

May 29, 2022

Chairwoman Debbie Stabenow
U.S. Senate Committee on Agriculture, Nutrition, and Forestry
328A Russell Senate Office Building
Washington, DC 20510

Chairman David Scott
U.S. House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

Dear Chairwoman Stabenow and Chairman Scott,

Based on the extensive history of discrimination of the U.S. Department of Agriculture (USDA) in the delivery of services to Black farmers, we have determined that the Justice for Black Farmers Act of 2021 is desperately needed for Black farmers.

Decades of farmer-led organizing combined with the heightened organizing efforts of a Coalition of Black farmers and advocates over the last three years produced several historic federal legislations: the Justice for Black Farmers Act of 2020, the Justice for Black Farmers Act of 2021 (reintroduced), the Emergency Relief for Farmers of Color Act of 2021, the American Rescue Plan Act of 2021, and the Build Back Better Act of 2021 (currently, halted in Congress). In 2018, Democratic Presidential Candidate Senator Elizabeth Warren engaged with farmers and advocates from the USDA Coalition of Minority Employees, the Justice for Black Farmers Group, the Black Belt Justice Center, and others to amend her public position regarding the root cause of the steady erosion of the Black agricultural land base. Senator Warren expanded her position from the narrow analysis of the heirs' property phenomenon to the persistent malfeasance of USDA against Black farmers, which is well-documented in congressional hearings, investigative reports, peer-reviewed publications, and documentary films. Encouraging a community-based participatory policymaking process that included numerous Black farmers and advocates, Senator Warren produced a comprehensive [policy platform](#) to dismantle institutional discrimination within USDA.

Senator Warren also worked with Senator Cory Booker in the development of the [Justice for Black Farmers Act \(JBFA\)](#), originally submitted to the Senate in 2020 and refiled in 2021. Since its inception in 1862, the USDA has promoted land monopolization policies to advance white domination that resulted in the dispossession of Indigenous Nations of their sovereign lands, the failed implementation of large-scale, reparative federal land distribution efforts to enslaved Africans and their descendants, and the exclusion of Black farmers from federal agricultural programs including loans, disaster assistance, subsidies, conservation, and other financial benefits. Guided in purpose to address the history of systemic discrimination against Black farmers as well as compel substantive reforms within USDA, the JBFA promoted targeted, ameliorative initiatives including but not limited to the creation of the Equitable Land Access Service charged with administering land grants (up to 160 acres) to eligible Black farmers; the development of a national bank to provide grants and non-extractive financing to farmers of color; and the establishment of an independent board to oversee civil rights within USDA and the Farm Service Agency county

committee system. Of significant importance, JBFA addressed the egregious injustices of the 1999 Pigford v. Glickman class action racial discrimination lawsuit (Pigford I) that left thousands of Black farmers in unconscionable debt, looming foreclosures, and with no legal recourse to save their farmlands. A provision in the JBFA provided debt cancellation for USDA direct and guaranteed loans, federal and state tax relief, and the return of debt offsets to Pigford I claimants. The target group to benefit from the JBFA would have been 38,447 Black farmers (1.49 percent) out of 2,740,453 farmers and ranchers in the country.

While the JBFA was never enacted, two pivotal sections of the bill were further developed by Senator Reverend Raphael Warnock in the Emergency Relief for Farmers of Color Act of 2021 and incorporated into the [American Rescue Plan Act \(ARP\) of 2021](#), which was signed into law by President Joe Biden. These two sections, 1005 and 1006, provided debt cancellation and a \$1B Fund for outreach and other technical assistance services for farmers of color. The scope of debt cancellation expanded from Pigford I claimants to include farmers and ranchers designated as Socially Disadvantaged Farmers and Ranchers (SDFR). Section 1006 also included a provision to provide direct payments to farmers who had experienced past and ongoing USDA discrimination including farmers who had to repay USDA through private bank loans to maintain ownership of their multigenerational family farms. Notably, Congress expanded the groups to receive benefits in ARP sections 1005 and 1006 from 1.49 percent of Black farmers and ranchers in JBFA to 168,362 SDFR farmers and ranchers or 6.14 percent of all U.S. farmers and ranchers (women were not included in the 1990 SDFR definition that was used in the ARP). The [press conference that soon followed](#) provided a robust discussion with Senators Warnock, Warren, and Booker along with legacy farmers and advocates.

On November 24th, 2021, USDA published a press release announcing that the agency had distributed approximately \$75M in section 1006 funding to 20 nonprofit organizations to provide technical assistance to historically underserved producers, mostly through connecting these producers with USDA programs and services. The press release also noted that \$10M from section 1006 funding would be used to establish an Equity Commission. Stripped of the oversight powers provided to the independent board in the JBFA, the newly formed Equity Commission authorized by the ARP is a political distraction to divert attention from USDA's abysmal civil rights record throughout decades and administrations. On March 9th, 2022, USDA published another press release announcing that the agency would distribute an additional \$25M in section 1006 funding to provide more technical assistance to historically underserved producers. Once again, USDA expanded the groups eligible to receive benefits for the ARP technical assistance program funding from 6.14 percent in the ARP to over 80 percent of the producers to receive services.

The expansion of the groups eligible for ARP programs and services is of grave concern to Black farmers and advocates. First, other than African Americans and American Indians, many of the subgroups included in SDFR do not have documented records of long-term, systemic oppression and discrimination by USDA. African Americans have over 400 years of documented systemic racial oppression and discrimination (250 years of slavery and 150 years of Jim Crow). Black farmers have dwindled to an alarming 1.4 percent of all U.S. farmers due to decades of institutionalized anti-Black racism by USDA, the local FSA county offices, and the county committee system. In 1982, the U.S. Commission on Civil Rights Report, "The Decline of Black Farming in America," found that the federal government was the major cause of the decline of

Black farmers as well as the loss of Black-owned land. Specifically, the [1982 U.S. Commission on Civil Rights Report](#), noted:

- “This tragic decline of Black farms is rooted in our Nation’s racial history, especially in the South.
- Racism in the extension of credit and the selling of the land resulted in smaller and less productive landholdings for those Blacks who were able to buy their own farm.
- Blacks were denied an equitable share in public education, general government relief, and special farm programs—and left disproportionately vulnerable to seemingly neutral gross economic and agricultural trends and policies.”

The comprehensive and irrefutable findings of the 1982 report were preceded by the [1965 U.S. Commission on Civil Rights Report](#), "Equal Opportunity in Farm Programs," which concluded that “while USDA had been instrumental in raising the economic, educational, and social levels of thousands of farms and rural families...a quarter of a million Negro families stand as a glaring exception to this picture of progress.” In addition to the 1982 U.S. Commission on Civil Rights Report, other reports have chronicled USDA as the primary culprit of rampant racial discrimination against Black farmers including, the [1996 D.J. Miller Report](#), the [1997 USDA Civil Rights Action Team Report](#) (CRAT), the [2011 Jackson Lewis Report](#), the 2019 Nathan Rosenberg and Bryce Wilson Stucki investigative report, “[How the USDA Distorted Data to Conceal Decades of Discrimination Against Black Farmers](#)” as well as numerous USDA Office of Inspector General (OIG) and Government Accountability Office (GAO) reports. The [OIG report of 2021](#) continues to expose the grievances that Black farmers have with the Office of Civil Rights. The latest, most compelling investigative report, “[How the Government Helped White Americans Steal Black Farmland](#),” written by Dania Francis, Darrick Hamilton, Thomas Mitchell, Nathan Rosenberg, and Bryce Wilson Stucki, conservatively estimates that Black farmers’ loss of land and income amounts to \$326B today. Additionally, the [Environmental Working Group](#) in collaboration with the Black Belt Justice Center and the National Black Farmers Association assembled the most comprehensive chronological review of documents confirming the USDA’s discriminatory treatment of Black farmers from 1920 to the present.

The well-documented racial oppression and discrimination against Black farmers has been misused to undergird various race and gender remediation designations including Socially Disadvantaged Farmers and Ranchers, People of Color, Historically Underserved Farmers, Systemically Marginalized Producers, which would include white women, limited resource farmers, white veteran farmers, and beginning farmers. According to U.S. Census and USDA Agriculture Census reports from 1910 through 2017, the only subgroup of SDFR that is declining is Black farmers. Moreover, the Census indicates that all the other SDFR subgroups have increased since records have been kept.

Black farmers and advocates are concerned with the recent expansion of the benefit pool, from 1.49 percent to over 80 percent of the farmers and ranchers in this country, will severely dilute the numerous yet failed race-based remediation efforts to eradicate documented oppression and discrimination against African Americans. USDA should not use the historical record of pervasive

economic harm against Black farmers to avoid its constitutional obligation of race-based remediation efforts that are “narrowly tailored to advance a compelling government interest.” Moreover, historically underfunded Black-led community-based organizations will have to compete with larger, well-funded white-led organizations for funding. To illustrate, Section 1006 in the Build Back Better Act used the heading Underserved Farmers, Ranchers and Foresters with SDFR listed as a subgroup. This expansion reveals the federal government’s feeble commitments to restore the Black agricultural land base and uproot institutional anti-Black racism within USDA. Farmers within the category of SDFR and the numbers within each group according [to the 2017 Census are available here](#).

Recently, the Board of Directors at the [Socially Disadvantaged Farmers and Ranchers Policy Research Center at Alcorn University](#) published recommendations that would remove both terms Socially Disadvantaged Farmers and Ranchers and Historically Underserved Farmers and Ranchers from the 2023 Farm Bill and replace with the specific racial groups that have been subjected to discrimination or bias by USDA. This policy recommendation advances tailored remediation for impacted groups of long-term, systemic racial discrimination; it does not preclude the development of policies and programs to address the needs and concerns of other subgroups of Historically Underserved Farmers and Ranchers.

The federal government has a deplorable historical record in implementing promises to Black farmers, beginning with the promise of 40 acres and a mule to formerly enslaved Africans, which was not provided; the failure of the Freedman’s Bureau in redistributing land on equitable terms to Black farmers; followed by debt cancellation in Pigford I, where only 371 of the 22,721 Black farmers received partial debt cancellation; and the ARP that promised SDFR debt cancellation on USDA direct and guaranteed loans plus direct payments to SDFR who were subject to discrimination or bias—neither have been provided to date.

The expansion of the benefit pool to address the damages resulting from past racial oppression and discrimination from 1.49 percent to cover over 80 percent of U.S. farmers and ranchers exposes the USDA’s half-hearted efforts to repair the economic violence and exclusion resulting from ongoing oppression and discrimination of Black farmers. The expansion of the benefit pool will provide the maximum level of benefits to those with the least documented history of oppression and discrimination and who have benefited greatly from the racial caste imposed by white domination. Every effort should be made to codify the Justice for Black Farmers Act of 2021 into the 2023 Farm Bill.

Sincerely,

/s/

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