

Victory Slipping Away for Black Farmers

USDA, Justice Dept. Thwart Payouts to Most in Landmark Settlement, Report Says

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The Department of Agriculture has denied payments to almost 90 percent of black farmers who sought compensation for discrimination under a landmark court settlement the agency reached with African American growers five years ago, according to a report set for release today by a Washington-based environmental group.

A two-year investigation by the Environmental Working Group found that USDA officials contracted Justice Department lawyers to aggressively fight the farmers' claims after the settlement of the \$3 billion class-action lawsuit. Of the 94,000 growers who sought restitution for discrimination in a process set up by the court, 81,000 were turned away, the report says.

The report, funded by the Ford Foundation, said the USDA's actions "willfully obstructed justice" and "deliberately undermined" the spirit of the settlement.

Vernon Parker, USDA assistant secretary for civil rights, was traveling to Yakima, Wash., to visit Latino farmers and could not comment. His spokesman, Ed Lloyd, took issue with the report's conclusion.

Lloyd said the court sought to appoint an independent arbitrator to oversee individual claims under the settlement. USDA provides information regarding each farmer's case to an arbitrator and then steps out of the way, Lloyd said.

The settlement came in a class-action lawsuit that claimed the USDA discriminated against black farmers in providing loans and other aid. Under its terms, black farmers could file for compensation along two tracks. Track A promised an automatic payment of \$50,000 if a claim was approved. Track B, which provided the possibility of greater compensation, required a hearing before restitution could be made.

According to the report, about 40 percent of the 22,100 farmers whose claims were reviewed under Track A were denied. Of the 173 farmers who filed cases under Track B, only 18 won compensation. Arbitrators never reviewed an additional 72,000 claims, saying they were filed late.

Linwood Brown, who grew tobacco, corn and soybeans in Brunswick County, Va., south of Richmond, received \$490,000 for his discrimination claim, but he said he was challenged at every step.

"They challenged it for four or five years, saying that wrongdoing is not the same thing as discrimination," Brown said. "They said I must be able to prove that I was discriminated

against and show that a white farmer got his money on time. I was able to do that because I kept records."

Brown and John Boyd, another Virginia farmer, said discrimination in the state was routine.

"I know quite a few farmers who were turned away" even though their cases were similar to his, Brown said. "The white farmers got money on time," he said. "Black farmers didn't get money on time. We always got turned down."

Federal lawyers fought claims aggressively, the farmers said, forcing growers to present documents that were hard to find in incidents that were almost a decade old.

The Justice Department spent 56,000 hours of attorney and paralegal time challenging 129 claims, and billed USDA \$12 million, according to the Environmental Working Group report.

Carolyn Cooksie, USDA deputy administrator of farm loans, said time and money was spent to have Farm Service Agency and Justice officials review the claims.

Black farmers, particularly those in the southern United States, complained of discrimination by USDA long before farmer Timothy Pigford filed a lawsuit against USDA in 1997.

During the process, other black farmers joined the suit and the agency admitted to discrimination throughout its system, which denied black farmers loans and other resources that white farmers received. Native American and Latino farmers have similar class-action claims pending against USDA.

The lawsuit came when black farmers were on the verge of extinction. There were nearly 1 million at the end of the 1920s, but fewer than 30,000 exist today.

For the farmers, many of whom were hundreds of thousands of dollars in debt, the settlement offered hope that they could continue farming.

Within days of hearing the settlement terms, black farmer organizations complained that their lawyers had failed them.

"The . . . settlement is a complete failure," said Arianne Callender, a lawyer for the group, known as EWG. "In part, it was the plaintiffs' lawyers who failed them. But USDA took advantage of every aspect of the court's rules and the settlement's shortcomings to avoid responsibility."