of the Senate Agriculture Committee, said “the time is long overdue to fund the discrimination settlement for African American farmers who have experienced decades of injustice. Farmers should receive equal access and treatment in the delivery of USDA’s programs and services and we must finally close this chapter of discrimination within USDA. While funding this settlement will not erase the anxiety and frustrations so many hard-working farmers experienced, it will help compensate their financial losses and finally begin laying the foundation in restoring their faith in the United States government.”

“We want to ensure black farmers in our country finally receive the justice they deserve,” said Hagen. “More than 4,000 African American farmers in North Carolina and over 75,000 nationwide have

been discriminated against and denied just compensation for decades. Today, I join with my colleagues from Louisiana and Arkansas ... to introduce a bill to fund the settlement once and for all, and we are working to send this language to the President.”

“This injustice has gone on for far too long,” said Landrieu. “The U.S. Congress needs to make this right and the reality is that we are running out of options. That is why Sen. Hagan, Sen. Lincoln and I have introduced a stand-alone bill today. We will try to attach this bill to any moving legislative vehicle in the Senate. But if the political environment is such that no bill is moving, Senate leadership will need to call up this stand alone bill and debate it on its merits. I think that Senate leadership is going to need to take a good, long look at that option.”

The press release says “Lincoln, Hagan, and Landrieu announced that they plan to introduce the bill (Thursday). The legislation will ensure that African American farmers who were unfairly discriminated against when applying for loans, credit and other forms of financial help will receive the settlement to which they are entitled. The bill will also extend the statute of limitations on certain outstanding discrimination complaints at USDA.”

Syndicate: Syndicate

**Source URL:** <http://deltafarmpress.com/government/bill-pigford-funding-be-introduced>



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## Vilsack urges Congress to fund Pigford settlement

Wed, 2010-09-29 20:08

[David Bennett](#)

On Wednesday, Agriculture Secretary Tom Vilsack urged Congress to fund the Pigford settlement that has gone without action for months.

Vilsack's statement says "black farmers throughout the country unfortunately faced discrimination in past decades when trying to obtain services from USDA. This discrimination is well-documented, the courts have affirmed this discrimination, and Congress has twice acknowledged the need to settle with those who have suffered from this discrimination. It is now time for Congress to pass the funding so the victims of this discrimination can get the opportunity to receive the compensation that they are due.

"While members of Congress have noted the bipartisan support for this legislation, it is time for Congress to turn their support into action and fund the settlement agreement once and for all. The time for Congressional action to fund the settlement agreement is running out, and the victims of this discrimination should not need to wait a day longer. Congress should not leave today without exhausting every option for passing legislation that provides for the funding."

Congress has failed to fund, or even vote on, the \$1.15 billion Pigford settlement that was announced last February. The settlement would put to bed a second round of legal action brought by black farmers claiming long-term discrimination by the USDA.

In an August interview with *Delta Farm Press*, John Boyd, president of the Black Farmers Association, said September action on the settlement was urgently needed. To draw attention to the situation, in mid-September Boyd said he'd drive a tractor into Washington, D.C., and hold a press conference.

*To read the Boyd interview, see [Pigford needs September action](#).*

Days into Boyd's slow drive, a Senate Agriculture Committee press release said several farm-state legislators — including Arkansas Sen. Blanche Lincoln, Louisiana Sen. Mary Landrieu and North Carolina Sen. Kay R. Hagen — would propose a bill to "fund the \$1.15 billion settlement that black farmers reached with U.S. Department of Agriculture (USDA) Secretary Tom Vilsack in February."

Lincoln, chairman of the Senate Agriculture Committee, said "the time is long overdue to fund the discrimination settlement for African American farmers who have experienced decades of injustice. Farmers should receive equal access and treatment in the delivery of USDA's programs and services and we must finally close this chapter of discrimination within USDA. While funding this settlement will not erase the anxiety and frustrations so many hard-working farmers experienced, it will help compensate

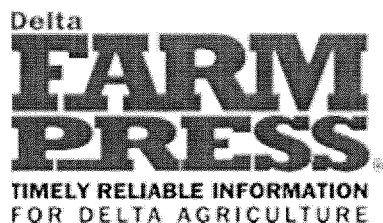
their financial losses and finally begin laying the foundation in restoring their faith in the United States government.”

“We want to ensure black farmers in our country finally receive the justice they deserve,” said Hagan. “More than 4,000 African-American farmers in North Carolina and over 75,000 nationwide have been discriminated against and denied just compensation for decades. Today, I join with my colleagues from Louisiana and Arkansas ... to introduce a bill to fund the settlement once and for all, and we are working to send this language to the president.”

“This injustice has gone on for far too long,” said Landrieu. “The U.S. Congress needs to make this right and the reality is that we are running out of options. That is why Sen. Hagan, Sen. Lincoln and I have introduced a stand-alone bill today. We will try to attach this bill to any moving legislative vehicle in the Senate. But if the political environment is such that no bill is moving, Senate leadership will need to call up this stand alone bill and debate it on its merits. I think that Senate leadership is going to need to take a good, long look at that option.”

Syndicate: Syndicate

**Source URL:** <http://deltafarmpress.com/government/vilsack-urges-congress-fund-pigford-settlement>

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## Trio calls for Pigford investigation

Republicans call for DOJ investigation of Pigford settlements, allege widespread fraud and claim whistleblowers are prepared to testify.

Congressmen, alleging “massive, widespread fraud” amongst claimants and attorneys in the Pigford settlements, have called on the Department of Justice to open an investigation. During a Wednesday press conference, legislators said whistleblowers – including an FBI agent, USDA employees and black farmers – are prepared to testify about the malfeasance.

*For more on potential fraud in the Pigford case, see [USDA's settlement with black farmers](#)*

The trio of Republicans – Iowa Rep. Steve King, Minnesota Rep. Michelle Bachmann and Virginia Rep. Bob Goodlatte – said they want legitimate cases of USDA discrimination against black farmers to be rectified. However, they made clear that plenty of evidence has surfaced that deserves to be addressed by investigators.

King said more USDA employees wanted to speak on the record regarding the case but were fearful of losing their jobs.

*The press conference can be seen at [conference](#)*

Interestingly, also on Wednesday, Agriculture Secretary Tom Vilsack called on Congress to fund the \$1.15 billion settlement.

“While members of Congress have noted the bipartisan support for this legislation, it is time for Congress to turn their support into action and fund the settlement agreement once and for all,” said Vilsack. “The time for Congressional action to fund the settlement agreement is running out, and the victims of this discrimination should not need to wait a day longer. Congress should not leave today without exhausting every option for passing legislation that provides for the funding.”

Vilsack’s statement came only days after several farm-state legislators -- including Arkansas Sen. Blanche Lincoln, Louisiana Sen. Mary Landrieu and North Carolina Sen. Kay R. Hagen – announced they would propose a bill to fund last February’s \$1.15 billion settlement.

Unfortunately for those wanting an investigation, the agitating trio of legislators – especially King and Bachmann -- are widely seen as beholden to right-wing, even fringe, cultural interests making it easier to dismiss their claims regarding the Pigford settlements. If their voices are not joined by a more inclusive chorus, the chances of an investigation or hearings on Pigford certainly lessen.

Unsurprisingly, in an August interview with *Delta Farm Press*, John Boyd, president of the Black Farmers Association, hit King hard over his Pigford stance.

“When I hear that stuff from (Iowa Rep.) Steve King ... you have to ask ‘what is he ever for?’ I’ve been testifying before Congress many times and he’s always there. What does he support? What is he for?

“If he has a problem with black farmers stating their claim against the government, then where is his urgency of need to stop the discriminating against black farmers? I haven’t seen that statement.

“We have 80,000, or so, black farmers saying they have a problem being mistreated by the federal government. What’s his stand on fixing that?”

Now we know.

Publication date: Thu, 2010-09-30 (All day)

Syndicate: Syndicate

**Source URL:** <http://deltafarmpress.com/government/trio-calls-pigford-investigation>

# More claims than Black farmers

[http://www.agri-pulse.com/20100603H1\\_Pigford\\_Response.asp](http://www.agri-pulse.com/20100603H1_Pigford_Response.asp)

October 24th, 2010

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East Point, GA, June 1 Black farmers filed suit against the U.S. Department of Agriculture in 1997 because of long standing racial discrimination in services and credit opportunities. The lawsuit is referred to as Pigford v Vilsack (Pigford being Tim Pigford, a Black farmer in North Carolina, and Tom Vilsack the present Secretary of Agriculture) and is in its second phase. Pigford II, as it is called, is for the thousands of African Americans who filed petitions late in the lawsuit and have yet to file a claim.

Of relevance to the Pigford lawsuit, in 1983 President Ronald Reagan eliminated the Office of Civil Rights at USDA. This meant there was no place in the government for Black farmers to address their grievances. The office was not re-opened until 1996 during the Clinton administration. As noted below, it is this period that encompasses the eligibility requirements for Black farmers to participate in the Pigford lawsuit.

Under the Pigford consent decree, an eligible recipient is an African-American who:

- (1) Farmed or attempted to farm between January 1981 and December 31, 1996;
- (2) Applied to USDA for farm credit or program benefits and believes that he or she was discriminated against by the USDA on the basis of race; and
- (3) Made a complaint against the USDA on or before July 1, 1997.

The potential universe of farmers in Pigford II is 80,000. Your article raises questions about this figure. You state, for one, that the number far exceeds Black farms in the agriculture census, which, in the recent 2007 census, was 32,938.

There are a number of things to consider in understanding this apparent anomaly, but it is perhaps best to start with the census itself.

(1) Discrimination against Black farmers has been pervasive. The discrimination did not stop with lack of services from USDA but included the census itself. Counting Black farmers was, on the whole, not prioritized by census administrators. Historically, thousands of Black farmers have not been listed on USDA files and it is only recently that there has been a concerted effort to locate and adequately count minority farmers (i.e. African America, Native American, women, Asian, Latino). But this process is in its infancy and its likely that the count still does not reflect the reality of the Black farming community;

(2) Over the 16 years covered by Pigford, Black farms that are reported in the census likely had more than one person attempting to use the land to produce crops father and son, or siblings. This is no different than with white-owned farms;

(3) The 80,000 undoubtedly includes thousands of individuals who were not familiar with the requirements of the Pigford lawsuit when they applied to participate, and they will ultimately be screened out. Please keep in mind that none of the 80,000 listed applicants has been interviewed to determine if they meet the class definition. Anecdotal evidence is that many don't;

(4) In some instances it is likely that more than one heir has applied to participate on behalf of a farmer who died in the 1980s. But, those applications will be combined into one, further reducing the class size at the end of the day;

(5) Many Black farmers attempted to obtain services from USDA offices and were denied and generally their names have not been recorded in USDA offices unless they actually received a loan or others services.

You refer to 163 claimants in the lawsuit being from Illinois and that in the last agriculture census there were only 78 Black farmers in the state. You question the discrepancy and correctly surmise they might be those who attempted to farm, gave up and moved to another state.

Illinois is directly north of Mississippi. Historically, leaving the oppressive state of Mississippi was a

priority for many during the heart of the Jim Crow years and into the difficult adjustment period after passage of the 1964 Civil Rights Act and the 1965 Voting Rights Act and into the 1970s and 1980s. Many would simply go up the Mississippi River into Chicago and other areas of Illinois where there were family and friends. While your article reveals that most Black farmers in the country are in Mississippi, even today it is a common saying that there are more Mississippi land owners in Chicago than in Mississippi.

You also question the relevance of the late filers and the issue of not being notified. You refer to Class Counsel Attorney Alexander Pires stating that 42 meetings were held in Alabama alone.

Notifying the potential claimants in the Pigford lawsuit was not an easy task. Southern Blacks have dispersed throughout the country. There was not a list of individuals with addresses to contact as would be case, for example, with credit card holders or stockholders. Many of the potential claimants were living all over the country and many would have made a concerted effort to leave the rural South. As a result, it took some time for the information about the lawsuit to reach the potential universe of claimants and much of it was through word of mouth.

Further, as the late J. L. Chestnut, a prominent civil rights lawyer who was a leader in the Pigford case, told both Judge Friedman and the House Committee on the Judiciary, many eligible claimants did not come forward to attend the meetings because they simply didnt believe it would do any good. All they knew was that no one ever before had been able to hold USDA accountable for its treatment of Blacks and there was no good reason to expect that would change soon that is, until late in the last few weeks of the six-month application period, when the first rulings came down in favor of individual claimants. Once that word spread, those who had been too discouraged to apply came forward and the Pigford lawyers were hit with a tidal wave of applicants just after the filing deadline.

You also question the number of claimants in large cities in Ohio. You write, quoting a source, that there are a number of legitimate cases who have long been denied their payments and will benefit from the additional funding. But many more appear to have been solicited in an attempt to game the Pigford system. For example, our source said a large number of late filers had similar zip codes in large Ohio cities, suggesting a door to door effort might have taken place to find likely candidates. The clustering of applications does not seem unreasonable given that when families and individuals leave the South they tend to cluster together with those they know; or when families and communities anywhere in the world leave an area or move to another country they tend to gravitate toward people of a familiar culture to cushion the shock of the move. As mentioned, one of the most viable communications to seek claimants in the lawsuit was word of mouth which could well have been the case in Ohio.

And again, please keep in mind that none of the late applicants has been interviewed and many of them simply are not aware of the requirements of the class definition, or will turn out to be duplicative representatives of their deceased parents or grandparents who were denied by USDA, lost their land, and moved North.

Yet, you also provide information about the infrastructure for the lawsuit. The Pigford consent decree set up a system for notice, claims submission, consideration, and review that involves a facilitator, arbitrator, adjudicator, and monitor, all with associated checks and balances. The process has been a rigorous one whether for those in Track A (claimants with less documentation) or Track B (with more documentary proof of discrimination). Claimants have to prove, to the satisfaction of authorities in the various levels of the lawsuit, that they comply with the eligibility requirements. Thirty percent of those who filed claims in the original Pigford case lost, and that doesnt even count the literally thousands of persons who were turned away by the class lawyers without their claims being filed, once it became apparent that they didnt meet the class qualifications. And, as I understand it, the same rigor in weeding out those who dont qualify will be applied to the processing of Pigford II applicants.

The Pigford lawsuit has not solved all the problems for Black farmers but it has brought attention to the issue and financial relief to thousands and, as you mentioned, the Obama administrations USDA Secretary Vilsack has vowed to address the on-going discrimination within his department. But, as J. L. Chestnut said in 2005 Pigford was not perfect. No lawsuit or anything else crafted by the hand of man is perfect, because man is not perfect. I will stand here and tell you that if I had understood in 1997 the magnitude, the real magnitude of mistrust that hurting Black farmers felt against their government, I would have searched for some kind of formula specifically to address that problem. I dont know what we would have come up with. I dont know if we could have come up with anything, but more attention would have been given to the problem. When people have been ruined by their

government, it is hard for them to believe that this government now wants to help them. And I don't care how much you advertise or where you advertise, you can't get really to that problem in depth.

**\* Heather Gray is the Director of Communications of the Federation of Southern Cooperatives/Land Assistance Fund**

**\*\* Ralph Paige is the Executive Director of the Federation of Southern Cooperatives/Land Assistance Fund**

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

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## Pigford funding passes out of Senate

Sat, 2010-11-20 18:47

[David Bennett](#)

On Friday, the Senate passed funding approval for the \$1.25 billion Pigford settlement announced last February. The settlement – aimed at putting to bed a class-action brought by black farmers who claim long-time discrimination by the USDA -- was brokered following nearly a decade of legal wrangling.

*For more, see [\\$1.25 billion settlement for black farmers](#)*

Cobell, a class-action by Native Americans against the Interior Department for mismanagement of trust fund accounts, was also part of the \$4.6 billion Senate funding bill. Also covered in the bill is funding for the settlement of four water rights suits brought by Native American tribes.

Now over the Senate hurdle, Pigford class members must wait for House approval before President Obama can sign the legislation. The House is expected to take up settlement funding before year's end.

"The time is long overdue to fund the discrimination settlement for farmers who have experienced decades of injustice," said Arkansas Sen. Blanche Lincoln, current Chairman of the Senate Agriculture Committee following the Senate vote. "All farmers should receive equal access and treatment in the delivery of USDA's programs and services, and I am proud that we are finally closing this chapter of discrimination within USDA. While funding this settlement will not erase the anxiety and frustrations so many hard-working farmers experienced, it will help compensate their financial losses and finally begin laying the foundation in restoring their faith in the United States government. I applaud my Democrat and Republican colleagues for coming together to pass this important piece of legislation."

The Senate's action "marks a major milestone in USDA's efforts to turn the page on a sad chapter in our history," said Agriculture Secretary Tom Vilsack. "Civil rights is a top priority of mine, and since coming to USDA, I have implemented a comprehensive program to correct past errors, learn from mistakes, and take definitive action to ensure that all of our customers are treated fairly. This announcement is yet another step to help move us forward into a new era as a model employer and premier service provider."

While happy with the Senate action, President Obama pointed to other class-action cases the USDA is facing. "These legislative achievements reflect important progress (but) they also serve to remind us that much work remains to be done," said Obama. "That is why my administration also continues to work to resolve claims of past discrimination made by women and Hispanic farmers against the USDA."



## Response of the NBFA

On Saturday morning, John Boyd, president of the National Black Farmers Association (NBFA), spoke with *Delta Farm Press*. Among his comments:

*When did you have an inkling this might go forward in the lame duck session? Were you confident a few weeks ago or was this 'a go' just in the last few days?*

"I spent some time with (Senate majority leader) Harry Reid in Nevada" shortly before the recent elections. "I did a couple of events with him and he said he'd push it during lame duck. He did what he said.

"(Iowa) Sen. Charles Grassley was exceptional on the Republican side. He worked with other 'R's' helping to get them on board.

"Grassley and Reid really worked together to get this done.

"There were bumps all the way to the end. It was very difficult, and I'm very glad to get out of the Senate, I don't mind telling you."

*On the funding...*

"The total (for the Pigford settlement) is \$1.25 billion. There was \$100 million (targeting Pigford) in the 2008 farm bill. That is added to the \$1.15 billion in the measure" just passed by the Senate.

*What are your expectations with this headed to the House?*

"I'm hopeful we'll get it done when Congress comes back after Thanksgiving. I've already had some very positive talks with (South Carolina) Rep. Jim Clyburn and others who have been leaders in the House on this.

"I think this will come up after Thanksgiving and we're moving in the right direction."

*Will the Republicans gaining control of the House have any impact on the vote?*

"If it reaches into January (when the new Congress is seated) it'll be a whole other game, so to speak. At that point, they'd have to come in and reassign committee seats and figure out what their priorities will be.

"So, I have my eye set on doing this in the lame duck and won't look towards January. Based on conversations I've had with those in the House, I feel positive we'll be moving forward during the lame duck."

*On reactions from class members...*

"I've been getting a lot of calls. The farmers are excited. Many had given up hope of this ever getting out of the Senate. Yesterday was the tenth time it was brought to the floor.

"This is a breath of fresh air. It's justice for the black farmers who have just been waiting. Many of them died before seeing this day."

*The Pigford and Cobell settlements were together for the Senate vote. Did that give you pause or were you all for packaging them together?*

“We picked up Cobell when it left the White House and there was supposed to be an emergency package with FEMA. ... Those key items moved together.

“We were already coupled with Cobell in the House. ... I’m a little more comfortable with the lay of the land in the House.

“I’m happy for the Indians, too. (Cobell) is a very old case.”

*Anything else?*

“During the last interview, I gave my word I’d not give up the fight until the end. ... And I won’t until President Obama signs the bill. Hopefully that’s soon...

“Maybe this will be something for farmers to put under the tree. It won’t put them back in business but justice does come. When America is tested, it does the right thing – just not always in the timeframe we’d like.”

*For more, go to [Pigford](#)*

**Source URL:** <http://deltafarmpress.com/government/pigford-funding-passes-out-senate>

## POLITICS DAILY

# White House: Now Is Time to Pay Claims of Black Farmers, Native Americans



**Mary C. Curtis**

*National Correspondent*  
POSTED: 11/29/10

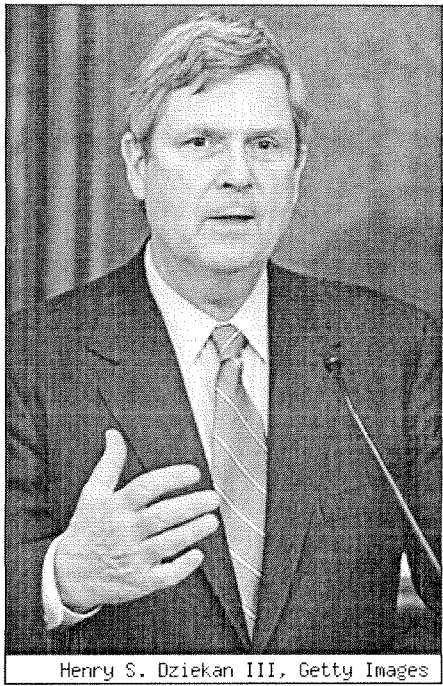
Secretary of Agriculture Tom Vilsack and other Obama administration officials on Monday urged the House to act on long-delayed settlement claims to Native Americans and African American farmers. In a conference call with reporters, Vilsack -- with Deputy Secretary of the Interior David J. Hayes and Associate Attorney General Tom Perrelli -- called the settlements historic.

"The president has been very clear to me" that at USDA, "we are to treat farmers, ranchers and growers equally and fairly," said Vilsack. "That means not only making sure we're doing the right thing today but also righting the wrongs from the past."

On Nov. 19, the Senate unanimously approved the Claims Settlement Act of 2010; the House, which has previously endorsed portions of the deal, is expected to take up the Senate version, maybe as early as next week. With bipartisanship at the breaking point in a lame-duck Congress, the administration is stressing the importance of resolving the anti-discrimination claims against the federal government that have lasted for more than a decade.

In what is known as the Pigford II lawsuit, black farmers who are a part of a class-action lawsuit against the USDA will receive a \$1.15 billion settlement. The USDA has admitted to discriminating against black farmers in the awarding of loans and other benefits. After the Senate bill passed, John Boyd, a Virginia farmer and president of the **National Black Farmers Association**, called the action "overdue." He said in the **Washington Post**, "Many farmers have died waiting for justice. Hopefully, we can get this money to those who are living."

The other portion of the Claims Settlement Act concerns the Cobell lawsuit brought by Native Americans contending Department of the Interior mismanagement of Indian trust accounts and resources; it has been in the courts for 14 years. The \$3.4 billion agreement "will completely resolve these historical issues," said Hayes. The Senate agreement also settles four separate water-rights suits made by Native American tribes.



The bipartisan Senate deal came together only after lawmakers concerned about adding to the deficit were assured payments would be made by money already in the budget.

The settlements "don't just resolve litigation," said Perrelli. "They put large classes of our citizens in a new relationship with the agencies that play critically important roles in their lives," the Department of Agriculture for African American farmers and the Department of the Interior for Native Americans. Perrelli said the settlements are "very fair deals for the taxpayers," as well, with protection against unlimited government liability and anti-fraud provisions in the claims process.

Vilsack also emphasized the "ample reviews and sets of eyes" built into the Senate agreement. "There is a court approval required of the final accounting," he said. "There is a standard of proof" that would guard against "people trying to seek resources they are not entitled to."

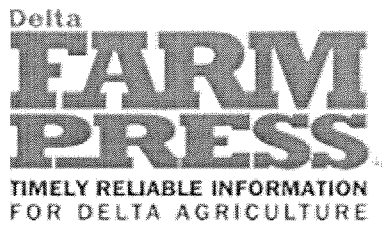
When asked if his department is taking any action against employees who may have been responsible for discrimination in the past, Vilsack said his focus is "making sure we don't get the government and the USDA in the same situation it's been in for the last 20 or 30 years" by examining its "practices and procedures" with the help of outside consulting groups.

"What we ought to be doing is focusing our time and intention and resources on making sure we're serving today's farmers as well as we possibly can," he said, and "getting resources to folks who are entitled to them as quickly as we can."

***Click here to follow Mary C. Curtis on Twitter.***

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## Pigford: review set-up, anti-fraud measures (Updated)

Tue, 2010-11-30 17:29

[David Bennett](#)

UPDATE: *On Tuesday afternoon, the Claims Settlement Act of 2010 passed the House on a 256 to 152 vote. The legislation now awaits President Obama's signature.*

*Following the vote, Obama said Congress dealt with the funding bill "in a bipartisan fashion to bring this painful chapter in our nation's history to a close. ... Yet, while today's vote demonstrates important progress, we must remember that much work remains to be done." The Obama administration "will continue our efforts to resolve claims of past discrimination made by women and Hispanic farmers and others in a fair and timely manner."*

Having passed the Senate, the \$4.6 billion Claim Settlement Act of 2010 is now in the hands of the House. The legislation – which bundles together settlements for Pigford II, Cobell (brought by Native Americans against the Interior Department over the management of Indian trust accounts and resources) and four Native American water rights cases – is expected to be voted on in early December.

*For more, see [Pigford funding passes out of Senate](#)*

On Monday, Agriculture Secretary Tom Vilsack and U.S. Associate Attorney General Tom Perrelli addressed the settlements and how the claims process will be set up. While keen to point out efforts to root out any fraud, Vilsack made it clear it is unlikely anyone at USDA will be punished for the discrimination that was the basis for Pigford.

"President Obama has been very clear with me ... that we're to treat farmers, ranchers and growers equally and fairly," said Vilsack. "That means not only making sure we're doing the right things today but righting the wrongs from the past."

"Civil rights has become a top priority of mine since coming to USDA and we've implemented a comprehensive program to learn from past errors, to learn from our mistakes, and take definitive action to ensure all our customers are treated fairly. We've conducted civil rights training in our FSA locations, doubled our compliance reviews and seen the lowest number of FSA complaints since we began keeping records."

Also on the USDA agenda: "cultural transformation. Today, we have the lowest number of equal employment opportunity complaints since the department began keeping track."

*For more see [\\$1.25 billion settlement for black farmers](#)*

Vilsack spoke on how claims will proceed, assuming House passage of the settlement funding.

“First, the proposal passed by the Senate and agreed upon by USDA, lays out a very complicated and detailed method for individuals filing a claim seeking compensation. They must qualify as a class member (which means they must have filed a ‘late-filing request’ under the original Pigford consent decree sometime after October 1999 and prior to June 2008). If they aren’t on the current ‘timely’ list of those who filed late requests, they’ll have to provide significant and independent documentary evidence that they had, in fact,” made such a filing.

In addition to being a member of the class, claimants “also must furnish a detailed, complete claim form. If they’re represented by counsel, that will include a statement by the attorney (representing the claimant under penalty of perjury) that the claim is based on existing law and factual contentions are true and correct.”

The eligibility/payment process will include “a number of steps inherent in the review of these claims by the comptroller general and USDA’s inspector general. (This will) ensure we’re performing the settlement process appropriately ... and paying those who are entitled to payment.

“Payments will not be forthcoming until the court has ultimately approved the final accounting of expenditure funds made available in the appropriation.”

Vilsack is hopeful the House takes quick action “because we’d like to put this chapter at USDA behind us. Then, we’ll focus on other cases pending against the department.”

The cases have been in court for decades, said Perrelli, and have been “incredibly hard-fought. Both judges and Congress have repeatedly urged the parties to settle and there’s never been any doubt that significant sums were necessary to resolve them....

“With respect to Pigford II, in the 2008 farm bill, Congress gave new claims to African American farmers who’d submitted late claims to the original Pigford settlement. Working with the USDA, we at DOJ took that class of individuals ... didn’t make one additional person eligible, and saw that we could fight this for years in court or see if there was a more responsible way to resolve it. We think this settlement does that.”

Vilsack said USDA operations are currently under review to make sure the agency “isn’t making the same mistakes made 20 years ago.” That report is due at the end of December.

Looking at claims during the last Bush presidency “we found, roughly, 3,000 claims that required further investigations and 600, or so, that might very well lead to claims. We’ve asked Congress to take a look at that in terms of the statute of limitations.”

Congress, said Vilsack, has yet to respond.

If the funding is approved, how long before payments reach claimants?

“I don’t know that anyone can give a good estimate,” said Vilsack. “Obviously, an individual arbitrator ... has to be appointed with the consent of all engaged. That person/s will have to set up shop (and review claims).

“That will take some time. We want to make sure it’s done right and, as it is looked at by the comptroller general or inspector general, there aren’t any problems. We’ll take the time required to do it right with the understanding that folks have waited a long time.”

Vilsack was also asked about the USDA facing discrimination cases involving Hispanics and women.

“We are engaged in an effort to provide opportunities for a quicker resolution for individual claimants (in the cases involving Hispanics and women). They are different than the Pigford II cases because there was no congressional directive or a certification of the courts of a class. So, these are individual claims...

“What we hope is that in the not-too-distant future we’ll see how to set up a process where those claims will at least have the option of resolving their dispute with the government case-by-case.”

Asked if the Obama administration has decided not to punish USDA employees for past discrimination, Vilsack said his focus “has been on making sure we don’t get the government in the same situation it’s been in (over the) last 20 or 30 years.” That means “taking a look at our current practices and procedures and making sure we’re not making the same mistakes again, intentionally or unintentionally...

“I think it might be somewhat difficult to be able to establish responsibility for something that may have occurred 20 or 30 years ago. I think what we ought to be doing is focusing ... on making sure we’re serving today’s farmers as well as we possibly can.”

Perrelli fleshed out the anti-fraud measures in the Pigford settlement. “The Pigford II settlement arises out specific legislation out of Congress that created a class of individuals of between 65,000 and 66,000 individuals who’d filed claims late in the original Pigford settlement...

“With respect to fraud, the government’s liability is capped. That provides some protection.

“More directly, there is an independent adjudicator who is responsible for making sure the process is fair and without fraud. They are directed, if there is any concern about fraud, to seek additional, appropriate information. ... There will (also be) multiple audits that will focus across the whole.”

**Source URL:** <http://deltafarmpress.com/government/pigford-review-set-anti-fraud-measures-updated>

A head lawyer for **black farmers** said it's likely they won't see money from their discrimination settlement until at least 2012.

"There will be a deadline for claims, but it has not yet been set," said **Andrew Marks**, a lead counsel for the farmers. "It's highly unlikely that anyone will get any money until some time in 2012."

**President Barack Obama** recently signed the \$1.2 billion settlement into law, ending 20 years of legal back and forth and political fighting over the money for farmers who were discriminated against by the federal government when it came to loans and subsidies.

Farmers will receive an average of about \$50,000, and some may qualify for up to \$250,000 if they can prove economic damage up to that amount. **John Boyd**, president of the **National Black Farmers Association**, has repeatedly said that each farmer will have to go through a mediation process and that this was not a blanket settlement.

The process is based on concerns by some members of Congress about possible fraud. Rep. **Michelle Bachman** said the settlement was "rife with fraud." But there are several layers of approval that farmers will have to go through to claim a settlement. After meeting with a mediator, the settlement will have to be approved by the court and also be reviewed by government auditors.

The length of the process is one reason Boyd said he is speaking with the **U.S. Department of Agriculture** about funding outreach to farmers so that a repeat of what happened during the first settlement doesn't occur.

After black farmers successfully sued the government for discrimination in 1999 in the **Pigford v. Glickman** case, the federal government paid out \$980 million to more than 16,000 farmers. Many eligible farmers were left out of the settlement or were not given enough time to file a claim. In 2007, then-Sen. **Barack Obama** introduced a bill to reopen the case, and the \$1.2 billion settlement was agreed upon.

"My goal is to not leave anyone out. Now is the time for the farmers to reach out and say: 'This is what happened to me and I can tell my story,'" Boyd told **BlackVoices** in an interview last week. About 30,000 farmers have filed to be a part of the class.

Boyd said the settlement was bittersweet because so many farmers had died or lost their property while waiting for the claim.





Marks answered a few [questions about the next steps in the process](#) for **Gannett News Service**.

**Question: What should farmers do now?**

Answer: They should start gathering information, particularly any proof that they filed a claim in the original Pigford case. They also should gather any proof they were denied loans or other assistance or received less favorable terms than white farmers got.

**Q: Who can apply?**

A: This settlement applies only to black farmers who missed the deadline for filing a claim in the Pigford I case. But even farmers who can't prove they filed an application past that deadline should move forward in pursuing a claim, because claims arbitrators should have those records, Marks said.

**Q: When can farmers apply and where?**

A: They will be notified later, perhaps early next year, about where and when to file a claim.

**Q: Why is it taking so long to get the money to farmers?**

A: Final court approval of the settlement may not happen until next summer, Marks said. Farmers likely will have six months after that to file claims. Meanwhile, arbitrators are expected to begin reviewing claims.

**Q: How much will black farmers get?**

A: Farmers can choose two options for payment. The fast-track option pays a fixed amount. The other may pay more but requires a higher burden of proof, including evidence of economic damages.

**Tagged as:** [Andrew Marks](#), [AndrewMarks](#), [Barack Obama](#), [BarackObama](#), [black farmers](#), [black farmers settlement](#), [BlackFarmers](#), [BlackFarmersSettlement](#), [John Boyd](#), [JohnBoyd](#), [michelle bachmann](#), [MichelleBachmann](#), [PigfordV.Glickman](#)  
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# Pigford v. Glickman

From Wikipedia, the free encyclopedia

***Pigford v. Glickman*** (1999) was a class action lawsuit against the United States Department of Agriculture (USDA), alleging racial discrimination in its allocation of farm loans and assistance between 1983 and 1997. The lawsuit ended with a settlement on April 14, 1999, by Judge Paul L. Friedman of the U.S. District Court for the District of Columbia.<sup>[1][2]</sup> To date, almost US\$1 billion has been paid or credited to more than 13,300 farmers under the settlement's consent decree, under what is reportedly the largest civil rights settlement to date. As another 70,000 farmers had filed late and not had their claims heard, the 2008 Farm Bill provided for additional claims to be heard; and in December 2010, Congress appropriated \$1.2 billion for what is called *Pigford II*, the second part of the case.<sup>[2]</sup>

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## Terms of the Consent Decree

Under the consent decree, an eligible recipient is an African American who (1) farmed or attempted to farm between January 1, 1981, and December 31, 1996, (2) applied to USDA for farm credit or program benefits and believes that he or she was discriminated against by the USDA on the basis of race, and (3) made a complaint against the USDA on or before July 1, 1997. The consent decree set up a system for notice, claims submission, consideration, and review that involved a facilitator, arbitrator, adjudicator, and monitor, all with assigned responsibilities. The funds to pay the costs of the settlement (including legal fees) come from the Judgment Fund operated by the Department of the Treasury, not from USDA accounts or appropriations.<sup>[1]</sup>

## Case history

The lawsuit was filed in 1997 by Timothy Pigford, who was joined by 400 additional African-American farmer plaintiffs. Dan Glickman, the Secretary of Agriculture, was the nominal defendant. The allegations were that the USDA treated black farmers unfairly when deciding to allocate price support loans, disaster payments, "farm ownership" loans, and operating loans, and that the USDA had failed to process subsequent complaints about racial discrimination.<sup>[1][2]</sup>

After the lawsuit was filed, Pigford requested blanket mediation to cover what was thought to be about 2,000 farmers who may have been discriminated against, but the U.S. Department of Justice opposed the mediation, saying that each case had to be investigated separately. As the case moved toward trial, the presiding judge certified as a class all black farmers who filed discrimination complaints against the USDA between 1983 and 1997.

The Pigford consent decree established a two-track dispute resolution mechanism for those seeking relief. The most widely used option was called "Track A".<sup>[2]</sup> which could provide a monetary settlement of \$50,000 plus relief in the form of loan forgiveness and offsets of tax liability. Track A claimants had to present substantial evidence (i.e., a reasonable basis for finding that discrimination happened) that:

- claimant owned or leased, or attempted to own or lease, farm land;
- claimant applied for a specific credit transaction at a USDA county office during the applicable period;
- the loan was denied, provided late, approved for a lesser amount than requested, encumbered by restrictive conditions, or USDA failed to provide appropriate loan service, and such treatment was less favorable than that accorded specifically identified, similarly situated white farmers; and
- the USDA's treatment of the loan application led to economic damage to the class member.

Alternatively, affected farmers could follow the "Track B"<sup>[2]</sup> process. Track B claimants had to prove their claims and actual damages by a preponderance of the evidence (i.e., it is more likely than not that their claims are valid). The documentation to support such a claim and the amount of relief are reviewed by a third party arbitrator, who makes a binding decision. The consent decree also provided injunctive relief, primarily in the form of priority consideration for loans and purchases, and technical assistance in filling out forms. Finally, plaintiffs were permitted to withdraw from the class and pursue their individual cases in federal court or through the USDA administrative process.<sup>[2]</sup>

This settlement was approved on April 14, 1999, by Judge Paul L. Friedman of the U.S. District Court for the District of Columbia.<sup>[2]</sup>

## Payouts

Originally, claimants were to have filed within 180 days of the consent decree. Late claims were accepted for an additional year afterwards, if they could show extraordinary circumstances that prevented them from filing on time.

Far beyond the anticipated 2,000 affected farmers, 22,505 "Track A" applications were heard and decided upon, of which 13,348 (59%) were approved. US\$995 million had been disbursed or credited to the "Track A" applicants as of January 2009, including US\$760 million disbursed as US\$50,000 cash awards.<sup>[3]</sup> Fewer than 200 farmers opted for the "Track B" process. This was reportedly the largest federal settlement for civil rights violations to date.<sup>[4]</sup>

Beyond those applications that were heard and decided upon, about 70,000 petitions were filed late and were not allowed to proceed. Some have argued that the notice program was defective, and others blamed the farmers' attorneys for "the inadequate notice and overall mismanagement of the settlement agreement". A provision in the 2008 farm bill essentially allowed a re-hearing in civil court for any claimant whose claim had been denied without a decision that had been based on its merits.<sup>[5]</sup>

The largest compensation as of July 2010, from the first part of the Pigford case, was the \$13 million paid to the members of the defunct collective farm New Communities of Southwest Georgia in 2009; their attorney said that the value of the land of their former 6,000-acre farm was likely worth \$9 million alone.<sup>[4]</sup>

## Subsequent events

In 2004, the Black Farmers and Agriculturalists Association filed a US\$20.5 billion class action lawsuit against the USDA for the same practices, alleging racially discriminatory practices between 1997 and 2004. The lawsuit was dismissed when the BFAA failed to show it had standing to bring the suit.

Legislative language was added to the 2008 Farm Bill to enable more farmers to bring suit and to authorize the government to negotiate additional monies for settlement. In 2010, the Administration had negotiated settlement for an additional \$1.2 billion for such claims.<sup>[6]</sup>, in what is known as *Pigford II*. Congress appropriated the money for the settlement later that year.<sup>[2]</sup>

## See also

- List of class action lawsuits
- New Communities
- Resignation of Shirley Sherrod

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