

DECLARATION OF DALLAS R. SMITH

I, Dallas R. Smith, hereby state and declare the following:

1. I am over 18 years of age and a United States citizen. I was born on October 1, 1942 in Bolton, North Carolina where my family operated a farm on which the main crop was tobacco. I currently reside at 3011 Brock Drive, Upper Marlboro, Maryland 20772.
2. I am a retired federal employee and am currently self-employed as a consultant on agricultural and related matters. Prior to my retirement in January 1999, I held the Secretarial appointed position of Deputy Under Secretary, Farm and Foreign Agricultural Services, United States Department of Agriculture (USDA). During my 33 years at USDA I held career positions from the entry level of GS-5 to the top most Senior Executive Service position (ES-5). I also worked at the county and national level in organizations within USDA.
3. I began my career in 1965 as a Negro County Extension Agent in Cumberland County, North Carolina. The Agricultural Extension Service in North Carolina was segregated by race and I worked in the 1890 Land Grant College program. In 1966, I moved to Bladen County where I continued to work with Black and Indian farmers until I moved to Washington, DC in 1968 to study government. After completing my studies in 1969, I became a Cotton Marketing Specialist with the Agricultural Stabilization and Conservation Service (ASCS) of USDA. I remained at ASCS in various positions until I was appointed Deputy Under Secretary in August of 1993.
4. In the early 1970s, while working as a cotton marketing specialist at USDA, I took on addition collateral responsibility as an EEO counselor to help management and staff employees to resolve disputes relating to charges of discrimination in employment and promotions. During this period there were very few African American, Hispanic or Native Americans in professional positions in the agency. Minorities who were in professional positions were concentrated in entry-level support positions with no identifiable career path for advancement. As an EEO counselor and later Chairman of the ASCS EEO Advisory Committee, I was involved on a daily basis in observing the operation of the complaint process and the response of USDA management to such complaints.
5. In April 1976, I was notified that I had been selected to fill a Branch Chief's job in the Agency. However, I was not permitted to formally assume the position until December because heavy opposition to the appointment of an African American to a management position supervising non-minorities delayed matters. Until my appointment as a Branch Chief no minority or female had ever advanced above the grade level 13 in the history of the USDA, although several had completed agency-sponsored training at the Masters and PHD level. There was little departmental emphasis on EEO and Civil Rights issues within USDA during the 1970s, and the level of commitment varied from manager to

manager. The consequence was that the entrenched racism that has long plagued USDA continued largely unabated. As late as the early 1960s, water fountains, restrooms and cafeterias were segregated by race in the main USDA office complex in Washington, DC. Indeed, until the Clinton Administration there was little institutional USDA interest in or support for efforts of local EEO and Civil Rights counselors, and even then little lasting progress was achieved. Reports of new regulations and requirements relative to EEO and civil rights were treated (if they were discussed at all) as low priority, end of the meeting items, and often provoked levity and negative responses.

6. Although I was able to progress through the career ranks and end my career in the Senior Executive Service, my career advancements were not without challenges. For example, in addition to delay in selecting me for my first management position as a branch chief, I was denied training that would have enhanced my opportunity to enter the Senior Executive Service. My selection as Director of Tobacco and Peanuts Division at the SES entry level was highly influenced by the fact that tobacco and peanut programs were unique southern crops and very few middle managers had the interest or knowledge to manage the programs. At the time I was appointed to the position of Deputy Under Secretary, I remained the only African American Senior Executive among the 18,000 employees in the Agricultural Stabilization and Conservation Service.

7. In the early 1980s it became apparent to the career employees that EEO complaint processing and Civil Rights enforcement regarding discriminatory practices in the administration of loan, benefit and other USDA farm programs was not a high priority. To us in the agency, it appeared that new political appointees under President Reagan were determined to dismantle what little enforcement existed before they arrived. As I recall, there were a couple of Supreme Court (Bakke and Adarand) decisions that questioned the constitutionality of affirmative action programs, which caused USDA's middle managers to believe that affirmative action was illegal and constituted quotas. This attitude by middle managers carried over and severely undermined the outreach programs designed in the late 1970s to educate all farmers, including minority farmers, about the availability of the many USDA programs. It permeated both USDA headquarters and, unsurprisingly, it was particularly welcomed at the state and local levels. I can specifically recall being in a meeting where questions were raised about modifying procedures and regulations that had been drafted so Native American ranchers operating on communal lands could qualify for disaster payments and other programs administered by the agency. The general response was that they should go over to Bureau of Indian Affairs at the Department of Interior for their benefits. In one instance, the debate focused on the loss of horses in extreme weather conditions in the Dakotas. White rancher's losses of horses would be covered because their horses were deemed to have been kept as part of their ranching operation, but Indian horses were deemed to have been kept solely for horseback riding (recreation) and thus ineligible for loss recovery. I don't recall the final outcome of the debate since I only picked up bits and pieces in staff meeting.

8. In other instances, I recall discussions of whether, and how, to administer the outreach programs aimed at encouraging under represented farmers, e.g. minority farmers, to avail

themselves of the USDA programs—whose avowed purpose is to assist and encourage family farmers to continue farming. For example, there was opposition to printing materials in Spanish and English for distribution in some counties where the Hispanic agricultural community was large, as there was general opposition to directing information to black churches, minority news media and other community outlets. Some opposed such efforts on the grounds that sufficient information was already available in the county offices and any minority farmer who is sufficiently motivated will make do with those materials. To exemplify the prevailing attitude in many of the counties in which minority farmers constituted a sizable number I recall a visit I made to a county in Georgia where we were automating services among the agency. I found most of the USDA agencies co-located in a single new building that was leased from the county government by USDA to house various federal agencies. However, the Farmers Home Administration (FmHA) office was located in an old house about a one fourth of a mile away. When I asked the office manager (a white male) why he did not relocate, he said that the county leadership said they did not want the FmHA black housing clients going to the new building. It made me wonder just how welcome blacks were made to feel for all of the other USDA programs offered by the agencies that did move into the building. Thus, throughout the 1980s there was a strong message coming down from USDA headquarters to employees in the field that the national policy with regard to strict enforcement of EEO and Civil Rights laws and regulations was being reviewed and would be relaxed. Hence there was no cause for the local county committees, the key component in the delivery of farm programs, to concern themselves about alien ideas about equal access to the FmHA farm loan program. Given the deeply rooted racism within the USDA, the initial steps to address the situation, incomplete, tentative and largely unsuccessful though they were, were undermined by indifference and opposition at the senior levels of USDA during the 1980s.

9. Although I was not directly involved in FmHA farm loan and benefit programs prior to 1994, both as a farmer and as a career USDA official I was well aware of these programs and the fact that they had long been administered in a discriminatory fashion. It was an open secret, but very difficult to combat. I had operated at the county level in North Carolina and had experienced first hand the enormous power over how the federal agriculture programs were administered which the county committees enjoyed. The institutionalized decentralization of the federal program unavoidably meant that local discriminatory attitudes determined who got what as regards the massive amounts of federal tax dollars earmarked for these programs. This stark reality—which continues to this day—is so deeply etched upon USDA that both national and state USDA officials take it as a given. The undeniable consequences, which I have seen borne out in hundreds of different ways during my career in agriculture, is that the conduct of the county committee mirrors the attitudes and prejudices of the local power structure, which invariably is a white male world hostile to minorities.

10. In 1993, Mike Espy, a black Congressman from Mississippi, became the first black Secretary of Agriculture—a hugely important symbolic event. Espy made it clear to us that he intended to rid the Department of its institutional racism and hostility toward minority farmers, but first he had to establish a predicate for doing so. Congress, in the

1993 reorganization legislation, helped by directing the Secretary to conduct an audit to determine the nature and extent of discriminatory conduct in the administration of FSA farm programs. Espy delegated the responsibility to conduct such a study generally to FSA, and Rashid Nuri, the deputy administrator of FSA and Willie Cook, the director of EEO and Civil Rights for FSA—both of whom are black, played the lead roles in arranging for the study. Nuri, a former senior manager for Cargill in Nigeria, was a political appointee who was part of the Espy team. Espy hoped the resulting report would provide him with the performance data, which Congress wanted to see.

11. Willie Cook retained D.J. Miller & Associates, an Atlanta, Georgia based minority consulting firm, to conduct the audit and to prepare the report. Rashid reviewed and approved the contract with D.J. Miller and operated within his authority in doing so. The D.J. Miller audit exercise aroused considerable concern and apprehension throughout USDA because a thorough and honest audit would shine light into many dark corners, to the embarrassment of the Department.

12. In 1994, D.J. Miller, having survived several efforts to torpedo his project, proceeded to conduct an extensive field investigation at the county committee, district and state levels, and studied how headquarters handled both standard appeals and complaints about discriminatory treatment in the loan and disaster administration processes, among other aspects of USDA's wide array of farm programs. Most importantly, Miller was given access to the extensive data that USDA, via its record and data processing center in Kansas City, Missouri, thus permitting him to measure the impact of the discriminatory conduct. It soon became apparent that Miller could prove to be a major threat to the status quo and to the many key USDA officials interested in its perpetuation.

13. The initial D.J. Miller report and supporting documentation (in two volumes) was presented to FSA early in 1995, as I recall. I reviewed the report and found that it substantiated and documented what I had long observed as regards the systematic racism and discrimination, which infected FSA program administration. It is fair to say that the D.J. Miller report, thanks to the comprehensiveness of its fieldwork and its utilization of USDA data to demonstrate the impact on minorities of discriminatory program administration, had a profound impact upon USDA headquarters. Predictably, the instinctive institutional response was to simultaneously attempt to discredit the messenger and to muffle the message. I will spare the ugly details, but suffice it to say that both Willie Cook and Rashid Nuri, the two persons most directly responsible for hiring Miller did not survive the ensuing period of recrimination. Although the D.J. Miller Report was quietly and unceremoniously shelved, the fact of its existence made it impossible to ignore the undeniable fact that the administration of the FHA farm programs was and is pervaded by systemic racism and anti-minority bias. However much some in the USDA strained to discredit the report, the subsequent CRAT report (a pale copy of the Miller Report) cited the Miller Report and listed it in its bibliography, and the momentum generated by it inspired a succession of USDA IG reports detailing the progress (or lack thereof) in eradicating systemic discrimination at USDA.

14. I remained in USDA until January 1999 and am pleased that at least some progress has been made. Unfortunately the momentum that had been generated has not been institutionalized and my assessment is that a substantial amount of fundamental remedial work (which I would be happy to discuss on a later occasion) remains to be done. It appears that neither Congressional nor USDA initiated relief is likely, which means that only through judicial intervention can we have a fair, nondiscriminatory allocation of taxpayer funds intended to provide encouragement and security to all family farm families in America. The conduct of some USDA managers and employees in perpetuating this egregious situation simply can no longer be tolerated.

I have reviewed the forgoing Declaration, and declare, under penalty of perjury that it is true and correct and to the best of my personal knowledge.

Dallas R. Smith

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4/5/02

Date