

however, that all applications to be given priority consideration will be of equal status.

(l) The term "substantial evidence" shall mean such relevant evidence as appears in the record before the adjudicator that a reasonable person might accept as adequate to support a conclusion after taking into account other evidence in the record that fairly detracts from that conclusion. Substantial evidence is a lower standard of proof than preponderance of the evidence.

(m) The term "USDA" shall include the United States Department of Agriculture and all of its agencies, instrumentalities, agents, officers, and employees, including, but not limited to the state and county committees which administer USDA credit programs, and their staffs.

(n) The term "USDA listening session" shall mean one of the meetings of farmers and USDA's representatives conducted by USDA's Civil Rights Action Team between January 6, 1997 and January 24, 1997.

2. Class Definition

(a) Pursuant to Fed. R. Civ. P. 23(b)(3) the Court hereby certifies a class defined as follows:

All African American farmers who (1) farmed, or attempted to farm, between January 1, 1981 and December 31, 1996; (2) applied to the United States Department of Agriculture (USDA) during that time period for participation in a federal farm credit or benefit program and who believed that they were discriminated against on the basis of race in USDA's response to that application; and (3) filed a discrimination complaint on

or before July 1, 1997, regarding USDA's treatment of such farm credit or benefit application.

(b) Any putative class member who does not wish to have his claims adjudicated through the procedure established by this Consent Decree may, pursuant to Federal Rule of Civil Procedure 23(c)(2), request to be excluded from the class. To be effective, the request must be in writing and filed with the facilitator within 120 days of the date on which this Consent Decree is entered.

3. Duties of Facilitator

(a) Poorman-Douglas Corporation shall serve as the facilitator and shall perform the following functions:

(i) publish the Notice of Class Settlement in the manner prescribed in ¶ 4, below;

(ii) mail claim packages to claimants who request them;

(iii) process completed claim packages as they are received;

(iv) determine, pursuant to the terms of this Consent Decree, which claimants satisfy the class definition as contained in ¶ 2(a);

(v) transmit to adjudicators claim packages submitted by claimants who contend that they are entitled to participate in the claims process due to equitable tolling of ECOA's statute of limitations under the particular circumstances of their claim;

(vi) transmit to the adjudicator the claims packages of class members with ECOA claims who elect to proceed under Track A;