

STATEMENT OF
PHILLIP J. HAYNIE, II

On Behave of
Conference of Black Farm Organizations

for the

U.S. House of Representatives

Judiciary Committee

Sub Committee on the Constitution

Hearing on the

“Status of the Implementation of the Pigford v. Glickman Settlement “

Tuesday , September 28, 2004

Washington, D.C.

Good afternoon

My name is Philip Haynie II

I am a fourth generation farmer from Heathsville, Virginia. On September 14 , 1867 my great grandfather, Robert Haynie purchased sixty acres of land in Heathville, Virginia. This was the first purchased of land by former slave. I am about to lose part of this land that I inherited due to the discriminatory practices of USDA. For me and my family spanning five generations farming has been a way of life and not just a job.

The Pigford v. Glickman settlement was supposed to put an end to discrimination to Black Farmers and compensate Black farmers of years of discrimination. This settlement has failed black Farmers in the following ways;

1. Financial Compensation; according to a recent Environmental Working Group report 64,000 black farmers did not get a fair and just hearing of their cases.
2. Failed to end discrimination against black farmers by USDA employees.
3. Failed to prevent the lost of black land
4. Failed to provide educational and financial opportunities to help young African Americans to engage in farming.
5. Failed to end foreclosures on black farmers and their land
6. Failed to provided injunctive relief as outlined in the settlement.
7. Failed to provided black farmers with equal and fair access of land in USDA inventory

The government has systematically and purposefully low-balled the damage estimates in Track B cases.¹ They used a model based on “averages,” even when the individual Track B farmer’s operation was far larger than “average.” The USDA collects and analyzes lots of good data at taxpayer expense, but then conveniently ignored that information when estimating Track B farmer’s damages. In short, to the extent that any farmer in Track B had an operation that was larger than the “average” for that region and county, the USDA underestimated the damages, and did so purposefully, a choice that is objectively scientifically and statistically indefensible. Then, to add injury to insult, the USDA damages model took a downward “adjustment” in the damages estimate if the farmer’s crop productivity level was higher than the average for the county, again just driving the

¹ Support for my statements can be found in the deposition testimony of Dr. Ronald Trostle, employee of the ERS, USDA, and documents he produced in connection with my lawsuit against the USDA, all of which have been filed with the District Court, in Civil Case No. 00-2516, Docket # 56, Exhibits 21 and 24, and can be accessed on line at <https://ecf.dcd.uscourts.gov>, under the same Case, Docket and Exhibit numbers (a PACER account is required).

estimates back to the average even when the farmer showed better than average yields.

This is just another example of how the Justice Department and the USDA together have twisted what was supposed to be a good faith *settlement for the class* into an opportunity to *fight individual farmers one by one*. Those farmers now have to fight the government

- without the benefit of shared expenses for the class for things like counsel and experts,
- without the benefit shared learning for the class,
- without the benefit of the normal discovery procedures,
- and without the benefit of an open and transparent process.

One of the trade-offs was supposed to be a fast process. Instead, the process is taking years for the Track A farmers. The Monitor now has until 2007 to complete the reviews of the petitions. Of course, because the government does not have to pay interest on the damages, the government wins again if it understaffs the settlement process and drags it out.

To sum it up, I don't know how anyone can look at the *reality* and call it a good faith settlement. It is clear that the government is spending huge sums in fighting these cases. It is clear that the damages model the USDA uses in Track B cases is not designed to produce an accurate estimate of the farmer's damages; it is designed to underestimate them. It is clear that the Track A process is moving at snail's pace, which disadvantages only the farmer. This is not a settlement; this is just a continuation of the USDA's war against the minority farmer, after having disarmed him by the false promise of a good faith settlement. And at every step,

DOJ has enabled and facilitated the USDA's continued mistreatment of minority

farmers in this process.

USDA has used the office of Inspector General to intimidate and reprise against farmers, especially large black farmers who have filled civil rights complaints against USDA

The systemic discrimination at the U.S. Department of Agriculture goes far beyond black farmers- It includes Hispanic farmers, native American farmers, Asian farmers, women farmers, disabled and socially disadvantaged farmers and USDA also discriminate against it's own employees.

The conference of Black Farm Organizations is in support of legislation to correct the shortfalls of the Pigford v. Glickman settlement in ending discrimination *at USDA.*

In closing I would pray that while the sons and daughters of black farmers spill their blood and lose their lives in Iraq in the name of democracy... we cannot and must not allow democracy to fail their parents and grandparents.

Thank you for this opportunity;

Have a blessed day.