



**John Boyd, President  
National Black Farmers Association  
Testimony Before  
House of Representatives  
Committee on the Judiciary  
The Subcommittee on the Constitution  
Hearing on H.R. 558, the African American Farmers Benefit Relief Act of 2007 and  
H.R. 899 the Pigford Claims Remedy Act of 2007  
Thursday, June 21, 2007, 9:00 am**

Honorable Chairman Conyers, Mr. Nadler, Mr. Scott, the rest of the committee and others who have worked with the National Black Farmers Association (NBFA) on this very important issue over the years.

My Name is John Boyd and I am the President of the National Black Farmers Association. I founded this organization in 1995 to help eradicate discrimination faced by black farmers throughout the United States Department of Agriculture (USDA) system.

It is truly an honor and a privilege to testify before your Committee today. During the past 15 years I have testified before Congress on numerous occasions about black farmers and their hardships.

I am a fourth generation farmer. But more important, with all the hardship and years of struggle it has entailed, I am still proud to say I am an American black farmer from Baskerville, Virginia. A most remarkable fact is that just about every black person in this country is two to three generations away from some family farm as farmers, sharecroppers and slaves.

The NBFA lobbied Congress to lift the statute of limitations for black farmers who faced discrimination from USDA. We lobbied to establish the office of the Assistant Secretary for Civil Rights. We led rallies and protests around the country to help bring much need attention to the plight of the black farmer. The NBFA has petitioned the United Nations for relief and to raise awareness of the loss of land for black farmers. And, I even rode my mules, Struggle and Forty Acres, 280 miles here to Washington to protest the failure to pay black farmers; payments that should have become a reality following the consent decree.

For far too long the black farmer has gone without payment and without justice.

At the turn of the 19th century there were nearly one million black farm families. Today there are fewer than 29,000 per the U.S. Census.

The oldest occupation for blacks in America has become the first occupation facing extinction. Time does not favor the survival of black farming unless discrimination ends and new opportunities are created for black farmers to participate in the farm and food service industries.

Years ago the USDA acknowledged the discrimination against black farmers and agreed to settle the largest civil rights lawsuit in American history. Yet today I return to report that many black farmers who may have been eligible to have their claims processed were never heard. More black farm families have lost their farms and their livelihoods because their government has not acted fast enough.

Time is not on our side. We are now less than 1% of the nation's farmers. USDA has not become a stimulant for agricultural development for black farmers. "No comment" is often the best we can get out of USDA officials.

In 1983 the USDA's Office of Civil Rights was abolished, leaving black farmers and other minority farmers with little hope for processing civil rights complaints.

The Government Accounting Office reported piles of boxes of complaints with years of dust. Documents went unprocessed and very few, if any, were investigated. There were two employees assigned to work on employment complaints and no one working on black farmer program complaints.

I recall very vividly calling the USDA years ago to request a status of my complaints 88 times. I desperately searched for answers as I was on the verge of losing my farm and livelihood that had been passed down through generations.

Finally, after I founded the NBFA and was able, I finally did have someone call me back from the Office of Civil Rights.

Decades have gone by since our struggle began in the early 1980s. The black farmers have become faces of time. Here we are after years of work to restore the Office of Civil Rights and the inspector general still cites years in processing complaints. Please see the May 2007 report,

Appendix A.

**The Pigford v. Glickman Consent Decree resulted from a class action lawsuit initiated by African American farmers who had for decades been discriminated against by USDA officials in the loan program. This settlement was reached after Congress intervened in 1998 to waive the applicable statute of limitations. Class counsel, without the approval of the class of plaintiff farmers, waived farmers rights to discovery with the expectation that there would be a low evidentiary standard applied to Track A and that USDA would turn over relevant documentation that would assist farmers in presenting their claims. Monetary awards issued under the Consent Decree would come from the Department of Treasury's Judgment Fund.**

**Approximately 23,000 farmers submitted claims under the Consent Decree by the October 12, 1999 deadline. 900 farmers failed to meet the class criteria. Of the remaining 22,00 farmers who met the class criteria, 14,000 were successful in proving discrimination under Track A. 8,000 were denied. 18 Track B Claimants have received an average of \$551,000 per claim.**

**Approximately 77,000 African American farmers were denied participation in the Consent Decree because these farmers failed to file petitions by a Court-appointed late claim deadline. More than half stated they didn't know about the Consent Decree. Thus, these black farmers were denied entry and their discrimination complaints are not resolved unless Congress again acts to bring about justice and equality for these farmers.**

#### **Why I support H.R. 899**

I would like to thank Congressman Davis and others for introducing H. R. 558 the African American Farmers Benefit Relief Act of 2007. After careful consideration the NBFA is supporting H.R. 899 the Pigford Claims Remedy Act of 2007. We urge the committee to undertake a swift mark up and send 899 on a speedy trip to the House floor for a vote.

H.R. 899 is the result of careful examination by members of the Judiciary Committees in both chambers of Congress. This bill, H.R. 899, and S. 515 were introduced simultaneously. Senators Grassley, Obama and Kennedy have provided remarkable leadership in the Senate. It is my opinion that H.R. 899 and S. 515 have the best possibility of passing with bipartisan support. The bill has been introduced in both the House and the Senate, a rare bipartisan bill. I am encouraged that Congress is working together,

Several hearings have been held during the past two Congresses, including a field hearing in Cincinnati Ohio Feb 28th 2005. . These hearings support the remedy set forth in H.R. 899. H.R. 899 is a narrow bill which serves the purpose of providing late-claim petitioners a forum to have their claims heard. The bill was tailored narrowly to stay in the Jurisdiction of the Judiciary Committee, where I personally and strongly believe the bill has a chance of passage.

H. R. 899 creates a new cause of action that is available to those African –American farmers who: (1) have filed a late claim petition with the Court –appointed arbitrator prior to December 31, 2005, which was denied by the arbitrator; (2) meet the class criteria set forth in the Pigford v. Glickman Consent Decree; (3) establish a discrimination complaint in one of the four ways set forth in the Pigford v. Glickman Consent Decree.

The NBFA states that its recommendation to replace the attorneys, facilitators, monitor and adjudicator who processed phase one of Pigford Consent Decree is consistent with its support of H.R. 899. No new responsibilities or requirements are placed on the bill if the farmers are allowed to choose their own attorneys.

How many more black farmers have to die before there is a sense of urgency for assistance. This is one time Congress can put aside partisan politics and do what is right for a group of people who helped establish agriculture as the basis for this America's wealth.

We as black farmers helped make agriculture what it is today with free labor. Many minorities today argue to become citizens, even complain of low wages, but no one has slaved without pay as the black farmers did here in America.

We have the opportunity to right some wrongs with H.R. 899. I urge this committee to swiftly pass H.R. 899.

The black farmer issue is not a new one to Congress.

In 1998 the NBFA lobbied Congress to waive the statute of limitations. The Congressional Black Caucus, under the leadership of Congresswoman Waters, led the way to relief for the black farmers. Congressional action enabled those aggrieved farmers to file meritorious claims under the Consent Decree.

H.R. 899 is an extension of that Congressional action in 1998 and it will ensure all late claim petitioners have the opportunity to have their claims of discrimination heard on the merits.

#### **Obstruction of Justice**

In 2004 The National Black Farmers Association (NBFA) teamed up with the Environmental Working Group (EWG) to address the problems with the Black Farmers

settlement, many of our findings were echoed by black farmers around the country. Many complained about being denied payments. We worked for years to conduct the study which was well worth the wait.

**The EWG and NBFA research produced four major findings:**

- Nine in ten black family farmers who came forward with complaints of discrimination were denied access to the settlement funds.
- The settlement was estimated to be worth 2.3 billion dollars in compensation to black farmers before the size of the class was determined. The actual size of the class was larger than expected, but black farmers received only 25% of the settlement's estimated value.
- USDA withheld vital information that was required of Black farmers in order to prove their settlement claims. And the Lead Attorney waived discovery.
- USDA spent \$12 million dollars to pay for 56,000 staff hours of legal work by the Department of Justice to challenge Black farmers settlement claims one-by-one. At least one supposed staff attorney, Margaret O'Shea, reviewed Black farmers' cases under false pretense as she was never a licensed attorney.

**Together the EWG and NBFA provided the following recommendations:**

- Congress should order USDA to provide full compensation to the nearly 9,000 farmers who were denied relief after being accepted into the settlement class.
- Congress should order USDA to re-evaluate the merits of the nearly 74,000 farmers claims that were shut out due to lack of notice of the settlement. All black farmers who meet the preliminary requirements to qualify as a member of the class should receive the \$50,000 payments and debt relief provided by the settlement.
- Congress should direct the USDA to institute accountability measure to monitor and enforce civil rights standards throughout the agency, requiring that in the future the USDA shall exert best efforts to ensure compliance with all applicable statutes and regulations prohibiting discrimination.
- Congress should ensure the full implementation of outreach and financial assistance programs to include grants that support black and other minority farmers.

**Statistics revealed that 81,000 aggrieved black farmers received nothing from the settlement:**

Turning to statistical breakdown of the outcome, the overall result was 94,000 black farmers came forward with complaints of discrimination and 81,000 received nothing from the settlement. Denials came in two forms: late claim denials and class member denials.

The total of 63,816 farmers who filed timely late claims applications were rejected for failure to prove that extraordinary circumstances caused their tardiness, a standard that was not defined in the consent decree. All farmers who sought late entry because they were not notified of the settlement or deadline were rejected because they did not file timely late claims applications.

**Congressional action is the only way to ensure just restitution for black farmers:**

Mr. Chairman, in closing I want to tell you that the more I think of what has happened to my people, the black farmers of America, the more disgusted I have become.

Civil rights laws were violated in the case of the black farmers. And the USDA helped ensure the Justice Department was used to obstruct justice.

The lack of accountability exists as if all my work has for naught. We have lost land – millions of acres – and many have died waiting for justice. These are good people, who worked hard to feed the nation

America we can do better than this.

I am calling on the members of this Committee to do what is right for the black farmer. Pass this legislation to give much due relief to America's struggling black farmers.

Many of you have seen us on Capitol Hill day after day, week after week, month after month, year after year, decade after decade.

I made a commitment to the NBFA members that I will never give up their fight until justice is served.

Ladies and gentlemen, I pray you will make that same commitment.