

**Statement of the Honorable Steve Chabot
Chairman, House Judiciary Committee Constitution Subcommittee
Oversight Hearing on the Pigford v. Glickman
Consent Decree between a class of Black Farmers
and the USDA
September 28, 2004
4:00 p.m. - 6:00 p.m.
2141 Rayburn House Office Building**

Good afternoon. I would like to thank everyone for being here today for this very important hearing. However, I feel that it is necessary to qualify that statement by saying it is unfortunate that we are here. We are here because, time after time, it appears that the wrong choices continue to be made by those in positions of authority.

I trust that today's hearing will enable this Subcommittee to examine those issues that are of the utmost importance and will enable us to make substantive recommendations to remedy the injustices that have occurred.

I would like to take this opportunity to recognize Arianne Callender, of the Environmental Working Group; Mr. John Boyd, with the National Black Farmers Association; Mr. Thomas Burrell; and Shirley Sherrod,

with the Federation of Southern Cooperatives, for taking the time to provide us with information.

Through these individuals, and others, it has come to this Subcommittee's attention that a second hearing is necessary. I've directed my staff to investigate the scheduling of a second hearing.

When slavery was ended in the United States, our government made a promise - a restitution of sorts - to the former slaves that they would be given 40 acres and a mule. While we can debate whether this allotment was intended to compensate the freed slaves for their involuntary service, what is clear is that this promise was intended to help freed slaves be independent economically and psychologically, as holders of private property rights.

What also is clear is that the very government that made this promise, the "People's Agency" established in 1862 under President Abraham Lincoln, has sabotaged it by creating conditions that make sovereign and economically-viable farm ownership extremely difficult.

This is the backdrop against which we will examine

the issues before us today. We are here to consider the administration of the 1999 Consent Decree, which resulted from the civil rights case of *Pigford v. Glickman*.

The Consent Decree was developed to provide some monetary restitution to Black farmers who were victims of racial discrimination carried out by the United States Department of Agriculture, the very institution designated to assist them, in a swift and timely manner.

Rather than help Black farmers, this Agency has been instrumental in causing their decline. Since the early 1900s, the number of Black farmers has decreased from nearly one million to fewer than 18,000.

During this time, when Black farmers tried to seek justice by filing discrimination complaints with the USDA, their claims were either ignored or dismissed - most without an investigation.

Ultimately, several of these Black farmers - all whose claims of racial discrimination had been disregarded by the USDA, filed a class action suit against the Agency.

After extensive negotiations, a settlement was reached that established a "just" process to have all the

discrimination claims heard in a timely manner.

Yet, in an ironic twist, the process that was created to provide a forum for those whose claims had been shut out, has itself shut out nearly two-thirds of all who wanted to have their discrimination claims heard. Whether or not each of these claimants would have prevailed on the merits is not the issue before us. The process should have at least allowed them the opportunity to be heard.

We cannot in good conscious allow a settlement that leaves out more potential claimants than it allows in to go unexamined or remain unresolved.

All of the parties involved are responsible for developing a solution - whether it be modifying the Consent Decree, creating a subsequent Consent Decree, or some other process - to stop this destructive cycle from reoccurring.

The first step in this process should be to provide the nearly 65,000 people who were denied entry into the process the opportunity to be heard. We will never be able to put the racially discriminatory practices that have and continue to occur within the USDA behind us until

every one of these individuals has at least had the opportunity to be heard.

This is just one of the many problems with the Consent Decree that my colleagues and I hear about nearly every day.

It is my sincerest hope that this hearing will help us all get a better understanding of what precisely the problems are, what potential solutions there may be, and what we can do to ensure that the government never finds itself in a similar situation again. Too much has been lost and too much is at stake for Black farmers to just accept that the solution in 1999 has failed more people than it has helped.