

# **BLACK FARMERS & AGRICULTURALISTS ASSOCIATION**



&  
**The Land Loss Fund**

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To: Chairman Steve Chabot  
Committee on the Judiciary  
The Subcommittee on the Constitution  
U.S. House of Representatives  
362 Ford House Office Building  
Washington, DC 20515

**Re: The Notice Provision in the Pigford Settlement**

Hearing on November 18, 2003  
Room 2141  
Rayburn Office Building  
Washington, DC  
10:00am

From: Gary R. Grant, President  
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In light of recent revelations that have been brought out by the Environmental Working Group, and taking into account the fact that Judge Paul Freidman, in the Pigford vs. Veneman (Glickman) case, has fined Attorney Al Pires, the Black farmers' lawyer, for mishandling the Pigford Consent Decree, we are asking Congress to step in and provide overdue relief to the Black farmers ill served by this Pigford Consent Decree.

With the same oppressive and immoral governmental consensus as that of the 1854 Dred Scott Decision and the 1930's Scottboro Boys case, Black farmers have been exploited and penalized by historical and institutional racist policies perpetuated by ruthless local and federal employees. How much more impossible could it be for a

small band of mostly aging Black American farmers to resist the legal powers and unending racist strategies of the USDA complex and the Department of Justice?

**On behalf of the members of this organization and myself, our specific concerns are:**

### **The Black Farmers**

Many of the legitimate Black farmers who applied in the Pigford Consent Decree have not been paid. This process has taken farmers and or their decedents well over five years to maneuver through the cumbersome and unfair process of the Consent Decree to receive, at minimum, the \$50,000. Many of those who were successful still are not able to receive debt relief.

Black farmers who are labeled as owing the USDA money are disproportionately more likely to have their claims of discrimination denied by the arbitrator and adjudicator, and this practice appears to be a concerted effort to prevent the "actual or real farmers" from remaining in agriculture. Furthermore, for those farmers prevailing in the class, the government is not paying the \$12,500 in taxes to the Internal Revenue Service (IRS) in a timely manner, thus causing many farmers to receive threatening notices from the IRS that "payments are due immediately or enforcement actions will commence." Needless to say, these actions add to the stress and frustrations that Black farmers are already suffering from the actions of the USDA.

### **Denied Debt Relief**

The Black farmers, who have not received debt relief, are again besieged by their properties being at risk to foreclosure by the USDA. Many of them are facing certain bankruptcy and loss of livelihood as well as land. National and local agents have proceeded with a vengeance against those who were denied in *Pigford*.

### **Timely Filings by farmers**

There were legitimate reasons why many Black farmers and their heirs were not able to get their applications in on time. The primary reason for the failure is due to both the USDA and the Attorney Al Pires failings to use a fair and impartial notification method. These applicants, especially the farmers, should have their applications accepted in the Pigford lawsuit.

Black farmers objected on March 4, 1999 at the "Fairness Hearing" and have continued their objection to the use of submitting the name of a "similarly situated white farmer" in order for a determination to be made in their claim. In order for this to be a successful tool, the Black farmer must have access to a white farmer's file at USDA "through discovery," which were not available for the Black farmer to review to determine if a "similarly situated white" farmer had received loans while the Black farmer did not. This is like asking a woman in a suit who developed breast cancer from implants to match her legal claim with a neighbor who died from taking the deadly Vioxx.

### **Reproving discrimination**

We object to the unusual requirement in the Pigford Consent Decree that as a part of a class action lawsuit, Black farmers must re-prove discrimination on an individual basis. The individual in a class is a "class member" and should be treated as such. This standard was set in the case of both the Japanese Americans and with victims of the Jewish Holocaust.

We further object to the Black farmers having to re-prove discrimination because the

grounds for discrimination as a class was set out in the Civil Rights Action Team's February, 1997 CRAT report, which the court had access to.

### **Failure of USDA to live up to the agreement**

We are further disappointed that even the Black farmers who did prevail in the Pigford case have not been given preferential treatment in USDA loan programs since 1999. My office continues to receive calls regarding farmers trying to get loans and being denied for the same reasons prior to the Pigford action. This action continues because no local or federal USDA employees have been reprimanded, penalized, nor terminated for their previous grievous acts of racism and discrimination.

We are overwhelmed by the actions of the USDA and DOJ to use any tactic to not pay Black farmers what is legally due them, as well as seeking means not to relieve the farmers' USDA debt.

We feel that the final major tactic of the USDA's lawyers and this consent decree is to use tax payer money to prolong the struggle for justice for Black farmers until the farmers die off, especially since statistics show that in 1997 over 25% of Black farmers were over 70 years of age.

### **Political Atmosphere**

In the present atmosphere of political enmity, Black and poor people in general seem to still be considered a sub-system of the American society. Before the prevailing political party takes office in January 2005, somebody in the American government should have the political will and the moral courage to end this interminable nightmare for Black farmers and their families.

And finally, as the duly elected president of the National Black Farmers & Agriculturalists Association (BFAA), the real membership of BFAA and I are very much disturbed and offended that this Congressional Committee denies me the right to appear personally, while allowing Thomas Burrell to address the committee as president of an organization that has not elected him, according to the by-laws of the organization he pretends to represent.