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## Fighting to bring back South Texas family farm

[By Elaine Ayala](#) – San Antonio Express-News

PEARSALL — The Rodriguez Brothers Farm has been overrun by mesquite. Two small houses are crumbling into the dusty ground, and cactuses have claimed the spots the brush hasn't.

Just off Texas 81, about 75 head of cattle now graze on the land, where 50 horses run wild.

They all sit atop 523 acres bought by Manuel Diaz Rodriguez and his wife, Benigna, in 1952 in hopes that their farm would sustain generations of their descendents.

Amid the vestiges of that dream, Modesta Rodriguez Salazar, 65, waits with her brothers, Modesto, 67, and Felipe de Jesus, 75, for their livestock to meander to a clearing. It's dinnertime, and the hay is waiting, too.

Waiting, it seems, has become a part of the family business.

Since 2000, the family has been among 110 Mexican American farmers nationwide suing the Agriculture Department and its Farm Service Agency, alleging systematic discrimination in farm credit loan programs, disaster relief loans and noncredit benefit programs.

Though the farmers were denied a class-action designation, their lawyers hope to reverse that decision and negotiate a settlement on their behalf that will erase their debt and allow them to rebuild their family farms.

Next week, a court in Washington, D.C., will review the status of the case.

Garcia vs. Vilsack, of which the Rodriguezes are a part of, mirrors Pigford vs. Glickman, which was waged and won by African American farmers. It was settled in the late 1990s for \$2.2 billion, and this year the Obama administration allocated an additional \$1.2 billion to its fund.

Agriculture Secretary Tom Vilsack has said he's committed to eradicating discrimination in his department, once described in a government report as “the last plantation” and perceived as part of “a conspiracy to force minority and socially disadvantaged farmers

off their land through discriminatory loan practices.”

The Rodriguez Brothers' lawyers — Stephen Hill of Howrey LLP, former FBI Director Louis Freeh and former federal Judge Eugene Sullivan — describe the treatment their clients faced as “institutional racism.” They use words such as blatant, insidious and deep-seeded.

“When President Obama said he was allocating an additional \$1.2 billion to resolve the claims of black farmers who missed the filing deadline, he said he was closing a chapter on the ugly history of the USDA,” Hill said. “I submit the USDA needs to close the entire book, and the only way to do that is to resolve the claims of victims that suffered the same discrimination at the hands of USDA.”

Salazar, the family spokeswoman, who has testified in hearings across the country since 2000, says she's glad her parents didn't live to see what has become of the family farm nor endured the hardships she and her brothers have in hopes of saving it.

She remembers how it used to be — the peanuts, corn and cotton that grew there, the 2,000 plates that were served up for a sister's wedding on the farm, the baseball field that drew Pearsall youths and the many children from Immaculate Heart of Mary Catholic Church who would show up for Easter outings.

When she talks about the farm that was, her voice sounds full of regret and anger.

“It makes me mad,” she said, recalling how much time her brothers spent fighting Farm Service Agency officials. “My brothers were fighting, fighting, fighting.”

To understand how discriminatory practices persisted at the Agriculture Department, the farmers' lawyers say, one has to understand how crucial the administration of timely loans are to a farm operation.

Because the Agriculture Department is a decentralized bureaucracy, it allows FSA offices throughout the country to administer its programs. In Pearsall, FSA representatives historically have been Anglo, the plaintiffs and their lawyers said.

Attorneys said such situations were ripe for discrimination. Former Agriculture Secretary Dan Glickman said as much in the late 1990s, admitting that the department's “flexible systems” were used to “preserve unacceptable ways.”

Hill said the department practiced discrimination from start to finish.

“The USDA would typically deny applications (to Mexican Americans) in the first instance,” he said. They were told no applications were available and that they probably didn't qualify. Then they weren't helped to apply, even though FSA was required to assist them.

Also, the USDA would “slow roll” loans, he said, and delays would drag out processing times.

When a loan was approved, Hill said, “all too often the loan was arbitrarily reduced,”

leaving the farmer without the means to run a farm effectively.

“Minority farmers got too little, too late, but just enough to get them in trouble,” he said of debts and foreclosures.

Department agents “used the default mechanism. ... So rather than provide servicing, they'd tell you to sell some of your land.”

Hill said that allowed takeover attempts. “The evidence strongly suggests that that is indeed what was happening. Minority farmers are losing their land, and it's being taken over by majority farmers.”

Freeh said their civil rights complaints were ignored.

In April, Vilsack announced “a new civil rights era for USDA” and temporarily suspended all foreclosures in the FSA farm loan program.

Last week, he granted an \$8 million contract to a company that would help “ensure that its assistance programs are administered equitably.”

Justice Department spokesperson Melissa Schwartz, said last week that unlike the Pigford vs. Glickman case, “We will not be able to negotiate a classwide settlement.”

But the Agriculture and Justice departments “will give fair consideration to settling claims based on the facts and circumstances of each individual case.”

Attorneys for the farmers say individual litigation effectively kills their clients' hopes of saving their farms because they can't afford to wage individual lawsuits.

The Justice Department's stance vexes Freeh, a department veteran.

“From a legal point of view, they won their class-action motion,” he said. “Congratulations, you won on a technicality.”

That ruling, by a U.S. District Court and upheld by the U.S. Court of Appeals for the District of Columbia Circuit, also troubles the legal team.

“Judges sometimes deliver contradictory results,” he said, noting the African Americans successfully declared a class-action case. “It's why we have a Supreme Court, by the way.”

“We'll ask the court respectfully to reconsider the class-action issue,” he said.

The lawyers say there might be thousands of Hispanic farmers eligible to participate in the case.

They won't put a figure on what would satisfy their clients' claims. But Salazar has an idea of what it would take for her family.

She wants the Rodriguez Brothers Farm's debt of more than \$400,000 erased, “plus damages that have been done to us.”

“We were always good farmers,” she said. With a little cash, the young members of her family — upwards of 90 of them — can restore the farm.

Esmeralda Rodriguez Balderas, 37, a daughter of one of the Rodriguez brothers, hopes for as much.

“We want to keep it in the family and start it up again.”

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