

# FOIA Marker

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## Records Management, White House Office of Subject Files - FG019 (Department of Agriculture)

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# Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
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#### RESTRICTION CODES

##### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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- b(1) National security classified information [(b)(1) of the FOIA]
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- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Congress of the United States  
Washington, DC 20510

737171  
FG019

October 4, 2007

President George W. Bush  
The White House  
Washington, DC 20500

Dear Mr. President,

We write to express our serious concerns about the apparent posture of the United States Department of Agriculture ("USDA") toward efforts in Congress to provide a small measure of justice to African American farmers who were victims of discrimination. We refer specifically to the alleged efforts of individual USDA employees to lobby illegally to undermine remedial civil rights legislation passed in the House of Representatives as well as the apparent USDA strategy of criticizing Congressional efforts for raising "false hopes" among farmers while doing nothing affirmative to make legitimate hopes of compensation for past abuses come true.

By way of background, in 1999, USDA settled a class action lawsuit with African American farmers in the case of *Pigford v. Glickman*. The U.S. District Court for the District of Columbia approved of this settlement as "a good first step towards assuring that the kind of discrimination that has been visited on African American farmers since Reconstruction will not continue into the next century." (Opinion in *Pigford v. Glickman*, Civil Action No. 97-1978) The order of the Court concluded: "the Department of Agriculture and the county commissioners discriminated against African American farmers when they denied, delayed, or otherwise frustrated the applications of those farmers for farm loans and other credit and benefit programs.... The denial of credit and benefits has had a devastating impact on African American farmers."

This settlement, known as the *Pigford* consent decree, brought relief to over 20,000 black farmers and was indeed a good first step towards righting an historic wrong. Unfortunately, for a variety of reasons, approximately 75,000 additional black farmers filed their claims of discrimination through the *Pigford* consent decree claims adjudication process after the filing deadline. As a result, thousands of victims of discrimination continue to be denied an opportunity even to have their claims heard and evaluated on the merits.

H.R. 2419, which passed the House of Representatives on July 27, 2007, provides qualifying late *Pigford* claimants with a right to go to court and have their cases adjudicated on the merits. Similar bipartisan legislation has been introduced in the

Senate and may be included in the Senate version of the farm bill. We urge your support for this important and overdue legislation.

It appears, however, that USDA is intent on undermining these efforts. There were reports in early August about USDA Farm Services Agency (FSA) employees using federal resources to lobby against the legislation passed in the House. And more recently the General Counsel has publicly criticized the legislation on the grounds that there are 30 times as many valid claims of discrimination as the \$100 million funding provided in the House bill will cover.

We welcome USDA's concern that black farmers not be shut out yet again from receiving just compensation for the wrongs they have suffered. If USDA believes, however, as its General Counsel suggests, that two-thirds of the 75,000 late filers will show legitimate claims of discrimination by USDA, the right thing for USDA to do is to work as a good faith partner in crafting a fair and responsible remedy. USDA should sit down with class counsel, the judge and any other appropriate parties to discuss options for modifying the consent decree or finding other ways to accommodate additional late filers.

We firmly believe that farmers who believe they have been the victims of discrimination should be allowed to have their cases heard and adjudicated on the merits. Those most familiar with the farmers' claims believe that the cost estimates significantly overstate potential Federal exposure from permitting this limited class of mostly poor farmers to bring cases in court. Whether one believes that a funding limitation is advisable or not, however, we cannot sit by aware of injustice and do nothing. That may be the USDA approach, but it is not an approach that Congress can continue to tolerate. Congress is working to come up with a fair remedy to address this issue. We would like your administration to step up to the plate.

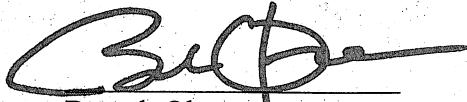
We respectfully request that by October 15, you let us know the following:

1. The status of the internal investigation, announced by former Secretary Mike Johanns before his resignation last month, of the allegations that USDA employees illegally used federal resources to lobby against legislation.
2. The position of your administration on petitioning the court to open the consent decree in order to address the status of late filers.

In the Court's opinion accepting the original settlement, Judge Friedman declared: "While the USDA landscape has remained resistant to change for many seasons, the labors of these farmers are beginning to bear fruit. This settlement represents one significant harvest. It is up to the Secretary of Agriculture and other responsible officials at the USDA to fulfill its promises to ensure that this shameful period is never repeated and to bring the USDA into the twenty-first century."

Though the harvest of the original settlement turned out to be disappointing for too many farmers, we urge the full and immediate support of your Administration to make things right at last.

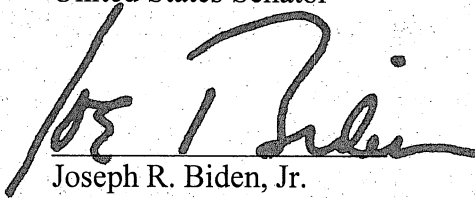
Sincerely,



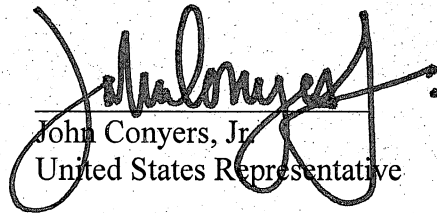
Barack Obama  
United States Senator



Tom Harkin  
United States Senator



Joseph R. Biden, Jr.  
United States Senator



John Conyers, Jr.  
United States Representative



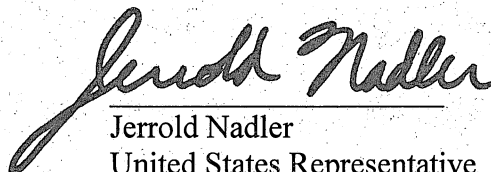
Bennie Thompson  
United States Representative



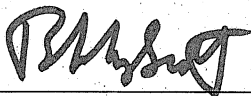
Steve Chabot  
United States Representative



Artur Davis  
United States Representative



Jerrold Nadler  
United States Representative



Bobby Scott  
United States Representative