

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
GUADALUPE L. GARCIA, JR., <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:00CVO2445
)	Judge Robertson
ANN VENEMAN, Secretary of the)	
United States Department of Agriculture,)	
)	
Defendant.)	
_____)	

**SUBMISSION OF PLAINTIFFS
CONCERNING THE NATURE OF THE INJUNCTIVE RELIEF
SOUGHT BY PLAINTIFFS' PROPOSED THIRD AMENDED COMPLAINT**

There is currently pending before the court a Motion For Leave To File A Third Amended Complaint (Docket #108). In opposing that motion, defendant has argued, inter alia, that plaintiffs' request for injunctive relief is merely ornamental. Opposition at 7-8 (Docket #113). In order to ensure an accurate and full record, plaintiffs submit herewith a detailed description of the injunctive relief that they seek in the proposed Third Amended Complaint.

THE STATUS QUO MUST BE QUICKLY CHANGED THROUGH FUNDAMENTAL REFORM OF CURRENT USDA POLICIES AND PROCEDURES GOVERNING THE ADMINISTRATION OF USDA FARM LOAN AND BENEFIT PROGRAMS.

- More specifically, among the changes which must be made are the following:
1. FSA offices serving Hispanic clients must publish all information regarding farm loan and benefit programs, including all application and related forms, in Spanish, and must employ personnel fluent in Spanish to assist Hispanic clients in navigating the application process.
 2. FSA must be required to maintain a log-in system and to stamp, among other things, the date the application is given to or picked up by a farmer, the date it is returned and the date it is deemed complete, USDA must also

be required to capture and maintain this date information in a computerized database.

3. Once the application is initially returned, FSA personnel must promptly review it for completeness and advise the applicant whether the application is complete. If the application is determined to be incomplete, the USDA must then promptly provide in writing a list of the information needed to complete the application. All such communications must be provided in Spanish when circumstances dictate.
4. FSA must establish a system which ensures both that applications will be reviewed and considered in the order in which they are received and that all applications will be approved in the order in which they are received and deemed complete by FSA. Similarly, funds to farmers for loan and benefit programs are to be allocated on a first-come, first-served basis.
5. USDA must provide a receipt for service to all farmers documenting each contact with USDA agencies serving farmers. Each such receipt must be time and date stamped, and a copy must be provided to the farmer. USDA will be required to capture such time and date information and maintain the same in an electronic database.
6. A substantial fund of money, the precise amount to be determined, will be placed in an escrow account under control of a court-appointed monitor. These funds would come from the judgment fund. The purpose of the fund is to provide the financial support necessary to create and maintain a network of community based outreach programs. The funding for the outreach programs would not be subject to vicissitudes of the current 2501 program and the annual appropriations process USDA must endure, and it would be free of USDA control. The outreach fund would be maintained for 7 years and would be of sufficient size to provide funding, on an annual basis, to these outreach groups.
7. Establish a new SDA loan program to address the unique barriers and limitations of SDA farmers. The program will have among its attributes new criteria for loans to be developed in consultation with plaintiffs, loans based on need and ability to repay that allow applicants with limited resources to qualify and long term participation. Once established in the SDA program, the farmer need not compete for funding every year, but will have funds available to implement his/her farm management/ marketing cooperative and credit program. In effect a multi-year credit line would be established.
8. The Secretary shall promote representation by plaintiffs and all other socially disadvantaged farmers on all research and promotion boards and councils that receive any financing or support from USDA by nominating

socially disadvantaged farmers to all such boards and councils with a goal of achieving proportionate representation.

9. The Secretary shall also promote the representation of plaintiffs and other socially disadvantaged farmers on the Agricultural Technical Advisory Committee and Agriculture Policy Advisory Committees and participation in such programs as Value Added Agricultural Product Market Development Grants, Agriculture Innovation Center Demonstrations, Pilot Programs For Rural Development Strategic Plans and Implementation, Rural Firefighters and Emergency Personnel Grants, and Scholarship Programs.

**IT IS ESSENTIAL TO ESTABLISH AN EFFECTIVE METHOD OF
ACHIEVING TRANSPARENCY AS REGARDS THE ADMINISTRATION
OF THE FARM LOAN AND BENEFIT PROGRAMS IN ORDER TO
ENSURE THAT THE REFORMS ARE WORKING.**

This is central to the entire reform effort. Among its principal building blocks are the following:

1. The court-appointed monitor will retain a team of technology experts to perform an audit of the hardware and software currently in use as regards to the FSA farm loan and benefit programs which, by many accounts, is badly in need of modernization. The results of the audit will be shared with the court, the USDA, GAO and the appropriate committees of Congress, together with cost estimates for accomplishing this modernization.

2. USDA must immediately implement the provisions of Section 10708 of the Farm Bill of 2002, requiring transparency and accountability. Specifically, all USDA agencies and programs serving farmers must make information available at the county and state level on USDA agency websites, to be revised on an annual basis. Such data must aggregate the participation levels of farmers by race, gender and ethnicity in each program that serves farmers in a manner that allows county by county, state by state and national comparisons with the overall number of farmers in each county, state and at the national level, according to an accurate agricultural census, aggregated by race, ethnicity and gender.

3. FSA must specifically provide the information required in Section 10708 with respect to county committee elections. FSA must also report county by county, state by state and

national figures on the number of eligible voters who voted in each county committee election, and the number of ballots disqualified in each election.

4. County Committee Election Reform. Purge voter lists of ineligible persons and persons who have failed to participate in farm program activity for five years or who have not participated in one of the last two elections or participated in any FSA activity over the last three years. Develop a voting registration system within one year of the date of consent decree. Replace current petition system. Preclude one person from casting more than one vote and provide strict enforcement of existing regulations with respect to term limits and conflict of interest.

5. In addition to the information currently being captured and retained by FSA in its centralized electronic databases, each FSA office serving farmers must also capture the following information with respect to credit and farm program applications:

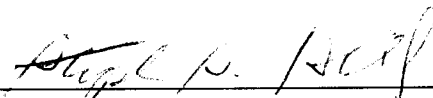
- The date the application was first requested by applicant;
- The date the application was received by applicant;
- The date the application was returned to FSA;
- The date it was deemed complete;
- If the application is deemed incomplete, the date;
- If for a loan, the loan amount requested, and if approved the loan amount and interest rate actually approved and the reason for any discrepancy;
- If for a farm or disaster program, the program benefit and amount requested, and if approved, the actual benefit provided and the reason for any discrepancy;
- If the loan or farm program application is rejected, the FSA office must capture and retain in the databases the reason for the loan or program benefit denial;
- In reviewing and determining the need to retain data, the foregoing list is not meant to be exhaustive but illustrative and the goal of information gathering should be to insure that USDA's lending practices are sufficiently transparent to the monitors, Congress and any committee thereof exercising oversight as well as USDA management itself can readily review and audit USDA's lending practices for evidence of possible discrimination; and

- To the extent that USDA undertakes any future modifications of its data processing functions, or capability and its recordkeeping policies, USDA commits that no such change shall be for the purpose or have the effect of rendering USDA's lending practices less transparent or less readily subject to an audit of its lending operations.

6. Using the enhanced and more easily accessible databases, annual reports reflecting the experience of Latino/Hispanic and other socially disadvantaged farmers in utilizing the farm loan and benefit programs will be submitted to the court-appointed monitor, USDA, GAO and the relevant Congressional committees.

7. The court-appointed monitor will annually provide an evaluation of USDA's progress in eradicating discrimination in its administration of farm loan and benefit programs and, should additional remedial relief be needed, the monitor will so recommend. The court will then conduct a hearing on the recommendation to determine whether modification of the settlement is necessary and appropriate.

Respectfully submitted,



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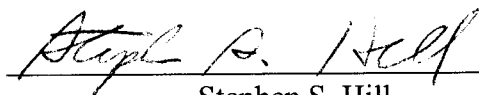
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Dated: September 2, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of September, 2004, I caused a true copy of the foregoing Submission Of Plaintiffs Concerning The Nature Of The Injunctive Relieve Sought By Plaintiffs' Proposed Third Amended Complaint to be served upon defendant via electronic mail to:

Lisa Olson, Esq.
UNITED STATES DEPARTMENT OF JUSTICE
Civil Division
20 Massachusetts Ave., N.W.
Room 6118
Washington, DC 20530



Stephen S. Hill