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**THE MINORITY FARMER: A DISAPPEARING AMERICAN RESOURCE; HAS THE FARMERS HOME  
ADMINISTRATION BEEN THE PRIMARY CATALYST?**

**DATE:** November 20, 1990. Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

**SPONSOR:** Mr. Conyers, from the Committee on Government Operations, submitted the following

THIRTY-FIRST REPORT together with ADDITIONAL VIEWS

BASED ON A STUDY BY THE GOVERNMENT INFORMATION, JUSTICE, AND AGRICULTURE  
SUBCOMMITTEE

**TEXT:**

On October 19, 1990, the Committee on Government Operations approved and adopted a report entitled "The Minority Farmer: A Disappearing American Resource; Has the Farmers Home Administration Been the Primary Catalyst?" The chairman was directed to transmit a copy to the Speaker of the House.

I. Introduction

Minority operated farms are on the verge of extinction. Although the overall number of U.S. farms in operation continues to decrease, minority operated farms are disappearing at an alarming rate especially black operated farms which once accounted for 97 percent of all minority operated farms. It has taken 67 years for the number of minority operated farms to decrease 94 percent and in the recent 5-year agriculture census year the decline is continuing the downward spiral totaling 11.9 percent. Besides the drastic decline in the number of minority operated farms, land loss has been so severe that 50 percent of all minority operated farms are no larger than 49 acres in size. Nearly 68 percent of all minority operated farms have agricultural products with sales valued at less than \$10,000.

Historical Agricultural Census data show that minority operated farms peaked at 949,889 farms in 1920 with "Negroes" operating 925,708 farms, while the combined total for other minorities (included in the 1920 census count), Indians, Japanese and Chinese totaled 24,181 farms. Black farmers still comprise the largest single group of minority farmers but their number has dwindled to a low of 22,954 in 1987, less than 3 percent of the number counted in 1920. Today black operated farms represent 1 percent of all U.S. farms compared with 14.3 percent in 1920. In a comprehensive study on blacks farming in America the U.S. Commission on Civil Rights predicted in 1982 that "there will be virtually no blacks operating farms in this country by the end of the next decade."

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3 The statistics suggest an inevitable accuracy to the Commissions prediction for black operated farms, and to an extent other minority operated farms face similar fates.

1Department of Commerce, Bureau of the Census, Fourteenth Census of the United States Taken in the Year

1920, Volume V, Agriculture, General Report and Analytical Tables, Bureau of the Census Library, Washington, Government Printing Office 1922 at 311. Hereinafter, the terms "Black" and/or "Afro-American" will be used in lieu of "Negroes."

2U.S. Department of Commerce, Bureau of the Census, 1987 Census of Agriculture, Volume 1, Geographic Area Series, Part 51, United States Summary and State Data, at 1, 21 and 412-415 (hereinafter, 1987 Census of Agriculture). The Census shows the number of farms when the operators are of Spanish origin and the number of farms operated by black and other races. These figures have been combined to determine the number of minority operated farms and the term "Hispanic" is used in lieu of operators of Spanish origin.

3The Decline of Black Farming in America, February 1982, A Report of the United States Commission on Civil Rights (hereinafter, the Commission Report) at 2.

In 1982 the Department of Commerce, Bureau of the Census counted 70,550 minority operated farms in the United States but by 1987 the number had dropped to 62,116. Overall the numbers for minority operated farms are declining but there are some exceptions. The number of Spanish operated farms (referred to as "Hispanic" in this report) has increased and Hispanic operated farms have become the second largest number of minority operated farms. The following table shows the decline in farming based on 1987 census data.

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4The 1987 Census of Agriculture, at 1, 21 and 412-415.

5The 1987 Census of Agriculture, at 21.

\$ TABLE 1.1:  
DECLINE IN  
FARMING Farmers  
Number of farms  
Percent of  
change 1982 1987

|  |           |           |       |
|--|-----------|-----------|-------|
| All Farmers  | 2,240,976 | 2,087,759 | *06.8 |
| All Minority Farmers                                   | 70,550    | 62,116    | *11.9 |
| White  | 2,170,426 | 2,025,643 | *06.6 |
| Black  | 33,250    | 22,954    | *30.9 |
| Asian/Pacific Islander                                 | 8,000     | 7,900     | *01.2 |
| American Indian  | 7,211     | 7,134     | *01.0 |
| Hispanic/Spanish                                       | 16,183    | 17,476    | +07.3 |
| Other (Mexican, Caribbean, Central and South American) |           |           |       |

6 5,906 6,652 +11.2 Source: 1987 Census of Agriculture.

A December 1987 study on Indian agriculture raised some concerns about the loss of farmland in the Indian community and the resulting adverse consequences including dependency on public assistance and Federal support. This study as well as the Commission on Civil Rights report documents problems that minorities face with the loss of farmland. Recent front page reports in the press USA Today

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8 and the Washington Post

9 have examined various aspects of the decline in minority farming and problems minorities face in holding onto their land.

6Id., at 21, appendix A, A-7.

7Final Findings and Recommendations of the National Indian Agricultural Working Group, prepared for the Assistant Secretary-Indian Affairs and the Intertribal Agriculture Council, December 1987, at 2 (hereinafter, the Indian Agricultural Study).

8The Nations Newspaper, USA Today, June 7, 1990, at 1A, Cover Story, Struggle is on to Save Dying Way of

Life, 2A, Cover Story, Hurt by Nations Neglect; 10A, Minority Farmers Sowing Seeds of Uncertainty.

9The Washington Post, August 26, 1990, at A1, Nations Crop of Black Farmers Is Dying Out; A14, Col. 1, In the South, Blacks Farm the Worst Land With the Worst Tools and A15, Col. 1, Interest Rates Last Jolt to Black Farmers.

Report documentation and press articles recognize the major responsibility of the U.S. Department of Agriculture (USDA), Farmers Home Administration (FmHA) if minority farmers are to survive. The Subcommittee on Government Information, Justice, and Agriculture began its review of this issue in October 1989 based on concerns raised to Congress, specifically concerns from the State of Mississippi about FmHA. In November 1989 the subcommittee staff visited Mississippi, met with minority farmers and discussed their concerns about FmHA. Two of the major concerns raised dealt with accusations of discrimination in FmHAs implementations of the agency's programs and the National Appeals Process.

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10Records of Telephone Discussions with Constituents of Congressman Mike Espy, October 3 and 5, 1989, about their concerns with the Farmers Home Administration.

11Letter from the Honorable Bob Wise, chairman, Subcommittee on Government Information, Justice, and Agriculture, Committee on Government Operations, U.S. House of Representatives, to the Honorable Mike Espy, Member of Congress, U.S. House of Representatives, December 14, 1989.

12Memo to the chairman, Subcommittee on Government Information, Justice, and Agriculture, November 28, 1989, on the results of subcommittee staffers visit to Mississippi on November 17, 1989.

To respond to concerns about agency programs, the subcommittee held an oversight hearing on the role of FmHA and

its dealings with minority farmers. To address problems with FmHA appeals, the subcommittee chairman along with Congressman Mike Espy, jointly requested the General Accounting Office review the FmHA National Appeals Process as it relates to minorities since FmHA does not maintain appeal statistics by race.

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13Hearing, "Farmers Home Administration: Friend or Foe to Minority Farmers?," July 25, 1990, before the Government Information, Justice, and Agriculture Subcommittee, Committee on Government Operations, U.S. House of Representatives.

14Letter from the Honorable Bob Wise, chairman, Government Information, Justice, and Agriculture Subcommittee, Committee on Government Operations, U.S. House of Representatives and the Honorable Mike Espy, Member of Congress, U.S. House of Representatives, to the Honorable Charles Bowsher, Comptroller General of the United States, February 20, 1990.

The committees review of the disappearance of minority farmers, particularly, black farmers found problems that are beyond our control but, at the same time, many are well within our control. The 1987 Census of Agriculture showed that fewer young minorities are choosing farming as a career or way of life. More than 50 percent of minority farmers are age 55 or older and 72 percent are age 45 or older. Many minority farmers are not as well educated in the technological advancements of farming. Additionally, racism is still a major problem in the Nation on the whole and farming is no exception. In a report on the lower Mississippi Delta, the Delta Commission stated that "Because the issue of race relations is a national and international issue of fundamental significance to economic development, race relations strategy must be an integral aspect of the regions ten-year plan."

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151987 Census of Agriculture, at 22.

16Id.

17The Delta Initiatives, "Realizing the Dream . . . Fulfilling the Potential," A Report by the Lower Mississippi Delta Development Commission, May 14, 1990 (hereinafter, the Delta Initiatives), at 75.

18The Delta Initiatives, at 60 and 165.

The lack of sensitivity in FmHA personnel and aggressive management in implementing and monitoring agency programs to ensure that minority farmers are treated fairly at the local levels in FmHA, has contributed to the disappearance of minority farmers. 1 The extent that minority farmers participate in FmHA programs designed to help them is generally not documented although the data may be available within the agency; thus, the extent that discrimination may be occurring in FmHA programs is not known. 9 2 The absence of more minority employees within FmHA and serving on county committees further perpetuates poor racial relations and jeopardizes the survival of minority farmers. 0 2

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9The Delta Initiatives, at 74. Memorandum from subcommittee staffer on the trip to Mississippi, November 28, 1989, at 1. Indian Agriculture Study, at 41; 42; and 51. Hearings, before the Subcommittee on Government Information, Justice, and Agriculture, Committee on Government Operations, U.S. House of Representatives, "Does Farm Financing Face Fundamental Change or Current Credit Crisis?," Part I, September 27, 1985, Black Farmers and FmHA Policy, at 160; 208-209; 215-216; 222-225. The Civil Rights Commission report at 80-81. 2

0Letter from Mr. LaVerne Ausman, Administrator, Farmers Home Administration, Department of Agriculture (hereinafter, FmHA Administrator), to the Honorable Bob Wise, chairman, Subcommittee on Government Information, Justice, and Agriculture, Committee on Government Operations, June 20, 1990, at Document V. Letter from FmHA Administrator, to Subcommittee on Government Information, Justice and Agriculture Staffer, June 22, 1990 at 1; and July 12, 1990 at 2. 2

1The Delta Initiatives, at 74. Memorandum from subcommittee staffer on the trip to Mississippi, November 28, 1989, at 1. Indian Agriculture Study, at 41; 42; and 51. Hearings, before the Subcommittee on Government Information, Justice, and Agriculture, Committee on Government Operations, U.S. House of Representatives, "Does Farm Financing Face Fundamental Change or Current Credit Crisis?," Part I, September 27, 1985, Black Farmers and FmHA Policy, at 160; 208-209; 215-216; 222-225. The Civil Rights Commission report at 80-81; 90-94.

The Committee wishes to acknowledge the excellent and extensive assistance of Ms. Jacqueline Harpp, Evaluator, General Accounting Office, who is detailed to the Subcommittee on Government Information, Justice, and Agriculture, in the preparation of this report.

## II. Background

### a. overview

In 1982 the Commission on Civil Rights called attention to the plight of black farmers in America. In 1987 a working group prepared final findings and recommendations on Indian agriculture and the problems Indian farmers experience. The Commission stated in its report that the historical roots that connect black farmers to the land make the imminent loss of their land tragically ironic. 2 Twenty-five years after the Civil War, 60 percent of all employed blacks in the United States were farmers or farm laborers. 2 2 3 2

2The Commission Report, at 1.

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3Id.

While displacement from the land looms as a threat to all small farmers, land loss has occurred most severely among black farm operators. 2 According to the Commissions report, the rate of land loss shows no sign of tapering off for blacks, even though it has slowed somewhat for white farmers. White land loss peaked at a rate of 28.8 percent between 1950 and 1959; during that period the rate of black land loss was almost double the white rate 51.3 percent. 4 2 By 1978, the rate of loss for blacks increased to 57.3 percent, 2 5 1/2 times the rate of loss for whites. 2 Between census years 1982 and 1987, the number of black operated farms declined 30.9 percent compared with 6.6 percent for white operated farms. 6 2 7 2

4Id., at 2.

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5Id. 2

6Id. 2

7Number of farms from the 1987 Census of Agriculture at 20-21.

The Indian agriculture study reported that:

A serious and potentially devastating decline is currently affecting all sections of the Indian Agriculture Community. Indian use of

Indian lands has dropped off rapidly in recent years, and idle Indian lands have increased at a rate as high as 40 percent in one year. Hundreds of thousands of acres of Indian lands are in danger of foreclosure through the default of Indian farmers and ranchers. The expected result is a continually widening gap between the standards of living of the Native American and Alaskan Native people, and the general population of this country.

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28The Indian Agricultural Study, at 2.

There are 54.4 million acres of Indian homelands remaining in the contiguous United States and nearly 47 million acres

contain agricultural lands used for the production of crops, livestock, or both. In 1983, 38 percent of the Indian-owned farmlands were actually farmed by Indians and 2 years later, in 1985 that percentage had decreased to 35 percent. The same trend occurred in the Indian livestock industry resulting in a drop of 10 percent for both farming and ranching during the 2-year period.

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29Id., at 12.

30Id., at 13.

31Id.

Based on the 1987 Census of Agriculture, minority farmers have lost nearly 1.5 million acres of farmland since 1982. The

following table shows how land loss has affected each minority group.

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32The 1989 Census of Agriculture, at 21.

TABLE 2.1: (PLEASE REFER TO ORIGINAL SOURCE)

b. where minority operated farms are located

The 1987 Census of Agriculture shows that minority operated farms are located across the country but tend to concentrate in

various States. Analysis of the 1987 census data showed that 85 percent of all minority operated farms are located in 23 States. More than 70 percent of all minority operated farms are located in as few as 4 States and as many as 15 States.

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33Id. at 412-415.

34Id.

Black operated farms are located predominantly in the southeastern part of the country and in the States of Texas, Oklahoma, and California. Analysis showed that 93.8 percent of all black operated farms are located in 15 States and nearly 40 percent are in the States of Texas, Mississippi, and North Carolina. Hispanic operated farms are located in the south and northwestern parts of the Nation and the States of Florida and Colorado. Census data show that 81 percent of all Hispanic operated farms are located in 8 States and 68 percent are in the States of Texas, California, and New Mexico.

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35Id.

American Indian operated farms are located predominantly in the midwestern and southwestern parts of the country and the State of North Carolina. The Census of Agriculture showed that 70.6 percent of the American Indian operated farms are located in 8 States and more than 40 percent are in the States of Oklahoma, North Carolina, and New Mexico. More than 85 percent of all Asian/Pacific Islander operated farms are located in 4 States and 81 percent are in the States of California and Hawaii.

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36Id.

The census data for the "other" category of minority-operated farms Mexican, Caribbean, Central and South American showed that 78 percent of these farms are located in 3 States, Texas, New Mexico, and California. See Appendix I for more information on the location of minority operated farms. Figure 1 shows the geographical dispersion of minority operated farms based on the 1987 Census of Agriculture.

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37Id.

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### III. The Role of the Farmers Home Administration

The consequences of minority land loss are devastating to minorities in particular and the Nation on the whole. According to the Indian agriculture study, when the individual Indian farmer or rancher loses land through foreclosure, the land passes out of trust status and the Indian homeland is decreased. Bankruptcy among Indian farmers and ranchers, therefore, reverberates throughout the Indian community, presenting a serious threat to reservation economies and the trust land base, and swelling already overloaded public assistance rolls.

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38The Indian Agricultural Study, at 13.

39Id.

The Civil Rights Commission reported that the loss of land and the inability of blacks to endure as landowners may result in serious consequences for racial relations in this country. 4 A society where whites control virtually all agricultural production and land development (including commercial, industrial, and resort development) is not racially equal. 0 4 Accordingly, such an imbalance can only serve to further diminish the stake of blacks in the social order and reinforce their skepticism regarding the concept of equality under the law. 1 4 2 4

0The Commission Report, at 8. 4

1Id. 4

2Id.

Ironically, the U.S. Department of Agriculture (USDA), Farmers Home Administration (FmHA) was created in 1935 to make loans and grants to depression-stricken families and help them regain self-sufficiency in making their living on family farms. Conceivably, enforcement of the agency's original mission should have helped save most of the Nation's minority farms but realistically, racism and discrimination legally permitted the demise of many minority farms since programs and laws were not in place to provide help to minority farmers.

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43 "A Brief History of Farmers Home Administration," U.S. Department of Agriculture, Farmers Home Administration, February 1990, at 1 (hereinafter, A Brief History of FmHA, February 1990).

In 1982 the Civil Rights Commission reported that FmHA "has the potential for providing the immediate assistance so urgently needed by black farm operators to prevent the further loss of their land. The structure, historical mission, and purpose of FmHA make this agency particularly capable of such task."

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44 The Commission on Civil Rights Report, at 71.

a. overview of fmha

FmHA is the credit agency for agriculture and rural development in the U.S. Department of Agriculture. Its history of financial and technical assistance, as a lender of last resort in rural America

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46 is critical to the survival of many farmers particularly, minority farmers whose status characteristics closely resemble those defined in FmHA's original mission. For 54 years, FmHA has been concerned with credit and counseling services that have supplemented resources of the private sector for building strong family farms. In 1989, farm credit still accounted for almost one-half of all resources FmHA administered.

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45 "A Brief History of Farmers Home Administration," U.S. Department of Agriculture, Farmers Home Administration, February 1985, at 1 (hereinafter, A Brief History of FmHA February 1985).

46 Id.

47 A Brief History of FmHA, February 1990, at 1.

48 Id.

Over the years FmHA has developed a credit system that reaches the county level. The agency has 11,558 permanent full-time employees who serve rural America from 46 State offices, 264 district offices, 1,904 county offices, plus the National Office in Washington, DC. Service is provided in every rural county or parish in the 50 States, plus the Pacific Trust Territory, American Samoa, Guam, Puerto Rico, and the Virgin Islands. FmHA's network of offices enables it to maintain a close, one-on-one relationship with its borrowers.

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49 Id.

50 Id.

51 Id.

52 Id.

FmHAs existing system of personal contact across the country has established it as a lead agency for rural development. Congress and the Administration continually recognize FmHAs long experience in serving rural communities and farm families and have over the years expanded old services and created new ones. FmHA loans and grants supplement the amount of credit and capital directly available from commercial lenders in rural areas. In most programs the agency makes loans to qualified applicants who can find no other source of financing available on terms and conditions they can meet.

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53Id.

54Id.

55Id.

56Id.

The money loaned by FmHA comes from collections on previous loans, or from private investors through sale of Government securities. In guaranteed loan making, funds are supplied directly to borrowers by commercial lenders, with FmHA minimizing the lenders risk. Grants for rural water and waste disposal systems, farm labor housing, home repair for low-income elderly people, and "self-help" homebuilding by low-income families supplement the agencies rural lending program.

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57Id.

58Id.

59Id.

FmHA and its predecessor agencies have made over 10 million loans and grants totaling more than \$155.9 billion from its early beginning in 1935 through the end of fiscal year 1989. The unpaid principal owed to FmHA on all loans as of September 30, 1989, totaled \$58,756,241,555, including guaranteed loans. The annual volume of programs (making FmHA the largest Federal loan agency dealing directly with borrowers) reflects the emphasis during the 1960s and 1970s on resources for development or revival of the whole rural community. Money spent annually on programs increased from \$300 million to \$1.6 billion during the 1960s. In fiscal year 1989 FmHA made more than 84,000 loans and grants totaling more than \$5 billion. More than 36,000 loans and grants valued at \$2.2 billion went to farmers while the remaining \$2.8 billion included 48,000 loans and grants for rural housing and community programs. For a detailed listing of FmHA "Loans and Grants by Program-Fiscal Year 1989," see appendix II.

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60Id.

61Id.

62Id.

63Id.

64Id.

65Id.

#### B. fmha farm programs

Overall FmHA farm programs include: (1) Farm ownership loans, (2) farm operating loans, (3) limited resource insured farm ownership and operating loans, (4) disaster emergency loans, and (5) improvement loans for soil and water resources. FmHA also has a program that targets farm ownership loans and leases of inventory property available to members of socially disadvantaged groups.

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66Id., at 17.

67The Agricultural Credit Act of 1987, Public Law 100-233, section 617, enacted January 6, 1988.

FmHA held 15.6 percent of the total outstanding farm debt at the end of 1989. The average size of farm loans FmHA made in fiscal year 1989 ranged from \$41,700 for a direct operating loan to \$143,400 for a guaranteed farm ownership loan. The overall average was \$60,460. The averages by types of loans were: direct farm ownership, \$81,100; guaranteed farm ownership, \$143,000; direct farm operating, \$41,700; guaranteed operating, \$89,200; and disaster emergency, \$26,200. Interest rates for guaranteed loans are negotiated between the lender and borrower. The interest rate for insured loans is set periodically by the Secretary of Agriculture, based on the cost of Government borrowing.

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68A Brief History of FmHA, February 1990, at 17.

69Id.

70Id.

71Id.

#### C. FmHA and the Minority Farmer

The FmHA is headed by an Administrator who reports to the Under Secretary for Small Community and Rural Development in the Department of Agriculture. 7 The FmHA Administrator coordinates the management of FmHA programs, establishes policies and regulations, appoints State directors and allocates funds to the States. State directors provide overall direction at the State level, while district directors provide supervision to county offices. The county offices are the primary point of contact for most rural individuals and organizations seeking FmHA assistance, and it is at the county level that most individual loans are approved or disapproved. 2 7

2"The United States Government Manual 1988/89," Office of the Federal Register, National Archives and Records Administration, at 102-103.

It is at these local levels (State, district, and county) that complaints of discrimination in FmHAs implementation of programs have been raised because many decisions are subjective. In its 1982 report the Commission on Civil Rights stated that:

As a lender of last resort, the goals of the Farmers Home Administration appear to be clear. However, regulations intended to implement these goals leave room for a wide range of subjective interpretation . . . The problem of

subjectivity permeates much of the FmHA loan decision process . . . Upon reviewing 200 rejected and approved housing loan files in 15 county offices, GAO found various disparities in the criteria adopted. Variations were found in job tenure requirements and verification of credit-worthiness. It is likely that determinations of eligibility for farm loans are equally subjective, for example, with respect to required farm experience, credit-worthiness, property appraisals, and viability of farm plans. Lack of specific criteria for loan determinations potentially enhances FmHAs flexibility and ability to serve clients. It also creates loopholes which allow for discriminatory treatment. 7 3 7

3Commission on Civil Rights Report, at 80-81.

The Commission on Civil Rights also reported that black farmers who attempt to utilize FmHA resources believe they encounter special difficulties. 7 According to the Commission, complaints on behalf of black farmers allege that they suffer from a broad range of discriminatory actions, and are subjected to disrespect, embarrassment, and humiliation by FmHA officials. 4 7 Complainants claim that they are often denied the opportunity to submit loan applications; that the amounts of loans awarded are always less than requested; that often they do not even receive the full amount awarded; that loan repayment schedules are accelerated without explanation; that loan payments are applied to the wrong accounts (i.e., to pay off low-interest rather than high-interest loans); and that creditors and other businesses are routinely contacted by the county FmHA office and informed that no loans will be made to these black farmers, thereby preventing them from obtaining other credit, goods, and services needed to continue their farm operations. 5 7 6 7

4Id., at 84.

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5Id., at 85. 7

6Id.

Although the Commission reported the aforementioned complaints and concerns more than 8 years ago, farm advocates, minority farmers and a Member of Congress raised many of these same concerns with the subcommittee during its investigation and in a subsequent July 25, 1990, hearing addressing the decline of minority farmers and FmHAs role. 7 Congressman Mike Espy from Mississippi stated that:

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7Hearing, July 25, 1990, statement of the Honorable Mike Espy, Member of Congress, (D)-Mississippi, before the Subcommittee on Government Information, Justice, and Agriculture, at 1 and 2; Statement of David H. Harris, Jr., Executive Director, Land Loss Prevention Project, at 3-14; Statement of Randi Ilyse Roth, Staff Attorney, Farmers Legal Action Group, Inc., at 3-5; 11-13; Exhibits "A," "B," and "C"; Statement of Calvin R. King, Executive Director, Arkansas Land and Farm Development Corporation, at 2; Statement of Ben Burkett, minority farmer and Coordinator for the State of Mississippi Federation of Southern Cooperatives/Land Assistance Fund, at 1-4 (hereinafter, Hearing, July 25, 1990, Statement of: The Honorable Mike Espy; David Harris; Randi Roth; Calvin King, and Ben Burkett).

Some of our problems in Mississippi include failure of the Farmers Home Administration to assist minority farmers in obtaining loans, subjecting them to embarrassment and humiliation, applying loan payments to wrong accounts, accelerating accounts without explanation, requiring voluntary liquidation as a condition of obtaining loans, failing to give accurate information as to application requirements, unreasonable delay in processing loan applications, making loans at the higher emergency loan rate when the borrowers were qualified for a loan at a lower rate, and the list goes on. Needless to say, these and all other forms of inefficiency that may be rooted in discrimination must be addressed and eliminated. 7

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8Hearing, July 25, 1990, statement of the Honorable Mike Espy, at 1-2.

#### IV. Allegations of Discrimination Within FmHA Permeate Agency Programs

Farm advocates, many of whom are lawyers and some minority farmers believe wholeheartedly that FmHA discriminates against minority farmers in the implementation of the agency's programs. According to one advocate, FmHA has discriminated against minority farmers throughout the United States for many years. 7 While FmHA claims to have a national policy of nondiscrimination, employees in local FmHA offices regularly engage in many

types of discriminatory conduct some of which violate FmHA statutes and regulations. 9 8 For example, a minority applicant enters the local FmHA office to apply for an FmHA loan. Instead of providing the minority farmer an application, the local FmHA officer advises the minority farmer he/she does not qualify for FmHA services and that this farmer should not bother to apply. FmHA rules require FmHA employees to give an application to any farmer who requests one. 0 8 However, because this farmer was a member of a minority group, the FmHA employee refused to give an application to the farmer and talked the farmer out of applying for FmHA services. 1 8 2 7

9Hearing, July 25, 1990, statement of David Harris, at 4.

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0Id., at 4-5. 8

1Id., at 5-6. 8

2Id., at 6.

The subcommittees investigation found several examples wherein minority farmers believed they had been discriminated against and/or treated improperly. These examples came from Louisiana, Arkansas, Mississippi, North Carolina, and Georgia and from nonminority as well as minority farmers. In Louisiana, a nonminority farmer and farm advocate filed an affidavit attesting to her experience in dealing with minority farmers and white farmers. 8 Based on her experience she stated that for the first few years of her work she "was not convinced that black farmers were being hurt by active race discrimination within FmHA. However, based upon specific incidents and patterns, I have changed my mind. I know now that there is race discrimination in FmHAs administration of the farm loan programs . . . For example, the county supervisor in Avoyelles Parish tells the black farmers exactly where they have to purchase their equipment, I am not aware that he has ever told a white farmer where to purchase equipment. Black farmers in Avoyelles Parish are routinely denied FmHA assistance based on cash flow issues and other eligibility issues for which white farmers would never get turned down."

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3Hearing, July 25, 1990, statement of Randi Roth, at exhibit A-1.

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4Hearing, July 25, 1990, statement of Randi Roth, at exhibit A-1-2.

In Arkansas, a group of black farmers from Lee County filed a race discrimination complaint against FmHA in April 1986. 8 The complaint alleged that the "Farmers Home Administration has traditionally and continuously discriminated against black farmers in Lee County . . . Local staff has consistently favored selected, privileged, special friends white farmers and also given preferential treatment to white farmers in general. We have evidence that white farmers in distressed financial circumstances have been given more staff assistance and attention and even operating loans this year, while black farmers in the same or similar financial position are being systematically denied and forced to go through an appeals/hearing procedure to receive consideration. The County Supervisor and administrative staff operate on the good ole boy buddy system and assure paper-work shuffling, application reworking and whatever is needed to guarantee certain, selected white farmers positive cash flow projections and therefore grant of operating funds irrespective of these elect farmers operating practices and financial record."

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5Letter dated April 25, 1986 from 17 minority farmers (Robert A. Holmes; Sammie Ross, Jr.; L.C. Broadway; Raymond Gilmore; Sterling Garrett; Alvin Steppes; Sherwin Holmes; Willie B. Scott; Robert Harrison; Joseph Perry, Sr.; Will Savage, Sr.; Willie Holmes; Booby Holmes; Delmont Tate; Spencer Brown, Sr.; Israel Gordon; and Melvin Moore) to Dana A. Froe, Chief, Compliance Program Divisions I and II, Office of Advocacy and Enterprise, U.S. Department of Agriculture.

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6Id., at 1.

The minority farmers alleged that FmHA staff:

Routinely manipulated black farmers operating loan applications in a manner which would cause negative cash flow projections and therefore denial of loan applications. The example cited related to FmHAs inconsistent use of the family living allowance (when a spouse worked or the farmer had an extra job).

Was slow to see that the few minority applications FmHA did approve for operating loans got their funds in a timely manner.

Made gross errors and miscalculations in computations on minority farmer loan applications causing undue hardship on minority farmers. For example, one farmers application was denied and he was forced into a hearing before the application was complete. The hearing was held 75 miles away and it was at the hearing that the error was discovered and the application sent back to the county office for completion.

Routinely denies black farmers the opportunity to lease and work properties in FmHA inventory but consistently informed and permitted white farmers to take advantage of the opportunity to use the land.

Routinely discriminates in hiring practices. 8  
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7Id., at 1-2.

The complainants said that "these and other incidents and practices show a vicious, intentional pattern of racial discrimination blatantly practiced by the FmHA staff . . . with the intent to eliminate black farmers." 8  
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8Id., at 2.

The USDAs Office of Advocacy and Enterprise responded to the complainants by letter dated July 21, 1987, stating that USDA had "conducted an inquiry into the allegations of your case and the facts gathered showed that you and several other black farmers had been subjected to disparate treatment. The inquiry showed that black farmers had been subjected to one or more of the following situations by FmHA personnel at the county, district, or State level:

1. Black farmers projected crop yields were calculated differently from white farmers.
2. Black farmers applications were not handled in a timely manner.
3. Black farmers were not provided timely information on required documents for completion of their applications.
4. Black farmers Farm and Home Plans contained computation errors, which resulted in their applications being rejected.
5. Approved black farmers title opinions were delayed for an unacceptable time period.
6. Black farmers were not advised of all servicing options.
7. County office personnel were rude and insensitive to black farmers.

Due to the seriousness of the findings, FmHA initiated a team response which resulted in several of the complainants being approved for their loans. In addition, on-site recommendations were made for corrective actions, to ensure equal access, opportunity and treatment for all applicants. We will be closely monitoring FmHAs

efforts to implement the recommendations." 8  
9 8

9 Letter from the U.S. Department of Agriculture, signed by Dana L. Froe for Naomi Churchill, Esq., Associate Director, Equal Opportunity, Office of Advocacy and Enterprise. The Office of Advocacy and Enterprise is responsible for investigating discrimination complaints in the Department of Agriculture.

The USDA also said that "Based on the disparate treatment of black farmers by county personnel, we are recommending that a FmHA official outside Arkansas monitor and reassess the efforts of FmHA officials to assist you and the other farmers with their farming needs/operations. The officials assessment is to determine if FmHA, in evaluating each farmers financial situation, considered all servicing authorities in an attempt to generate a positive cash flow and/or improve the delinquency for each farmer."

90  
90 Id., at 2.

Approximately 1 month later, the USDA reversed its decision and position on the minority farmers complaint. In a September 4, 1987, letter to one of the complainants, the USDA said that "further clarification of the July 21, 1987, letter" was needed. The USDA said that the "July 21, 1987, letter was incomplete in its discussion of the preliminary inquiry. We have thoroughly evaluated all the facts and circumstances of your complaint and our findings are as follows:

91  
91 Letter from the U.S. Department of Agriculture, Naomi Churchill, Esq., Associate Director, Equal Opportunity, Office of Advocacy of Enterprise, dated September 4, 1987, to Mr. Alvin Steppes, Mariana, Arkansas, at 1.

1. Many Black farmers, including yourself received operating loans from FmHA.
2. The loans of some farmers, including yourself are in liquidation or a debt settlement position with FmHA because of failure to make timely payments.
3. There may have been an error made on your Farm and Home Plan which may have contributed to your experiencing some cash flow problems."

92  
92 Id.

The USDA stated that "while our analysis does not support a finding of intentional discrimination against you because of your race, we recognize that a severe communication gap existed between local FmHA officials and the black farming community . . . allegations of racial discrimination or reprisal will be investigated and appropriately handled . . . I apologize for any confusing or misleading information that may have been contained in our prior letter."

93  
93 Id., at 2.

In a June 5, 1989, letter to USDA, another group of Arkansas minority farmers filed a continuing complaint alleging that "The holocaust of black family farmers in Lee County Arkansas which was brought to your attention in April 1986 in a plea for intervention and redress by USDA/FmHA National and State Officials has worsened dramatically and expanded to include black family farmers in at least four more east Arkansas counties."

94 The complaint alleged that de facto discrimination against black farmers has prevailed; the intent and clear directives of the Agriculture Credit Act of 1987 have been consistently and detrimentally contravened by the unchanged attitude and protocol of east Arkansas county offices and by the inept and inequitable application of the computer analysis program referred to as DALR©

95 and the technical assistance and support services intended for black farmers through the 1890 land grant schools.

96

94Letter from a class of minority farmers to Ms. Naomi Churchill, Esq., Associate Director, Equal Opportunity Office of Advocacy and Enterprise, U.S. Department of Agriculture, dated June 5, 1989.

95FmHA developed DALR\$, automated data processing software, to assist county offices in performing servicing actions authorized by the Agricultural Credit Act of 1987. The servicing actions provide a large number of alternatives for restructuring delinquent loans to keep the borrower on the farm, if possible, and avoid losses to the Government. Statement from the USDA Inspector General's Audit Report on "FmHA Debt and Loan Restructuring System (DALR)," 04673-3-SF, dated February 24, 1989.

96Id., at 2-3.

The complainants said that these and other incidents and practices show a cycle of racial discrimination and local staff ineptitude which victimizes black farmers and robs black families of their special heritage of farming and pride in closeness to the land. 9 According to the complainants because of "this systematic elimination of black farmers in the Arkansas Mississippi River Delta, an entire generation of Delta families has had family traditions and pride ruthlessly eliminated from our futures and has been callously cut off from a rich heritage of united family effort and support and a very special symbiotic relationship with the rich, black Delta soil which claimed ownership of us even before we were able to claim ownership of it as home."

7

9 8 9

7Id., at 3. 9

8Id., at 3-5.

Complaints about FmHA's actions in Arkansas continue and several examples were cited at the July 25, 1990, hearing on the decline of minority farmers. 9 An affidavit from an attorney who works with minority farmers stated that "notwithstanding the investigation that FmHA performed as part of its response to (the class) complaint . . . the new laws introduced by the 1987 Agricultural Credit Act, in Arkansas there continues to be a state-wide pattern of FmHA denying black farmers entry into farm ownership."

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1 0 0 9

9Hearing, July 25, 1990, statement of Randi Roth, at exhibit B; and statement of Calvin King. 1 0

0Hearing, July 25, 1990, statement of Randi Roth, at exhibit B-1-2.

## V. FmHA Programs Yield Few Results for Minority Farmers

Minority farmers cannot depend on FmHA programs to save them from extinction. Minority farmers have not fared well in FmHA programs including those designed specifically to help them. The committee finds that programs such as the Socially Disadvantaged and the Limited Resource Farm Operating and Ownership Program have yielded few successful results for minority farmers. Additionally, the lack of statistical data by ethnicity, or definitive data in some cases, for other major FmHA programs creates unnecessary problems in FmHA's ability to address the impact agency programs have on minorities.

### A. Socially Disadvantaged Program

#### 1. Program overview

The Agricultural Credit Act of 1987 authorized the Secretary of Agriculture to establish annual target participation rates, on a countywide basis, to ensure that members of socially disadvantaged groups receive loans made or insured under subtitle "A" of the Consolidated Farm and Rural Development Act, and have the opportunity to purchase or lease inventory farm land. 1 0 The Secretary of Agriculture delegated to the FmHA Administrator the authority to make farm ownership loans and inventory property available to members of socially disadvantaged groups. 1 1 0 The program is administered in the FmHA Farmer Programs, Emergency Designation Staff. 2 1 0

1 "Report to Congress," U.S. Department of Agriculture, Farmers Home Administration, Title VI Farmers Home Administration Loans, Section 617 Target Participation Rates, Transmitted to the Honorable Thomas S. Foley, Speaker of the House of Representatives, January 12, 1990, at 1; (hereinafter, FmHAs Report to Congress on Targeted Participation rates). 1 0

2Id., at 2.

The act defines a socially disadvantaged group as a group whose members have been subjected to social or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. 1 0 The FmHA has interpreted this definition to include the ethnic groups protected under the Civil Rights Act of 1964 and referenced in section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)), which are: Blacks, not of Hispanic origin; American Indians or Alaskan Natives; Hispanics; and Asian or Pacific Islanders. 3 1 0 4 1 0

3Id.

1 0

4Id.

FmHA lists the following three major purposes of the program in literature provided to the public describing the program:

Make FmHA farm ownership funds and farmland in the possession of FmHA more available to socially disadvantaged persons.

Discover and remove obstacles that prevent the full participation of those persons in FmHAs farm ownership loan program.

Provide necessary technical assistance to qualified applicants in applying for the loans and in developing the sound farm management practices essential for success in their farming operations. 1 0 5 1 0

5 "Farm Ownership Loans for Socially Disadvantaged Persons," U.S. Department of Agriculture, Farmers Home Administration, Program Aid No. 1433, dated April 1989, at 1.

FmHA targets farm ownership loan funds and inventory farms to those counties that are designated as eligible under the socially disadvantaged program. 1 0 The FmHA consulted the USDA Economic Research Service for statistical data to establish the target participation rates. 6 1 0 Target participation rates were established for the States, and counties within each State based on the proportion of minority rural population to the total rural population in each county within each State. 7 1 0 Counties having the highest percentage of socially disadvantaged persons will receive the highest amount of funds. 8 1 0 9 1 0

6Id.

1 0

7FmHAs Report to Congress on Targeted Participation Rates, at 1. 1 0

8Id. 1 0

9Farm Ownership Loans for Socially Disadvantaged Persons, U.S. Department of Agriculture, Farmers Home

Administration, Program Aid No. 1433, dated April 1989, at 2-3.

Certain suitable farms in FmHAs inventory will be selected annually in each State by the FmHA State Director and targeted to those counties designated for the socially disadvantaged program. The number of inventory farms selected will be based on the targeted participation rate for the State, and farms will be located in or near the designated counties. Once farms are chosen, they will be advertised for sale or leased to eligible applicants. 1 1 0 1 1

0Id., at 3.

2. Program results

In its January 12, 1990, report to Congress, FmHA claimed "Success Attained in Meeting The Target Participation Rates."

1 1 A more detailed look at the success attained showed minimal results. Based on the report, FmHA targeted a total of \$9.5 million for direct farm ownership loans plus a \$500,000 reserve. At the end of fiscal year 1989, FmHA had made 168 direct farm ownership loans totaling \$12,378,860 in 37 States. While this loan activity exceeded the targeted amount by \$2,334,860, FmHA reported that "this is indicative of the strong demand for such funds to finance add-on units and start-up operations."

1  
1 1 2 1 1

1FmHAs Report to Congress on Targeted Participation Rates, at 1.  
1 1

2Id., at 3.

When we looked at FmHAs effort related to farm ownership leasing and/or credit sales of FmHA inventory farms, the picture was very dismal. FmHA did not achieve 10 percent of its goal to provide inventory farms to the socially disadvantaged farmers. The report showed that FmHA targeted 345 inventory farms for leasing and/or credit sale but at the end of the fiscal year, had sold only 28 of these target farms in the amount of \$2,431,483. FmHAs efforts under the program represents 3 percent of the total inventory farms (926) sold in fiscal year 1989. 1 1 Data FmHA provided the subcommittee to document program activity, by ethnic group, showed discrepancies when compared to the information cited in the agencies report to Congress. 3 1 1 However, these discrepancies did not materially affect program results. Table 5.1 shows a breakdown of activity for direct loans made and table 5.2 shows a breakdown of credit sales made in the socially disadvantaged program for fiscal year 1989. See appendix III for more detailed information FmHA submitted to Congress on target rates for fiscal years 1989 and 1990. 4 1 1

3Id.  
1 1

4Letter from Mr. LaVerne Ausman, FmHA Administrator, dated June 20, 1990, to the Honorable Bob Wise.  
TABLE 5.1: DIRECT FARM OWNERSHIP LOANS SOCIALLY DISADVANTAGED PROGRAM FISCAL YEAR 1989  
TABLE 5.2: CREDIT SALES SOCIALLY DISADVANTAGED PROGRAM FISCAL YEAR 1989  
(PLEASE REFER TO ORIGINAL SOURCE FOR TABULAR DATA)

FmHA attributes the poor performance to "the lateness of the season in which the farms were targeted and made available for sale . . . Reports show that most of the targeted inventory farms were not targeted until after March 1989, due to the lack of clear guidelines . . . FmHA State Directors have been advised to provide more outreach assistance to members of socially disadvantaged groups to ensure they have an opportunity to take advantage of the targeted inventory farm land in Fiscal Year 1990."

115  
115Id., at 3.

In response to followup questions from the subcommittees July 25, 1990, hearing, the FmHA Administrator reported that as of July 1990, FmHA had made 132 farm ownership loans for \$11.3 million and sold 25 inventory farms by credit sales. Unless FmHA makes significant progress in its inventory farms during the last quarter of fiscal year 1990, the program will have practically the same results as fiscal year 1989. FmHA targeted 292 inventory farms for fiscal year 1990.

116

117

116 Letter from Mr. LaVerne Ausman, FmHA Administrator, dated August 13, 1990, to the Honorable Robert Wise, at 1-2.

117 Letter from Mr. LaVerne Ausman, FmHA Administrator, dated June 20, 1990, to the Honorable Bob Wise.

FmHA's number of targeted inventory farms for fiscal year 1990 decreased by 53 inventory farms. Congressman Wise, in his letter to the FmHA Administrator following the subcommittees hearing, asked "why there is a decrease in the number of farms when the annual report shows that FmHA did not achieve 10 percent of what was targeted in fiscal year 1989? Is it a matter of lowering the targets so the achievement does not look so badly?"

118 The Administrator's response was "No. The number of targeted farms decreased . . . because the number of available suitable farms decreased nationwide due to the new loan restructuring authority granted to FmHA by the Agricultural Credit Act of 1987."

119 The Administrator did not account for the difference in the farms remaining on the targeted list for fiscal year 1989 (317) compared with fiscal year 1990's target list (292).

118 Letter from the Honorable Bob Wise, Chairman, Subcommittee on Government Information, Justice, and Agriculture, Committee on Government Operations, dated July 30, 1990, to Mr. LaVerne Ausman, FmHA Administrator, at 2 (hereinafter, Chairman Wise Letter to FmHA, dated July 30, 1990).

119 Letter from Mr. LaVerne Ausman, FmHA Administrator, dated August 13, 1990, to the Honorable Robert Wise, at 2.

## b. limited resource farm operating and ownership loan program

### 1. Program overview

FmHA defines a "limited resource applicant as a farmer or rancher who is an owner or operator of a small or family farm (a small farm is a marginal family farm), including a new owner or operator, with a low income who demonstrates a need to maximize farm or ranch income. A limited resource applicant must meet the eligibility requirements for a farm ownership or operating loan, but due to low income, cannot pay the regular interest rate on such loans. Due to the nature of the problems facing this applicant, special help will be needed and more supervisory assistance will be required to assure reasonable prospects for success. The applicant may face such problems as underdeveloped managerial ability, limited education, low-producing farm due to lack of development or improved production practices and other related factors. The applicant will not have nor expect to obtain, without the special help and low-interest loan, the income needed to have a reasonable standard of living when compared to other residents of the community."

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120 Letter from Mr. James F. Radintz, Director, Farmer Programs, Loan Making Division, Farmers Home Administration, U.S. Department of Agriculture, dated July 12, 1990, to Ms. Jacqueline Harpp, House Government Information, Justice, and Agriculture Subcommittee.

Each application for a limited resource farm ownership (FO) and/or operating loan (OL) is evaluated by a local county or area committee to ensure that basic eligibility requirements or creditworthiness, citizenship, sufficient training and experience, character (as related to reliability), credit elsewhere, and owner/operator of a family farm

are met. 1 2 Each application for a limited resource loan is evaluated by local county supervisors to ensure that adequate security and repayment are available.

1  
122  
121Id., at 2.

122Id.

Local county supervisors are responsible for making annual analyses of limited resource borrowers:

- (1) Who are experiencing financial and/or production management problems.
- (2) Who are reorganizing or implementing a major change in operations which is not completed.
- (3) At the end of the first full crop year after receiving an initial loan and each year thereafter, until the county supervisor determines the borrower is conducting the operation satisfactorily.
- (4) Any time a servicing action such as consolidation, rescheduling, reamortization, or deferral is taken.

123  
123Id.

In 1982 the Commission on Civil Rights reported that "FmHA regulations governing eligibility for low-interest limited resource loans leave much room for interpretation. They describe in general terms the profile characteristics of a limited resource farmer . . . these regulations do not provide specific eligibility criteria concerning farm size, income, or assets; ultimately the eligibility determination is subjective."

124  
124The Commission Report, at 81-82.

Analysis of 1987 census data show that most minority operated farms fall well within the intended program goals and objectives of the limited resource program. The census shows that 87 percent of all minority operated farms are owned by individuals or family. Additionally, 85 percent of all land minorities farm is owned while 15 percent is leased or rented. Half of all minority operated farms tend to be no larger than 49 acres in size and agricultural products sold usually, are valued at less than \$10,000. The following two tables show the range in size of minority operated farms and the value of agriculture products sold as of census year 1987.

125  
125The 1987 Census of Agriculture, at 21.

TABLE 5.3: MINORITY OPERATED FARMS BY SIZE FOR AGRICULTURAL CENSUS YEAR 1987  
TABLE 5.4: MARKET VALUE OF AGRICULTURAL PRODUCTS SOLD BY MINORITY OPERATED FARMS IN AGRICULTURAL CENSUS YEAR 1987  
(PLEASE REFER TO ORIGINAL SOURCE FOR TABULAR DATA)

## 2. Program results

Despite the presumptions the census data lead one to conclude about minority participation, program results show a far different picture. Minorities received 6 percent or less of the limited resource operating and ownership loans over a 3-year period beginning with 1987 through 1989. They received 4 percent or less of the funds available for these loans. As of July 5, 1990, minorities had received 4 percent of the operating loans and 2 percent of the ownership loans. Minority farmers received 4 percent of the funds available for operating loans and 2 percent of the available

funds for ownership loans through July 5, 1990. The following tables show loan activity for the limited resource program since 1987 through July 5, 1990. Table 5.5 shows operating loans and table 5.6 shows ownership loans. (PLEASE REFER TO ORIGINAL SOURCE FOR TABULAR DATA)

The FmHA Administrator said that the reason minority farmers received less than 10 percent of the loans and less than 5 percent of the dollars available in the limited resource program was because "Non-minority farmers make up approximately 97 percent of U.S. farmers and generally, non-minority farmers tend to take advantage our farm loan programs more than minority farmers." The FmHA Administrator did not offer any rationale as to why more minority farmers do not take advantage of FmHA farm loan programs. Since FmHA program officials do not maintain statistics on the ethnic background of the farmers participating in the program, no record is available to show who applies for the program, the number of minorities who seek FmHA loan services and the reason more minorities do not take advantage of the program. 126 1 2

6Letter from Mr. LaVerne Ausman, FmHA Administrator, dated August 13, 1990, to the Honorable Robert Wise, at 4.

In his letter to the FmHA Administrator, following the July 25, 1990, hearing before the subcommittee, Chairman Wise asked whether it is reasonable to expect that a larger percentage of limited resource loans would go to minority farmers since they tend to be smaller and less educated? He asked the Administrator whether 6 percent for minorities and 94 percent for whites seemed adequate?

1 2 In response to the chairmans questions, the FmHA Administrator said that "We believe that our outreach activities will increase minority participation in our loan programs and will include the use of the limited resource loans. Whether limited resource rates are provided depends on repayment ability. That is not necessarily tied to the size of the farm. In recent years many of the larger farms had the most financial problems." 7 1 2 8 1 2

7Letter from Chairman Wise, dated July 30, 1990, to the FmHA Administrator, at 2.  
1 2

8Letter from Mr. LaVerne Ausman, FmHA Administrator, dated August 13, 1990, to the Honorable Robert Wise, at 4.

The FmHA Administrators response suggests that the very basis of the limited resource program is questionable. FmHA defines a limited resource applicant as "an applicant who is a farmer or rancher and is an owner or operator of a small or family farm." Further, the definition provides for conditions dealing with the farmers inability to pay regular loan rates. The implication of the Administrators response concerning larger farmers having the most financial problems excludes most minority farmers who, the Administrator testified before the subcommittee, "tends to have a farm that is smaller than the average size . . ."

129

129Hearing, July 25, 1990, statement of Mr. LaVerne Ausman, Administrator, Farmers Home Administration, U.S. Department of Agriculture, before the Subcommittee on Government Information, Justice, and Agriculture, House Committee on Government Operations, at 4.  
VI. Minority Farmer Participation in Other FmHA Farm Programs

The subcommittee staff examined minority farmer participation in five of FmHAs farm programs for 5 fiscal years as well as minority farmer participation through 9 months of fiscal year 1990. The committee finds that over the last 5 fiscal years minority farmers have received 5 to 7 percent of all FmHA farm loans in farm ownership, operating, emergency and soil and water programs and 3 to 6 percent of all FmHA farm loan funds. The data show that minority farmers receive a greater percentage of loans than they do loan funds but nonminority farmers received an equal or larger percentage of loan funds than loans. The following table shows the trend of minority farmer participation in FmHA farm programs for fiscal years 1985 through 1989.

TABLE 6.1: OVERALL NUMBER OF LOANS, DOLLAR AMOUNTS AND PERCENTAGES OF MINORITY FARMER PARTICIPATION IN FMHA FARM PROGRAMS  
FISCAL YEARS 1985 TO JUNE 30, 1990

Farm operating loans, insured or guaranteed, are usually secured by chattel mortgages on crops, livestock, machinery, or other farm assets. Family members and ranchers unable to obtain other sources of production financing may be eligible. The limits are \$200,000 for insured loans and \$400,000 for guaranteed loans. Terms for operating loans usually range from 1 to 7 years, according to use of loan funds and repayment abilities, with a maximum repayment period of 15 years for consolidated or rescheduled loans.

130

131

130A Brief History of FmHA, February 1990, at 17.

131Id.

Minority farmers received 5 to 7 percent of all operating loans during fiscal years 1985 through 1989 and 3 to 7 percent of the loan funds available.

Farm ownership loans, insured or guaranteed, enable family-size farmers unable to obtain other sources of credit to buy, improve, or refinance farm real estate. Family-size farms operated by individuals, joint operators, partnerships, cooperatives, or corporations can be considered for eligibility. Loan limits are \$200,000 for insured loans and \$300,000 for guaranteed loans. Farm ownership loans are usually repaid over a 30-year term but may be repaid in up to 40 years when a longer period is needed. Insured loan borrowers must refinance through conventional lenders when financially able. Loans are secured by mortgages on the farm real estate.

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132Id.

133Id.

134Id.

Minority farmers received 3 to 18 percent of the farm ownership loans and 3 to 15 percent of the loan funds available during fiscal years 1985 through 1989. Fiscal year 1989 was the first year of the period examined that minority farm ownership loans rose above 6 percent for loans and above 5 percent for loan funds. We do not know the extent that the socially disadvantaged programs direct loans for farm ownership influenced the overall percentage of farm ownership loans made to minority farmers. But given FmHAs historical performance record with minority farmers in this program, it is likely that FmHAs success with the direct loan component of the socially disadvantaged program is the reason for the increase in minority farm ownership.

Disaster emergency loans help farmers recover from actual production and physical losses inflicted by natural disasters such as drought, floods, freezes, hurricanes, tornadoes, and hailstorms. To be eligible for an emergency loan, the county in which the farm is located must have been declared an emergency or major disaster area by the President, or determined to be a natural disaster area by the Secretary of Agriculture, or in some cases, by the FmHA Administrator. The FmHA Administrator can make the determination for severe physical loss loans only. Farmers in counties contiguous to a declared designated county may also qualify for loan assistance.

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136

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135Id.

136Id.

137Id.

Minority farmer participation in the emergency loan program during fiscal years 1985 through 1989 has ranged

from a low of 0 percent to a high of 10 percent for number of loans made. Ironically, the high occurred in 1988 and the low in 1989. Minority farmers received as little as 2 percent and as much as 6 percent of loan funds available.

Soil and water loans are made to owners or operators of farms and ranches, including farming partnerships and domestic corporations to assist them in developing, conserving, and making proper use of their land and other resources. Loans are repayable over a 40 year period and may be made by FmHA or a private lender with a FmHA guarantee. The interest rate for insured loans is determined by the Secretary of Agriculture but is negotiated between the borrower and the lender for other loans.

138

139

138The United States Government Manual 1988/89, Office of the Federal Register, National Archives and Records Administration, at 103.

139Id.

Minority farmers received 1 to 6 percent of soil and water loans FmHA made during fiscal years 1985 to 1989 and 0 to 5 percent of loan funds available. In fiscal years 1987 and 1988, minority farmers received 0 percent of funds available for soil and water loans. The following tables show the percentage distribution of FmHA loans by number and dollar amount of loans.

TABLE 6.2: PERCENTAGE DISTRIBUTION OF FmHA LOAN PROGRAMS BY NUMBER OF LOANS AND DOLLAR AMOUNT OF LOANS FISCAL YEARS 1985

TABLE 6.3: PERCENTAGE DISTRIBUTION OF FMHA LOAN PROGRAMS BY NUMBER OF LOANS AND DOLLAR AMOUNT OF LOANS FISCAL YEARS 1988-90 (AS OF JUNE 30, 1990)

## VII. FmHAs Position on Minority Farmers Survival

If FmHA maintains the position it took some 8 years ago in dealing with minority farmers their demise is certain to occur. In 1982 the Commission on Civil Rights reported that:

. . . due to historical circumstances and current economic conditions, government policies, and institutional practices which have militated against the success of black farm operators, it can be assumed that black farmers are disproportionately in need of FmHA assistance. And because of their low incomes, limited off-farm employment, and small landholdings, it can be assumed that black farmers are disproportionately unable to obtain credit elsewhere. On these bases, then, it would be expected that black farmers would receive a disproportionately large share of FmHA loans. For if the number and amount of loans to blacks were equal to only their proportion of the farm operator population (2.3 percent), or even the farm resident population (4 percent), it is clear that this level of effort would not be substantial enough to offset the disadvantages FmHA programs are designed to address, much less to halt the rapid decline of black farming.

But rather than targeting a greater proportion of their services to black farmers, based on their disproportionate need, the Farmers Home Administration has chosen to seek parity in services to blacks and whites . . .

140

140The Commission Report, at 95-96.

The FmHA Administrator testified before the subcommittee that "A look at our loan activity shows that loans are dispersed among minorities in a pattern generally matching that of the farm count breakdown. For instance, black farmers now total 1.1 percent of all farmers, American Indians/Alaskan Natives total .34 percent and Asian/Pacifics, .32 percent. Hispanic-operated farms are reported to be about 1 percent or less.

In the first half of this fiscal year, our basic farm loans direct farm operating, ownership, emergency and soil and water were distributed as follows: blacks, 3.2 percent; American Indians/Alaskan Natives, 1 percent; Hispanics, 8

percent, and Asian/Pacifics, .4 percent."

141

141Hearing, July 25, 1990, Statement of Mr. LaVerne Ausman, FmHA Administrator, at 1-2.

In his July 30, 1990 letter, following the subcommittees hearing, Congressman Wise asked the FmHA Administrator whether the dispersion of loan activity is adequate and if that dispersion is a deliberate policy of the FmHA?

142 In his August 13, 1990, response, the FmHA Administrator stated that "Minority farmers make up approximately 2.76 percent of the total number of farmers in this country. However, about 12.6 percent of our farm loan credit is advanced to them. It is our policy to maintain an equitable dispersal of loans to farmers who qualify. We dont know the financial condition of minority farmers so we cannot empirically answer this question."

143

142Letter from the Honorable Bob Wise, dated July 30, 1990, to the FmHA Administrator, at 1.

143Letter from FmHA Administrator, dated August 13, 1990, to the Honorable Bob Wise, at 1.

Data FmHA provided the subcommittee to support its claim that 12.6 percent of farm loan credit is advanced to minorities showed that this was generally true for the first 6 months of fiscal year 1990 (data fiscal year 1990 as of March 31, 1990). However, the basis for this statement is distorted. FmHAs computation includes statistics for operating loans, emergency loans, farm ownership loans, and soil and water loans which total 11,016 loans valued at \$511,745,000. Minorities received 1,367 loans or 12.4 percent valued at \$42,570,000 or 8.3 percent of the total.

A closer look at the emergency loan category shows that FmHA made 1,184 emergency loans valued at \$38,242,000. Minorities received 682 emergency loans valued at \$14,874,000; however, Hispanics received 666 or 98 percent of all emergency loans made to minorities. Past trends (fiscal years 1985-1989) showed that all minorities received a maximum of 7 percent of FmHAs emergency loans and 6 percent of loan funds. Trends for Hispanic farmers showed that they received a maximum of 5 percent emergency loans and 2 percent of the loan funds. Inquiry at FmHA revealed that the 666 emergency loans went to Hispanic farmers in Puerto Rico to assist them after the effects of Hurricane Hugo which occurred in September 1989. Excluding the emergency loans to Hispanics, minorities received 6.7 percent of all loans and 5.6 percent of all farm loan funds. A look at farm operating and ownership loans only, showed that minorities received 7 percent of the loans and 5.8 percent of the loan funds.

While the committee is pleased to see the FmHA assistance accorded Hispanic farmers in Puerto Rico (presumably all farmers in times of emergency and natural disasters), we find it disturbing that FmHA would use these statistics to imply that this is routine in FmHAs overall treatment of minority farmers, when clearly it is not the case. Emergencies and natural disasters are hard to predict and even harder is to know when and where they will occur or who they will affect. However, programs such as soil and water, farm ownership and operating are considerably more stable and easier to control. Since these programs are mainstays of FmHA assistance, indicators of minority farmers performance in these programs are, perhaps, a better gauge of FmHAs success with minority farmers.

### VIII. Other Aspects of FmHA Operations Affect Minority Farmers Survival

Factors such as agency personnel, knowledge of services to program participants including the impact on participants and community outreach and involvement are other aspects of FmHA operations that determine whether minority farmers survive. In fact these are management indices that, if used, would help FmHA better manage and serve all farmers, particularly minority farmers.

The committee found during its investigation that the main qualms people had with FmHA were not with FmHA programs but rather with FmHA personnel charged with implementing the programs. Because the FmHA State and local personnel have the authority to approve and reject loans and grant applications, it is imperative that these

personnel understand people, are sensitive to the needs of the farmers and are knowledgeable of civil rights issues, laws and regulations. The Working Group on the Indian Agriculture Study stated that "Indian operators have expressed the opinion that farm failures are caused, in part, by the failure of FmHA to act in a timely (manner) in approving or rejecting operating loans. The high turnover of employees in some regions has also created a situation where continually new loan officers are not familiar with, nor are they trained in, working with Indian people and their lands . . ."

1 4 4 1 4

4The Indian Agriculture Study, at 41-42.

The Commission reported in 1982 that "The perceived and perhaps actual resistance to civil rights compliance in the Farmers Home Administration may be explained, at least in part, by low rates of minority employment in decision-making positions." 1 4 As of September 1989, the FmHA employed over 11,000 employees of which 11 percent were minorities. County supervisors and other FmHA personnel responsible for decisionmaking at the local levels for FmHA programs account for 45 percent of FmHAs total employees. Minority employees represent approximately 5 percent of this group. 5 1 4 Several concerns about the advancement and equal treatment of minority employees within FmHA were raised at the subcommittees hearing and will be addressed in future investigations. 6 1 4

5The Commission Report, at 91.

1 4

6FmHA Personnel Division, USDA Farmers Home Administration, Fiscal Year 1989 Affirmative Employment Program, Accomplishment Report.

The lack of statistical data in some cases, and definitive statistics in others seriously limits FmHAs ability to assess the impact of FmHA programs on program participants, particularly minority participants. When statistical data is available, FmHA program personnel do not aggressively interpret, evaluate and maintain the data. For example, when the subcommittee staff contacted the FmHA National Office (Washington, DC) personnel responsible for the limited resource operating and ownership program for statistical data on minority participation, the staff was informed that FmHA does not maintain that data the office would have to compile the data for the subcommittee (data provided by the FmHA Finance Office in New Orleans, LA).

When the subcommittee staff asked the FmHA Equal Opportunity Office for data (number filed, basis, status, resolved, etc.) on program complaints filed within the past three fiscal years (1986-1989), the data FmHA provided was not definitive, did not total categorically with overall totals, and in some cases numbers were not explained and subsequent discussions with FmHA officials did not clarify the problems. During the course of the subcommittees investigation, the staff learned that FmHA is the subject of a Freedom of Information Act (FOIA) lawsuit filed on behalf of minority farmers requesting information on discrimination complaints and other data addressing minority farmers. 1 4 The FOIA request focused on information regarding the processing of race discrimination complaints filed against FmHA. Advocates filed the lawsuit because they believed FmHA did not respond timely and failed to provide all documents requested. The advocacy group testified before the subcommittee that:

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7Hearing, July 25, 1990, statement of Randi Roth, at 8-13; and exhibit E.

The events which unfolded surrounding this FOIA request displayed a blatant affront to the requirements of the Freedom of Information Act; the events also revealed that FmHA is either unable or unwilling to locate, or is intentionally withholding, the most basic documents relating to its civil rights enforcement responsibilities. 1 4

8Id.

The advocates alleged that FmHA withheld data/documents on discrimination complaints; annual publications on Equal Opportunity; USDA policy on Civil Rights; virtually all documents indicating how the complaint process operates; reports, studies and surveys addressing black land loss and all statistics reporting loan activity by race for the 1980s. 1 4

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9Id.

Subsequent to the July 25, 1990, hearing, Congressman Bob Wise asked the FmHA Administrator whether "FmHA maintains any data or makes reports showing which areas of the country tend to have complaints, the average time it takes to process complaints and how the complaint system interfaces with the appeal process?"

1 5 The FmHA Administrator responded and said that "FmHA does maintain data on the complaints received and has the capacity to make various studies in this regard. The complaint process does not interface with the appeal process. When a complainant opts to use both processes, EOS (Equal Opportunity Staff) will delay the processing of a complaint until the appeal process has concluded. This is done this way because the complainants records are not available until the appeal process has ended."

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0Letter from the Honorable Bob Wise, dated July 30, 1990, to the FmHA Administrator, at 3. 1 5

1Letter from the FmHA Administrator, dated August 13, 1990, to the Honorable Bob Wise, at 5.

There appears to be a conflict between the FmHA Administrators written response and requests for information made by the subcommittee staff. The FmHA Administrators comments about the "capacity to make various studies" suggests the capability to evaluate FmHAs complaint process but not the necessity of the study or the value of assessment results which would help manage programs and determine the impact on program participants.

FmHA has yet to assess the impact of State civil rights coordinator positions established in 1987 to assure that complaints and problems FmHA has with minority clients and farmers are alleviated. At a hearing before the subcommittee in 1987, the FmHA Administrator said that he had established State civil rights coordinators:

. . . responsible for assuring that all county office staffs are trained in civil rights regulations and compliance. The coordinator is also responsible for conducting a thorough and objective review of civil rights complaints before the State director forwards it to me for review and recommendation. These two assignments . . . will do much to reduce the appearance, or perception, or fact of discriminatory practices. 1 5

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2Hearing, Farmers Home Administration Implementation of Food Security Act of 1985, before the Subcommittee on Government Information, Justice, and Agriculture, Committee on Government Operations, U.S. House of Representatives, at 50.

The FmHA Director of the Equal Opportunity Staff stated that FmHA had not determined whether these positions have made a difference or not.

The subcommittee learned that FmHA had experienced some problems getting appropriate people who were knowledgeable of FmHA programs and in a position to address minority farmers concerns to hold the position. FmHA guidelines required that the person be

. . . willing to serve, have good interpersonal skills, and an ability to present instructional material. Since the position primarily involves civil rights issues covering the program areas, it is essential that the Coordinator have substantive program knowledge. For this reason, the Coordinator should not ordinarily be a member of the Administrative Officers staff. Specifically, a personnel specialist with no prior county, district, or State Office program experience is not an appropriate person to be assigned civil rights collateral duties. 1 5

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3Memorandum to All State Directors and State Directors-at-Large, FmHA, from the FmHA Administrator, dated February 12, 1987, at attachment I-1.

Despite this guidance, in one State the State FmHA Director appointed a Secretary or other Administrative person to the position. In a subsequent letter to the FmHA Administrator, Congressman Wise asked the FmHA official whether State Directors took this position seriously when appointing employees to serve in the position and if any State appointed an administrative person even though FmHA guidance required otherwise? The FmHA Administrator stated that:

I can say with assurance that all states now have an SCRC that meets our criteria, and that almost all have received an orientation to their duties and training in civil rights compliance from the National Equal Opportunity Staff . . . State Directors are frequently asked to assign part-time or collateral duties to otherwise full-time positions. At last count, State Directors have approximately 10 part-time "coordinators" performing a wide variety of program and management duties. The (SCRC) position has matured significantly in the 3 years of its existence . . . State Directors are increasingly assigning their best loan officers this duty. Our current policy as regards the amount of time an employee devotes to SCRC duties is whatever time it takes to maintain an effective state civil rights program. 1 5

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4Letter from the FmHA Administrator, dated August 13, 1990, to the Honorable Bob Wise, at 6.

The FmHA Administrator testified before the subcommittee that FmHA has made the position a full-time one in the States of Alabama, Arkansas, Mississippi, Texas, and New Mexico.

The committee also finds that FmHA does not maintain statistical data showing ethnic characteristics of people who use the agency's appeal process. In a February 20, 1990, letter to the Comptroller General, Congressman Espy and Congressman Wise requested the General Accounting Office review the FmHA National Appeals Process and the impact this process has had on minority farmers. The two Members of Congress stated that:

We have two basic concerns related directly or indirectly to the appeals process: (1) the alleged failure of FmHA to implement measures put in place to help farmers and other FmHA program clients through the appeals process and (2) the alleged unfair treatment or discrimination against minority farmers and clients seeking to use FmHA programs.

Many FmHA clients allege that, despite winning their hearing appeal, local FmHA officials charged with carrying out the hearing decision refuse to implement the hearing decision in accordance with program requirements. They believe the appeals process nets them a zero. Additionally, the appeals process is a vital indicator for determining whether everyone has equal access to FmHA programs. However, the number of minority farmers or clients of FmHA programs who appeal is not known; thus, the degree that minorities may be adversely affected is not known. Some minority farmers and clients of FmHA programs have alleged unfair treatment at the hands of FmHA state and county officials.

Overall appeal statistics seem to indirectly support minority farmers and clients claims. Moreover, if FmHA is refusing to implement favorable hearing decisions, a further injustice may be occurring that serves to decrease the number of minority farmers. 1 5

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5Letter from the Honorable Bob Wise and the Honorable Mike Espy, to the Comptroller General, dated February 20, 1990, at 1-2.

The GAO review is expected to be completed in the spring of 1991, at which time the subcommittee plans an oversight hearing and other appropriate oversight measures as warranted. However, the FmHA Administrator advised the subcommittee in a June 22, 1990, letter that as of July 1, 1990, FmHA National Appeals Staff will begin "capturing appeals information by racial, gender, and handicapped makeup . . ." 1 5

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6Letter from the FmHA Administrator, to Ms. Jacqueline Harpp, Subcommittee on Government Information, Justice, and Agriculture, dated June 22, 1990.

FmHAs community outreach and involvement have also been the source of criticism. This criticism has been leveled at FmHAs limited efforts to let the community, particularly minority farmers know about its programs and services as well as insufficient efforts to get minorities as participants on county committees. Some complaints allege that even when minority farmers learn of programs, FmHA officials try to discourage their use.

One minority farmer testified that he tried to help a minority farmer get loan funds under the FmHA Socially Disadvantaged Program (authorized under the Agricultural Credit Act of 1987) to purchase 20 acres of land and some equipment for \$14,000 but that the local FmHA county supervisor first claimed the program did not exist. However, after the minority farmers persisted, FmHA accepted their application but later turned down the loan. 1 5 7 1 5

7Hearing, July 25, 1990, statement of Mr. Ben Burkett, at 2.

The Indian Agriculture Study of 1987 stated that "Accurate information on FmHA programs and procedures is not widespread in Indian Country. This makes it difficult for Native American and Alaskan Native enterprises to obtain services from the FmHA." 1 5 The working group recommended that the FmHA undertake a public information campaign to fully inform Native American and Alaskan Natives of their programs and procedures. 8 1 5 9 1 5

8The Indian Agriculture Study, at 42. 1 5

9Id., at 42.

In a June 20, 1990, letter to the subcommittee addressing FmHAs monitoring efforts of the socially disadvantaged program, in its summary of findings of monitoring visits to 16 States in fiscal year 1989 and 1990 (as of May 1990), the FmHA Administrator stated that:

There is a need for more outreach assistance to members of socially disadvantaged groups. Native Americans are in need of more outreach and technical assistance on and off the reservations . . . Some States need more outreach training. Outreach meetings are needed on a regular basis in the areas where SDAs (Socially Disadvantaged Applicants) are located. The SDA program should be given special media coverage in some States in an effort to reach more SDA groups . . . Some States needed to develop a better line of communication with organizations serving SDA groups . . . Some Indians are requesting more direct FmHA loan funds on their reservations because of the lack of other credit. Also, they have requested more outreach and technical assistance. 1 6 0 1 6

0Letter from the FmHA Administrator, to the Honorable Bob Wise, subcommittee chairman, dated June 20, 1990, enclosure entitled Monitoring of Socially Disadvantaged Outreach Program, at 1-3.

Complaints about the FmHA County Committee process range from insufficient minority representation on the committees to misinformation about minority county committee members participation. A farm advocate testified that a colleague contacted her to ask whether black county members are allowed to vote on issues regarding other black farmers loans. The advocate said that her colleague told her that when a black farmer was elected to the county committee for the first time in her county, the farmer was told that he could not vote on other black farmers loan applications because he might be tempted to vote no in order to save all of the socially disadvantaged funds for himself.

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161Hearing, July 25, 1990, statement of Randi Roth, at 4.

In its 1987 study, the Indian Agricultural Working Group stated that ". . . The lack of representation at the State and local level is the major stumbling block in providing for Indian participation in the programs of the FmHA, the SCS (Soil Conservation Service), or the ASCS (Agricultural Stabilization and Conservation Service) . . . two Indian landowner/farmers . . . were told by ranking USDA officials that they were not eligible to serve on county committees. The reasons given appear to preclude any Indian involvement from any area."

162 The working group recommended that USDA review its regulations and authorities regarding USDA committees with "particular emphasis on the local interpretations as they relate to promoting Indian representation at the State, county, and local level. If necessary, existing regulations and authorities should be changed to enhance and encourage Indian representation and participation."

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162The Indian Agriculture Study, at 51.

163Id.

In each county or area in which FmHA activities are carried out, there is a county or area committee composed of three members, two of whom are elected by farmers and the other is designated by the State director. In selecting designated members, FmHA is required to ensure that the committee is fairly representative of farmers in the county or area. The county committees are responsible for determining the eligibility of applicants for farmer loans, irrigation, and drainage loans; classifying or reclassifying farm real estate property that is being suitable or unsuitable; along with several other duties.

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164FmHAs Manual, Procedure Notice, dated March 24, 1988, at 1.

165Id., at 4.

In a May 1987 memo to State directors the FmHA Administrator stated that the "Deputy Secretary . . . has recently completed an assessment of representation on USDA boards and committees. The assessment concludes that membership of minorities and women on these boards and committees is low, and that corrective action must be taken . . . effective immediately, it is the policy of the Department of Agriculture that membership . . . reflect, to the extent practicable, the diversity of the individuals served by the programs. To carry out this policy, each agency served by boards and committees shall engage in community outreach and information activities to educate minorities and women on the nomination, election, selection or appointment processes for boards and committees and monitor and evaluate those activities for effectiveness."

166

166Memorandum from the FmHA Administrator, to all State directors and public information coordinators, addressing minority representation on FmHA County Committees, dated May 22, 1987, at 1-2.

The FmHA Administrator testified that ". . . county committees now include nearly 10 percent minority members."

1 6 In a letter following the subcommittees hearing, Chairman Wise asked the Administrator whether he believed 10 percent is adequate. 7 1 6 The FmHA Administrators response suggests another example of insufficient evaluation efforts of a management tool that would be useful in explaining the plight of minority farmers as well as the agencys success in meeting its policy/goal of a county committee representative of the population FmHA serves. The FmHA Administrator responded that

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7Hearing, July 25, 1990, statement of LaVerne Ausman, FmHA Administrator, at 7. 1 6

8Letter from the Honorable Bob Wise, to the FmHA Administrator, dated July 30, 1990, at 4.

The written USDA and FmHA policy is that the makeup of county committees reflect the population served. A more accurate measure of whether we are achieving that goal is to measure percentages by state, vs 1987 Agricultural Census data by state. 1 6 9 1 6

9Letter from the FmHA Administrator, to Chairman Wise, dated August 13, 1990, at 7.

While the FmHA Administrator provided the subcommittee statistics on the composition of the county committees, he did not provide any analysis explaining the Administrators response. See appendix IV for FmHA county

committee composition as of August 1990.

On community involvement, FmHA touts its work with the 1890 land grant universities, 16 largely black institutions and the Tuskegee University which provide training and technical assistance to small, limited-resource farm operators. 17 Under contracts the universities provide training in farm and financial management, recordkeeping, marketing, and crop production for 50 to 85 low-income farmers at FmHAs expense. The FmHA Administrator testified that since 1983, FmHA had funded almost \$5 million worth of small farmer training and technical assistance projects with more than 1,000 farmers participating. While these efforts are laudable and more than necessary, they directly assisted less than 3 percent of the remaining minority operated farms the Census of Agriculture counted in 1987 and less than 5 percent of the remaining black farmers to which the program is specifically designed to help. 0 1 7

0Hearing, July 25, 1990, statement of LaVerne Ausman, FmHA Administrator, at 4.

## IX. Oversight Efforts Have Not Succeeded in Slowing the Demise of Minority Operated Farms

### a. oversight efforts on civil rights at FmHA

Since the Commission on Civil Rights report in 1982, a number of oversight measures have been taken with the intent of addressing the decline in minority operated farms but these efforts have not succeeded in slowing the decline. Although more than a year passed after the release of the Commissions report, the Department of Agriculture put together a task force of senior department officials and agency experts to review department programs and their effectiveness in addressing problems of black farmers and to make recommendations for changes in departmental policies and programs to better serve these farmers. 1 7 Several congressional hearings were held, at least two of which were held before the Subcommittee on Government Information, Justice, and Agriculture, House Committee on Government Operations. 1 172 1 7

1Report Of the USDA Task Force On Black Farm Ownership, dated September 22, 1983 (hereinafter, USDA Task Force Report). 1 7

2Hearings before the Subcommittee on Government Information, Justice, and Agriculture, Committee on Government Operations, Does Farm Financing Face Fundamental Change or Current Credit Crisis? Part I, September 27, 1985; hearing on November 4, 1987, Farmers Home Administration Implementation of Food Security Act of 1985.

Inspector general (IG) reports addressed various aspects of FmHA programs with some limited review of specific counties and minority farmers treatment. The Departments Office of Advocacy and Enterprise (OAE) reviewed several States FmHA programs and their implementation and have issued rather scathing report results in one State. FmHAs own offices conducted reviews referred to as coordinated assessments covering most major agency functions and made recommendations some of which affected minority farmers. While all these measures should have helped halt the declining numbers of minority operated farms, the committee finds continuous complaints of racism/discrimination in program implementation, recommendations that were ignored and inadequate attention given to properly executing proposals implemented to assist minority farmers.

The USDA task force reported that "Economic, social and technological changes over the past 50 years have contributed to a decrease in total farm numbers . . . The largest decrease occurred among those farms with the weakest economic base which could not compete with the attraction of the cities, could least afford the conversion to mechanization, could not provide an adequate livelihood for its families from farm earnings and could not, for various reasons, supplement farm earnings with nonfarm sources of income. The majority of black farms were in this group."

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3USDA Task Force Report, at Executive Summary, i.

The USDA task force reported that overcoming the special problems of black farmers will require both education

and outreach. The task force made several recommendations to address the problems including requiring the FmHA and other USDA components to work with the Departments Extension Service, 1890 Institutions; working to achieve county committee representations which reflect the racial makeup of the county population; continue outreach assistance efforts which address concerns raised in the Civil Rights Commission report; monitor aggressively the effectiveness of the application of the credit elsewhere test. One specific recommendation for USDA as a whole was to:

Develop and implement a department-wide outreach program under the direction of national and state Food and Agriculture Councils to provide coordination and focus to individual agency efforts to assist black farmers.

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4Id., at Executive Summary, ii.

The subcommittee took particular interest in USDA's efforts on the recommendation involving the Food and Agriculture Councils (FACs). It is this recommendation that was simply ignored due to USDA actions which have all but destroyed FACs. Based on the subcommittee investigation and hearing earlier this year, the Committee finds that the FACs have not been active productive instruments for USDA over the last 3-years. A General Accounting Office report, entitled "Status of Food and Agriculture Councils Needs to Be Elevated," found that FACs were in a dormant status and ". . . FACs are not fulfilling their mandate to help implement USDA-wide initiatives and to provide a source of feedback from state and local levels . . . the transfer of . . . jurisdiction from the Office of the Secretary to the Office of the Assistant Secretary for Governmental and Public Affairs (OGPA) in 1986 appears to have contributed significantly to the diminished status of FACs."

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5GAO Report to the Secretary of Agriculture, U.S. Department of Agriculture, Status of the Food and Agriculture Councils Needs to Be Elevated, GAO/RCED-90-29, at 1.

While other task force recommendations have been implemented to some extent (1890 universities work and some outreach efforts), the results are limited and open to question concerning the effectiveness. The task force acknowledged in its report that "To assure effective implementation of these recommendations a strong civil rights review and enforcement program is essential."

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6Id., at Executive Summary, iii.

#### B. OAE the USDA Civil Rights Enforcement Office

In March 1985 the Secretary of Agriculture established the Office of Advocacy and Enterprise (OAE) to strengthen program effectiveness and operational efficiency and improve coordination of the Departments programs for equal opportunity, civil rights and small and disadvantaged business. 1 7 The OAE includes a compliance and evaluation branch and a complaints and adjudication branch both of which are responsible for developing and recommending basic policy and program approaches for implementing civil rights and for assuring these civil rights to all citizens participating in federally-assisted and direct assistance programs USDA administers. 7 1 7 8 1 7

7Secretary's Memorandum 1020-30, Establishment of the Office of Advocacy and Enterprise, dated March 1985. 1 7

8Id., attachments, functions, duties responsibilities of OAE.

In June 1986, the Secretary of Agriculture issued a strong and emphatic policy statement on the Departments commitment and accountability for equal opportunity and civil rights stating that:

Equal opportunity and civil rights are of great importance. Discriminatory practices in any form must not and will not be tolerated. Avoidance of discrimination must be our daily, regular, constant practice . . . As USDAs principal officers, you are charged with, and are expected to uphold, the highest level of public trust in the mission and programs of this Department. You have an obligation to assume and maintain direct and personal responsibility for the way the work force and program constituents are treated. Unless you do this, you place the credibility and integrity of this Department at risk. Errors of omission or commission of one office here reflect upon all of us. The success of our programs is dependent on our work force and is measured by the public we serve. Therefore, when our employees or those we serve experience discriminatory practices, we suffer a loss of integrity . . . 1 7 9 1 7

9Memorandum from then Secretary of Agriculture, Richard Lyng, to Assistant Secretaries Agency Heads, dated June 12, 1986.

In June 1988 the OAE issued one of its most scathing reviews of civil rights compliance of FmHA in the State of Mississippi, finding that "Overall, the FmHA State Equal Opportunity program in Mississippi fails to effectively monitor civil rights compliance in accordance with applicable laws, Departmental Regulations and procedures."

1 8 Specific OAE findings included: underrepresentation of blacks and women on county committees; lack of civil rights training to all county level employees; and inadequate mechanisms to effectively manage and monitor local civil rights efforts. For example the State does not collect and maintain various program participation data by race, sex, and ethnicity and compliance reviews are not comprehensive enough to determine actual civil rights compliance at the county and district levels. The OAE report cited the need to make the State civil rights coordinator position full time rather than a collateral duty position due to the scope of civil rights issues requiring on-going attention in the State of Mississippi. 0 1 8 FmHA Mississippi developed a corrective action plan to address the findings. OAE accepted the corrective actions and closed the file on March 7, 1989. 1 1 8 The first assessment of civil rights issues in FmHA in Mississippi following the OAE review was made by the FmHA planning and analysis staff. 2 1 8

0Comprehensive Civil Rights Compliance Review, Title VI and related laws, rules, and regulations, Report of the On-Site Assessment of the Farmers Home Administration, State of Mississippi, Approved by Naomi Churchill, Esq., Associate Director Equal Opportunity, Office of Advocacy and Enterprise, dated June 27, 1988, at 1. 1 8

1Id., at 1-2. 1 8

2USDA Fact Sheet on OAE Review of FmHA Mississippi.

The FmHA Coordinated Assessment Review (CAR) of the State of Mississippi was performed in April 1990 and found that many of the problems OAE reported had been corrected. The CAR found that the State had appointed a full-time State Civil Rights Coordinator who is providing leadership to County, District, and State staff on civil rights matters. 1 8 3 1 8

3Mississippi Coordinated Assessment Review, Mr. Leonard Hardy, Jr., Director, Planning and Analysis Staff, FmHA, dated May 10, 1990, at Exhibit G-Equal Opportunity Staff.

Despite this report of improvement the complaints on civil rights issues in Mississippi and throughout FmHA continues. In a letter to the subcommittee chairman responding to questions following the July 1990 hearing, the Acting Director of OAE stated that "The state of civil rights in USDAs programs is generally acceptable . . . However, (FmHA) is frequently in noncompliance with civil rights requirements at the local level."

1 8 The OAE Acting Director also stated that "We continue to receive complaints from small or limited resource farmers concerning the service and delivery of USDA programs. Although USDA program initiatives are well intended, often times they do not reach some segments of the farmer community . . ."

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4Letter from Ms. Evelyn White, Acting Director, Office of Advocacy and Enterprise (OAE), to the Honorable Bob Wise, chairman, Government Information, Justice, and Agriculture, Committee on Government Operations,

U.S. House of Representatives, dated August 23, 1990, at 5 (hereinafter, Letter from Acting Director, OAE to Chairman Wise).

18

5Id., at 4.

In light of the Acting Directors responses, the committee is particularly concerned that OAE carry out its enforcement responsibilities. These duties are critical as a management tool to help minimize the decline of minority farmers. The Acting Director said that since she took office in December 1989, "No reviews have been conducted by OAE . . . emphasis (has been) placed on eliminating the complaint case backlog and completing reports of prior compliance reviews . . . There are 10 Equal Opportunity Specialists . . . assigned to handle program complaints. These 10 individuals also conduct field compliance reviews . . . It has been necessary to reduce compliance activities and utilize all ten staff members in complaint processing."

18618

6Id., 6 and 9.

The Acting Director cited the following as major findings of OAE reviews of USDA agencies such as FmHA:

Inadequate outreach to the public regarding the availability of program services.

Inadequate civil rights training provided to persons administering programs at the district and county level.

Underrepresentation of minorities and females on boards and committees.

Inadequate data collection systems to assess the program participation rates of minorities and females.

Unfamiliarity with the procedure for handling program discrimination complaints.

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187Id., at 7.

With these types of major findings coupled with FmHAs lack of data showing program participation and the resulting impact on minorities, assessment for compliance with applicable civil rights laws and regulations are a must to assist minority farmers.

#### X. Congressional Intervention

Congressional intervention through the Agricultural Credit Act of 1987 and target requirements, particularly direct loans, may account for the small increase in farm ownership minorities experienced in fiscal year 1989. In the 5-year period the subcommittee examined, fiscal year 1989 was the first time nonminority farmers had less than 90 percent of all farm ownership loans and loan funds available. Minority farmers had nearly 20 percent of all farm ownership loans and nearly 16 percent of all loan funds.

Congressional intervention is again being considered to help save minority farmers; however, this time, legislation directed solely at minority farmers is the focus. Senator Wyche Fowler (D) of Georgia introduced S. 2830 to help stem the alarming decline of minorities in agriculture. In a July 10, 1990, letter to his Senate colleagues, Senator Fowler stated that:

This legislation, drafted in consultation with minority farmers, would enhance minority participation in USDA

programs. This bill provides us with the first real opportunity to comprehensively address the disturbing findings of the 1982 Civil Rights Commission report . . . Our bill will establish programs to restore minority land base and build strong communities. Specifically, provisions in this bill aim to immediately halt the loss of minority land and minority operated farms, and to eliminate racial discrimination and indifference to the special needs of limited resource farmers from all programs administered by the Secretary of Agriculture.

188

188Letter from Senator Wyche Fowler, Jr., U.S. Senator (D), Georgia, to his Senate colleagues, dated July 10, 1990.

Congressman Mike Espy introduced H.R. 5198 in the House of Representatives, June 28, 1990, to aid minority farmers. The bill stated that:

The Congress finds that a state of emergency exists among minority American landowners and farmers. Minority landowners and farmers are losing ownership of their land at an unprecedented and intolerable rate . . .

Historical patterns of discrimination, neglect, lack of access, limited education and other related factors have contributed to the decline of land ownership by all minorities in America . . .

The Farmers Home Administration, the Federal Governments lender of last resort to small family farmers, has exacerbated the loss of minority owned land and minority operated farms through specific acts of discrimination against, and a general policy of indifference to, the needs and problems of minority farmers in the implementation of the loan programs of the Farmers Home Administration, and that this discrimination has been documented by the United States Commission on Civil Rights and by the United States Department of Agriculture . . .

Racial and ethnic diversity in the ownership of our agricultural land is important and beneficial to our Nation, and that cultural diversity and pluralism are valuable in the composition of our family farm population, agriculture community, and rural population (and) . . .

The past and continued loss of minority owned land and minority operated farms pose a threat to the general health and welfare of the Nation and interferes with orderly commerce.

189

189H.R. 5198, A Bill to aid Minority Farmers, referred to as the "Minority Farmers Rights Act of 1990," at 1-4.

The goals of the bill seek to: Stop the contraction of the minority agricultural land base as quickly as possible, restore the level of black land ownership to 15,000,000 acres by the year 2000, increase minority land ownership and farm operation to a level commensurate with the rural minority population in each region of the Nation, eradicate racial discrimination and indifference to the special needs and problems of minority farmers, and to remove all cultural, ethnic, educational, programmatic, and regulatory barriers to minority participation in all programs administered by the Secretary, and maintain, increase, and perpetuate racial and ethnic diversity in the ownership of farmland, and cultural diversity and pluralism in the composition of the family farm population.

190

190Id., at 4-5.

#### XI. Summary, Conclusions, and Recommendations

The committees work on the decline of minority farmers confirmed much of the work that had already been done on this issue. The sad truth is, little has changed since 1982 and the U.S. Commission on Civil Rights report on the decline of black farming. Further, no apparent progress has been made as a result of the findings of the Indian Agriculture Study conducted in 1987. There is no question but that the future well-being of minority operated farms is in grave jeopardy. The sheer number of minority operated farms has decreased 94 percent between 1920

and 1987. The total for all U.S. farms decreased 68 percent during this period. Much of the tragedy in the drastic decline of minority operated farms rests with the severe loss of black operated farms. The number of black operated farms decreased 98 percent between 1920 and 1987, dropping from 925,708 to 22,954 respectively.

Along with the loss of farms, land to which minorities have been tied since the founding of the country transfers to non-minority hands. The 1987 Census of Agriculture shows that minorities have lost a net of nearly 1.5 million acres of farm land since 1982. Again, black operated farms suffered the hardest hit within this agricultural Census. However, the American Indian has endured the greatest farm land loss with estimates exceeding half a million acres. The Hispanic operated farms are the only single group to show an increase in the number of minority operated farms but this increase may be negated by the farm land Hispanic farmers lost between census year 1982 and 1987.

The committee finds that ironically, FmHA has been a catalyst in the decline of minority farming. The FmHA position of providing assistance to minority farmers based on their representation in the total farm population serves to further exacerbate the demise of minority farmers. The more minority operated farms disappear, the less assistance FmHA provides. Despite its key role as the credit agency for agriculture and rural development, that credit appears to be unavailable to minority farmers. The agency's implementation of five of its major farm loan programs has resulted in few benefits to minority farmers. Before fiscal year 1989, minority farmers received less than 10 percent of all loans and less than 8 percent of all loan funds available.

Further, specific programs designed to help minority farmers have fallen short of the targeted goals. One such program, the Limited Resource Farm Ownership and Operating Program has barely aided minority farmers 93 percent or more of these loans which comprise 95 percent of the loan funds go to nonminority farmers. Similarly, the socially disadvantaged program, has provided all the direct loan funds available for farm ownership, but FmHA has not even sold 10 percent of its inventory farms targeted for minority farmers in fiscal year 1989. Program results for inventory farms sold for 1990 appear to be on the same unsuccessful track as in fiscal year 1989.

FmHA is saddled with allegations and complaints about unfair treatment of minority farmers and the agency's efforts to handle discrimination complaints. While the Secretary of Agriculture says he endorses the discrimination policy issued by his predecessor, allegations and complaints continue. In February 1990 FmHA became the subject of a Freedom of Information Act lawsuit because of its inability to provide complete information documenting discrimination complaints and other civil rights issues. The lack of statistical data, program assessments, and adequate implementation of recommendations have further compounded the plight of minority farmers.

Oversight efforts by the Congress, the USDA and FmHA's own Equal Opportunity Staff have had little effect on stemming the allegations and complaints concerning FmHA's implementation of farm programs. Recent disorganization within the USDA's OAE causes concern about the continued oversight of USDA and the FmHA. There have been two reorganizations within OAE during the past fiscal year. Considering the limited progress made as a result of previous oversight efforts, and the OAE Acting Director's response that FmHA "is frequently in noncompliance with civil rights requirements at the local level," minority farmers' survival cannot tolerate any less attention to oversight efforts.

The committee finds that while USDA and FmHA took some actions such as working with the 1890 universities and establishing State civil rights coordinator positions to help provide technical assistance to minority farmers and to reduce the appearance, perception, or fact of discriminatory practices, these measures have been limited in scope or insufficient attention given to fulfilling requirements. Emphasis on the 1890 universities came as a result of the USDA task force report which was developed and written in response to the U.S. Commission on Civil Rights report on the decline of black farming in America. Other task force recommendations have received little or no attention, specifically, the recommendation that would make use of representatives from various USDA agencies at the State and local levels (FACs).

The USDA and FmHA have not given sufficient attention to the Commission on Civil Rights recommendations made in 1982 or specific recommendations the Indian Agricultural Study made in 1987. FmHA still does not collect, maintain, and analyze data to determine the impact its programs have on minority farmers. Outreach and community involvement

is still lacking between FmHA and the minority communities. Minority representation on county committees and boards is still the source of complaints and allegations. Complaints of unfair treatment at the local levels of FmHA persists.

The committee finds that when minority farmers made any progress in FmHA programs, it was due to congressional intervention with legislation requiring direct loan funds for farm ownership. Fiscal year 1989 was the first time in the past 5 fiscal years that minority farmers received more than 15 percent of the loans and loan funds for farm ownership.

It is clear that if minority farmers are to remain a viable American resource, congressional intervention, aggressive oversight, consistent and fair program implementation, and a more determined approach to involve the minority community and educate minority farmers about FmHA and its programs are required. Accordingly, the committee:

1. Supports congressional efforts to develop legislation addressing the decline of minority operated farms.

2. Recommends that the Secretary of Agriculture:

Submit an annual evaluation report by October 30 of USDA agencies civil rights activities specifically addressing minority participation in agencies programs, boards/committees, etc. to the Congress (Agriculture Committees, Governmental Affairs and Government Operations). This report should also be sent to appropriate compliance groups at the U.S. Department of Justice.

Revisit the U.S. Commission on Civil Rights report recommendations as well as the USDA Task Force report recommendations.

Require more aggressive oversight efforts from the OAE of FmHA and other USDA loan programs to ensure that programs are implemented fairly and agencies local levels comply with laws and regulations.

Require that OAE assess the impact that FmHA and USDA programs have on minority farmers and where permissible by law, implement actions to correct adverse effects.

Ensure that OAE organizes in such a manner as to facilitate expeditious response to agency complaints and reviews necessary for compliance with applicable laws.

3. Recommends that the Administrator of FmHA:

Revisit the U.S. Commission on Civil Rights report and subsequent recommendations as well as the Final Findings and Recommendations of the National Indian Agricultural Working Group.

Ensure that appropriate agency components collect, maintain and assess data so that FmHA knows the impact of its programs on minority farmers and can correct deficiencies within its realm of responsibility. The Committee commends the Administrator for taking steps earlier this summer to implement this recommendation with the collection of statistical data showing ethnicity, gender, etc. in the National Appeals program.

Implement assessment activities of the State Civil Rights Coordinator, and the achievements directly related to this position.

Aggressively pursue efforts to include minority participation on boards and committees at the county and district levels, particularly county committees.

Increase FmHA outreach efforts in the minority community and education activities about FmHA programs.

Work with the Extension Service concerning its outreach efforts and Civil Rights issues as they relate to FmHA.

#### ADDITIONAL VIEW TO MINORITY FARM/FmHA REPORT

Land is the basis for stability and connection within a community and among a people. Without land, a people will survive but it will never thrive. In the last century the land holdings of minority farmers in this country have dwindled from 14 percent to 1 percent of all American farms.

The present plight of the minority farmer is abhorrent and their future is abysmal. This sorry state of affairs would be understandable if their own ineptitude, apathy, or incompetence were to blame. However, the fault is not theirs. In addition to battling drought, crop failure, pestilence, and other forms of natural disasters, the minority farmer in America has had an additional obstacle to overcome the discriminatory practices of the Farmers Home Administration.

This Government agency charged with the responsibility of assisting small, low-income farmers attain a reasonable standard of living has covertly and tacitly permitted race and ethnicity to become a criteria for assistance, thus betraying its mission, denying its purpose, and neglecting its responsibility. Instead of giving them a hand, the FmHA has categorically and systematically denied minority farmers access and full participation in the multitude of Federal Government programs designed to assist them. This committee has uncovered clear and convincing evidence that the manner in which the FmHA has decided to implement policies is directly responsible for the loss of land and resources these farmers have experienced.

This report points out the need to continue this committees oversight of the FmHA policies toward minority farmers until this Government agency finds a way to comply not only with the spirit but the letter of the law. Edolphus Towns.

**SUBJECT:** FARMERS & RANCHERS (92%); RURAL DEVELOPMENT (79%); CENSUS (79%); AGRICULTURE DEPARTMENTS (79%); COMMERCE DEPARTMENTS (59%); AGRICULTURAL RESEARCH (59%); FARM LABOR (59%); US TERRITORIES (59%); AGRICULTURAL WASTES (59%); AGRICULTURE (59%); US FEDERAL GOVERNMENT (59%); LEGISLATIVE BODIES (59%); RACIAL DISCRIMINATION IN EMPLOYMENT (59%); RURAL COMMUNITIES (59%); AFRICAN AMERICANS (59%);

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