

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TIMOTHY C. PIGFORD, et al.,
Plaintiffs,
v.
MIKE JOHANNNS, Secretary,
The United States Department
of Agriculture,
Defendant.

Civil Action No. 97-1978 (PLF)

CECIL BREWINGTON, et al.,
Plaintiffs,
v.
MIKE JOHANNNS, Secretary,
The United States Department
of Agriculture,
Defendant.

Civil Action No. 98-1693 (PLF)

MONITOR'S REPORT AND RECOMMENDATIONS ON AMENDED DECISIONS

I. BACKGROUND AND SUMMARY OF CONCLUSIONS

On August 7, 2006, the Court issued a Memorandum Opinion and Order directing the Monitor to further investigate and report to the Court regarding certain amended decisions.¹ The focus of that order is a specific group of eighty-four amendments that occurred in seventy-eight

¹ Previous Monitor reports on amended decisions include: Monitor's Second Progress Report on Amended Adjudicator Decisions (Mar. 29, 2007); Monitor's Progress Report on Amended Adjudicator Decisions (Jan. 16, 2007); Monitor's Interim Follow-up Report on Amended Adjudicator Decisions (Dec. 14, 2006); and Monitor's Report on Amended Adjudicator Decisions (Apr. 7, 2006).

claims.² The Monitor submits this report to summarize the actions the Monitor has taken to investigate and attempt to resolve with the parties any problems relating to the amended decisions referenced in the Court’s August 7, 2006, Order. The parties have concluded that each claimant in this universe of claims either has received or is scheduled to receive appropriate cash relief. The Monitor agrees with the parties’ conclusion that these cash relief results comply with the Consent Decree. The parties reached agreement regarding appropriate debt relief for each claimant. The Monitor concurs with the parties’ assessments as to each of these claimants’ entitlement to debt relief. Although the parties appear to have agreed about debt relief in principle as to the universe of amended decisions claims addressed by this report, several tasks still remain in order to complete debt relief implementation.³ USDA has agreed to take certain steps necessary to ensure appropriate debt relief for all class members who are entitled to debt relief. The Monitor also investigated the re-screening of certain claim packages by the Facilitator. The Facilitator reports that no claimant was denied eligibility as a result of the eligibility re-screening process.

Later in this report, the Monitor explains the general tasks that remain to be completed regarding implementation of cash relief and debt relief. The Monitor recommends that the Court order the Monitor to report to the Court again after the achievement of certain steps that are necessary to complete implementation. Those steps and their context are explained below.

² The 84 claims include 23 “substantive” amendments and 61 “technical” amendments. *See* Memorandum Opinion and Order, dated August 7, 2006, available on the Monitor’s website at <http://www.pigfordmonitor.org/orders/>.

³ It is possible that disagreements between the parties will arise when they attempt to resolve the final details of implementation of debt relief. Moreover, because reporting regarding the last few claims is not yet complete, it is possible that issues arising in those claims will cause implementation difficulties. However, at this juncture the Monitor is hopeful that the parties will be able to resolve any remaining issues as the parties work out the details of the last implementation issues,

A. The Court's August 7, 2006, Order

The Court's August 7, 2006, Order requested that the Monitor obtain the information necessary to fully apprise the Court of the circumstances involved in:

1. Any amended Adjudicator decision among the twenty-three previously identified as "other substantive" amendments;
2. Any amended Adjudicator decision among the sixty-one previously identified as "technical" amendments where such amendments were not purely clerical and the amendments affected class members' cash and/or debt relief; and
3. Any instances in which the Facilitator initially notified a claimant that he or she was eligible to participate in the claims process, but later notified that same claimant that the eligibility decision had been "amended," and that the claimant was no longer eligible.

The Court ordered the Monitor, under the authority conferred in paragraph 12(b)(ii) of the Consent Decree, to attempt to resolve with the parties any problems regarding:

1. Class members who received amended Adjudicator decisions that changed their cash relief;
2. Class members who received amended Adjudicator decisions that changed their debt relief; and
3. Claimants who received initial notification from the Facilitator that they were eligible to participate in the claims process, and then later received an amended notification or notice of rejection from the Facilitator, resulting in the denial of their opportunity to participate in the claims process.

The Court directed the Monitor to report to the Court regarding the resolution of any problems in the above-described matters and the status of any unresolved matters. The Court also directed the Monitor to provide recommendations to the Court regarding any unresolved matters.

B. The Monitor's Progress Reports

The Monitor has been investigating the matters described in the Court's August 7, 2006, Order since the issuance of that Order. The Monitor filed progress reports with the Court on December 14, 2006; January 16, 2007; and March 29, 2007.

The Monitor's Interim Follow-Up Report, filed December 14, 2006, described the status of the Monitor's requests for information from the Facilitator and from the United States Department of Agriculture (USDA).

The Monitor's Progress Report on Amended Adjudicator Decisions, filed January 16, 2007, included as Exhibit 1 a letter to the Monitor from the Facilitator, which described the Facilitator's understanding of the circumstances that led to amended Adjudicator decisions in certain Track A claims. The Facilitator's letter also included a description of the screening procedures used by the Facilitator to determine whether class members met the eligibility criteria to participate in the claims process.

The Monitor's Second Progress Report on Amended Adjudicator Decisions, filed March 29, 2007, described the Monitor's process for analyzing the cash relief and debt relief provided to each of the class members who received an amended Adjudicator decision that affected or may have affected the class member's relief. This Progress Report described the Monitor's efforts to confirm that the appropriate amounts of cash relief had been paid to each of the class members who received an amended decision affecting the class member's cash relief. This Progress Report also described the information and records requested from USDA to confirm: (1) whether a class member had a history of USDA farm loan activity during the class period; and (2) if so, what debt relief, if any, USDA had provided to the class member.

C. Purpose of This Report

In this report, the Monitor summarizes the results of the Monitor's investigation and work with the parties to resolve any problems arising from the eighty-four amended Adjudicator decisions referenced in the Court's August 7, 2006, Order. The Monitor also summarizes the information obtained from the Facilitator regarding the re-screening of approximately 4,600 Claim Sheet and Election Forms in 1999. The Monitor recommends that the Court order the Monitor to report to the Court after certain outstanding tasks have been accomplished.

D. Information Provided and Source of Data

The Monitor has obtained data from the Facilitator and/or from USDA for each claim in which an amendment affected or may have affected a class member's cash relief or debt relief. The Monitor has relied upon the data provided by the Facilitator and by USDA in analyzing the amendments and in making recommendations regarding the relief that is appropriate for each class member under *Pigford*. The Monitor has not independently verified the information provided by the Facilitator and USDA.

This Monitor's Report includes three exhibits. The first is Exhibit 1: Sample Debt Relief Records. The purpose of the Exhibit is to illustrate the steps the Monitor and the parties took to discern from USDA loan records information relevant to debt relief implementation for each prevailing credit claim in this universe of claims. The second and third exhibits are memoranda provided by USDA to the Monitor. Exhibit 2 is Information Memo for the Monitor, Memo #4, "Criteria for Discharging Loans Under the Consent Decree." Exhibit 3 is Information Memo for the Monitor, Memo #6, "Interpreting USDA Computer and Archived Records."

The Monitor has provided the parties with the following charts, which are in draft form:

Chart A: Tentative Cash Relief Data for Claims with “Substantive” Amendments.

Chart B: Tentative Cash Relief Data for Claims with “Technical” Amendments.

Chart C: Tentative Debt Relief Data for Prevailing Credit Claims.

The draft charts indicate tasks that remain to be completed for certain claimants. These tasks include payment of recently-awarded cash relief, the provision of recently-requested documents and the implementation of debt relief in recently-issued decisions. Once these tasks are completed and the charts are finalized, the Monitor will file the charts with the Court.

E. Process of Analysis and Problem-Solving

The Monitor has worked with the government and with Class Counsel to assess whether the twenty-three amendments deemed “substantive” by the Facilitator and the sixty-one amendments deemed “technical” by the Facilitator affected class members’ cash relief or debt relief. The Monitor has collected and provided to the parties information regarding the cash and debt relief each class member has received. The Monitor and the parties reviewed records relevant to these claims to assess whether each of the affected class member’s cash relief and debt relief is appropriate. The Monitor invited the government and Class Counsel to raise any concerns they had regarding the relief due to this group of class members. The Monitor considered the parties’ reported concerns and provided the parties with recommendations regarding the appropriate relief for each affected class member.

F. Conclusions

As explained more fully in section III below, the parties have reported no substantive disagreement with the final cash relief award for any class members who received an amended

Adjudicator decision. Nearly all of the seventy-eight class members who received amended Adjudicator decisions and are entitled to cash payments have received those cash payments. Only three class members who are entitled to cash relief are still awaiting payment of some or all of that relief.

As explained more fully in section IV below, the parties have worked with the Monitor to resolve problems relating to the implementation of debt relief for all of the class members who are entitled to debt relief.

II. AMENDED ADJUDICATOR DECISIONS

The Court's August 7, 2006, Order, described different categories of amended Adjudicator decisions in which the amendment affected class members' relief. The Court's concerns related to one of the categories, the "Conservation Loan" group, were resolved by a June 12, 2006, Stipulation and Order.⁴ This report does not address the "Conservation Loan" group of amendments, except to the extent that class members in the "Conservation Loan" group also received a second amended Adjudicator decision.⁵

⁴ The "Conservation Loan" group of amendments involved a group of claims in which class members had alleged discrimination under the "Conservation Loan" program listed on page 3 of the Claim Sheet and Election Form. An issue arose early in the implementation of the Consent Decree regarding whether certain of these claims involved allegations of discrimination in a farm credit program or in a non-credit benefit program. Pursuant to the Stipulation and Order dated June 12, 2006, the Adjudicator's amended decision was vacated for a list of claims identified as part of the "Conservation Loan" group. The Stipulation reinstated the Adjudicator's original decision for the listed claims, and afforded USDA the right to file a petition for Monitor review on the sole question of whether the claim alleged discrimination in a farm credit program or in a non-credit program. *Pigford v. Johanns*, Stipulation and Order, ¶ 1 (D.D.C. June 12, 2006).

⁵ Three of the class members in the "Conservation Loan" amendments group received more than one amended decision. The Monitor has reviewed the "technical" amendments these class members received, and these class members' claims are included in this report.

This report concerns two other categories of amended Adjudicator decisions that affected or may have affected class members' relief: (1) twenty-three "substantive" amendments and (2) sixty-one "technical" amendments.

A. Background About the Twenty-Three "Substantive" Amendments

In the Facilitator's database, "substantive" amendments are amendments that changed a class member's relief after review by the Adjudicator.⁶ In addition to the substantive amendments in the Conservation Loan group discussed above, twenty-three class members received amended Adjudicator decisions that the Facilitator classified as "substantive."⁷ The Monitor's April 7, 2006, Report provided information about the relief awarded, any petition for review that had been filed and routed to the Monitor, and the relief received as of April 7, 2006, for the twenty-three class members. Simultaneously with the filing of the Monitor's April 7, 2006, Report on Amended Adjudicator Decisions, the Monitor filed under seal a copy of the original and amended decisions the Monitor had received from the Facilitator for these twenty-three substantive amendments.

B. Background About the Sixty-One "Technical" Amendments

In the Facilitator's database, "technical" amendments are amendments that did not result from a review by the Adjudicator or from an agreement of the parties. These amendments were made by the Facilitator to correct errors the Facilitator deemed technical or administrative.⁸ The

⁶ See Monitor's Report on Amended Adjudicator Decisions, at 5, and Exhibit A, Letter from the Facilitator, at 1 (Apr. 7, 2006).

⁷ In the Monitor's April 7, 2006, Report, Exhibits B, C, and E reported information about the 23 "other substantive" amendments using unique claimant identification numbers 44 through 66. The Monitor has used those same identifiers in this report. See Monitor's Report on Amended Adjudicator Decisions, April 7, 2006, Exhibits B, C, and E.

⁸ See Monitor's Report on Amended Adjudicator Decisions, at 6-7, and Exhibit A, Letter from the Facilitator, at 3 (Apr. 7, 2006).

Facilitator reported to the Monitor that most of the technical amendments involved corrections to class members' identifying information, such as name, address, social security number, or gender salutation. The Monitor's April 7, 2006, Report provided information about initial awards of relief, any petitions for review that had been filed and routed to the Monitor, and the final relief received as of April 7, 2006, by the class members who received amended Adjudicator decisions with technical amendments.⁹

Simultaneously with the filing of this report, the Monitor has filed under seal a copy of the original and amended decisions the Monitor has received from the Facilitator for the sixty-one technical amendments. Because some class members in this group received more than one amended decision, the sixty-one technical amendments involve a total of fifty-eight claims.

C. Structure of a Track A Decision

As explained in a previous Monitor's report, Track A Adjudicator decisions are generally three pages long.¹⁰

1. Page 1 is a "boilerplate" cover page that recites the criteria for recovery and indicates that the claimant either did or did not prevail.
2. Page 2 is the narrative text of the Adjudicator's decision.¹¹
3. Page 3 is a "relief" page that is based on page 2.

The Facilitator uses an automated system to produce pages 1 and 3 of the decision.¹²

⁹ Exhibit D reported information about technical amendments using unique claimant identification numbers. The Monitor has used those same identifiers in this report. *See* Monitor's Report on Amended Adjudicator Decisions, Exhibit D (Apr. 7, 2006).

¹⁰ *See* Monitor's Report on Amended Adjudicator Decisions, Exhibit A, Letter from the Facilitator, at 1 (Apr. 7, 2006).

¹¹ Occasionally, the narrative text of the Adjudicator's decision fills more than one page. The references to "page 1, page 2, and page 3" in this report are meant to describe the three parts of a Track A decision. They may not literally correspond to the page numbers in every decision.

¹² *See* Monitor's Report on Amended Adjudicator Decisions, Exhibit A, Letter from the Facilitator, at 1 (Apr. 7, 2006).

D. Reasons for Amendments

The Facilitator's April 6, 2006, letter, attached as Exhibit 1 to the Monitor's April 7, 2006, Report on Amended Decisions, describes the types of administrative errors that led to certain "technical" amendments that affected a class member's relief.¹³ For example, technical amendments were made when it came to the Facilitator's attention that a class member received a decision in which the decision "jacket" (pages 1 and 3 of the decision) were inconsistent with the Adjudicator's decision text (page two of the decision). The amended decision revised pages 1 and 3 to correspond with the relief provided in the text of the Adjudicator's narrative decision.

Additional technical amendments affecting relief resulted from a class member receiving what the Facilitator has called the "wrong decision text" for his or her claim. In these claims, page 2 of a class member's original Track A decision did not comport with the class member's allegations of discrimination in the Claim Sheet and Election Form. According to the Facilitator, these class members mistakenly received decisions that were actually written for other class members. The amended decision provided the correct decision for their claim.

In other technical amendments affecting relief, corrections or clarifications were made to the decision text on page 2 and to the relief described on page 3. Eighteen of these amendments clarified the USDA program or year at issue; other amendments clarified or corrected the text of the Adjudicator's decision in some other way.

In response to the Court's August 7, 2006, Memorandum Opinion and Order, the Monitor asked the Facilitator to provide additional explanation of the circumstances that led to

¹³ See Monitor's Report on Amended Adjudicator Decisions, Exhibit A, Letter from the Facilitator (Apr. 7, 2006).

the amendment of Adjudicator decisions that affected class members' relief. The Facilitator provided a letter dated January 15, 2007, in response to the Monitor's request.¹⁴ In general, the Facilitator explained in the letter that amendments were prompted either: (1) by a request from a party (a claimant, Class Counsel, or the government); or (2) by the Facilitator's internal quality control review process. In some cases, according to the Facilitator's January 15, 2007, letter, the government contacted the Facilitator regarding a claim in which a credit award was granted for a "Conservation Loan" and the government believed the Adjudicator should have awarded non-credit relief because the class member's Claim Sheet and Election Form alleged discrimination in a farm benefit program.¹⁵ In a few cases, according to the January 15, 2007, Facilitator letter, amended decisions were issued when the Chief Adjudicator reviewed a claim because more than one Adjudicator had written a decision for the claim and, as a result, the two adjudication decisions needed to be reconciled. The Facilitator's January 15, 2007, letter also explains that in some claims a letter or other document was filed with the Facilitator regarding the Adjudicator decision. The Facilitator classified some of this correspondence as a petition for Monitor review. In some of these cases, according to the Facilitator's letter, the Facilitator issued an amended decision and withdrew or "closed" the petition.¹⁶

III. AMENDMENTS THAT AFFECTED CLASS MEMBER CASH RELIEF

The Facilitator provided to the Monitor updated information regarding the cash relief provided in the original and amended Adjudicator decisions, the outcome of any petition for

¹⁴ The letter is attached as Exhibit 1 to the Monitor's Progress Report on Amended Adjudicator Decisions (Jan. 16, 2007).

¹⁵ These claims were not part of the "Conservation Loan" group, but the issues raised in these claims are similar to the issues presented by the "Conservation Loan" group.

¹⁶ See Monitor's Progress Report on Amended Adjudicator Decisions, Exhibit 1, Letter from the Facilitator, at 5 (Jan. 16, 2007).

Monitor review, and the amount of cash relief each class member has been paid. As noted above, the Monitor has provided to the parties draft charts that summarize this information. As explained above, when the last claims in this group are processed for cash relief and for debt relief, and when all USDA reporting to the Monitor is complete, the Monitor will finalize the charts and file them with the Court.

A. Summary of Investigation

According to the information reported by the Facilitator, a total of thirty-six class members in this universe of claims received amended decisions that changed the Adjudicator's original award of cash relief. Thirteen of the thirty-six amended decisions are part of the "substantive" group of amendments. Twenty-three of the thirty-six amended decisions are part of the "technical" amendment group.

B. Substantive Amendments Affecting Cash Relief

The Monitor has analyzed the thirteen substantive amendments in which a class member's cash relief was affected by the amended Adjudicator decision. In three of the thirteen claims, the amended decision increased a class member's cash relief. In ten of the claims, the amended decision decreased a class member's cash relief.

In eight of the ten claims in which cash relief decreased, the class member's relief changed from credit relief to non-credit relief. In eight of the ten claims in which amended decisions decreased a class member's cash relief, the claimant or USDA petitioned for Monitor review. In some of the claims, the Monitor directed reexamination of the claim; in other claims, the Monitor denied reexamination.

C. Technical Amendments Affecting Cash Relief

The Facilitator reports that a total of twenty-three “technical” amendments involve claims in which amended decisions affected cash relief. Five of the twenty-three claims listed in the technical amendment group are claims for which more than one amendment was made. In these five claims, it was not the technical amendment that affected cash relief—instead, the cash relief was affected by either a prior or subsequent substantive amendment.

The remaining technical amendments affecting cash relief resulted from the type of administrative problems described in the Facilitator’s April 6, 2006, letter. In fifteen of the twenty-three technical amendments, the Facilitator reported that the original Adjudicator decision was issued with the “wrong decision jacket” or “wrong decision text.” Three other technical amendments that affected cash relief involved similar types of amendments.

D. Determining Appropriate Amount of Cash Relief

To determine the appropriate cash relief for each of the class members who received an amended decision affecting cash relief, the Monitor reviewed the following types of documents: the class member’s Claim Sheet and Election Form, USDA’s Claim Response, the original Adjudicator decision, the amended Adjudicator decision(s), any petition for Monitor review, any petition response, and any decision by the Adjudicator on reexamination. The Monitor shared with the parties the information provided by the Facilitator on the decisions each class member received in the claims process and the cash relief awarded for each claimant in the final decision for the claim. Neither USDA nor Class Counsel has raised a substantive concern with the appropriateness of the final cash relief award for any individual class members who received amended Adjudicator decisions that affected their cash relief.

E. Determining Amount of Cash Relief Payments

Under paragraph 9(a)(iii)(B) of the Consent Decree, class members who prevail in a Track A credit claim receive a cash payment of \$50,000 from the Judgment Fund.¹⁷ Cash relief for credit claims is paid to class members by the Facilitator. According to the Facilitator's report, only two cash relief payments for Track A credit claims remain outstanding for claims the Monitor has been investigating pursuant to the Court's August 7, 2006, Order.¹⁸

A February 7, 2001, Stipulation and Order set cash relief for non-credit claims at \$3,000. Cash relief for non-credit claims is paid directly by USDA. USDA notifies the Facilitator of the \$3,000 non-credit relief payment. To confirm that a \$3,000 non-credit payment was made, the Monitor reviewed information from USDA and from the Facilitator's records of reports the Facilitator has received from USDA. For some class members, USDA is able to provide the date on which a check was issued; for others, USDA cannot yet confirm that the check has been issued. Based on the information provided by the Facilitator and USDA, it appears that only one class member's non-credit cash relief award remains outstanding for claims the Monitor has been investigating pursuant to the Court's August 7, 2007, Order.¹⁹

IV. AMENDMENTS THAT AFFECTED CLASS MEMBER DEBT RELIEF

Pursuant to paragraph 9(a)(iii)(A) of the Consent Decree, class members who prevail on Track A credit claims are entitled to debt relief. Class members who are denied relief or who prevail only on non-credit claims are not eligible for debt relief. The Monitor analyzed the

¹⁷ The Judgment Fund is described in 38 U.S.C. § 1304.

¹⁸ One of these situations involves an Adjudicator reexamination decision that was issued on June 1, 2007. The other involves a claim in which USDA petitioned for Monitor review, and the Monitor denied USDA's petition on May 25, 2007. The Monitor expects that payment will be made soon for these two claims, in the normal course of payment processing.

¹⁹ This situation involves an Adjudicator decision that was issued on June 13, 2007. The Monitor expects that payment will be made soon, in the normal course of payment processing.

Track A claims in the group of “substantive” amendments and in the group of “technical” amendments to determine whether the amendments affected the class members’ debt relief.

A. Summary of Investigation

The Court’s August 7, 2006, Order directed the Monitor to obtain the information necessary to fully apprise the Court of the circumstances involved in any amended decisions that were not purely clerical and that affected class members’ debt relief. The Court further ordered the Monitor to attempt to resolve any problems regarding class members who received amended Adjudicator decisions that changed their debt relief. The Monitor’s efforts to determine the proper scope of class member debt relief are described below. Part of that process included obtaining information from USDA regarding each of the potentially affected class members. USDA has fully cooperated with all of the Monitor’s requests for information. The Monitor has also worked with the parties to resolve several potentially problematic cases. The parties appear to have reached agreement on the appropriate scope of debt relief mandated by the Consent Decree and the February 7, 2001, Debt Relief Stipulation and Order (“Debt Relief Stipulation and Order”) for all class members in the amended decisions universe that is addressed by this report.²⁰ The Monitor believes that the parties’ conclusions are in compliance with the Consent Decree and the Debt Relief Stipulation and Order. Described below are the results of the Monitor’s investigation and the remaining steps the Monitor believes are

²⁰ The parties discussed problems relating to implementation of the relief required by the Consent Decree and by the Debt Relief Stipulation and Order, and the parties discussed problems relating to implementation of USDA’s Information Memo for the Monitor, Memo #4 (“Memo #4”) (attached as Exhibit 2). This report focuses only on implementation of relief required by the Consent Decree and the Debt Relief Stipulation and Order. To the extent that the parties may have disagreements about implementation of Memo #4, those disagreements are not discussed in this report.

necessary to ensure appropriate implementation of *Pigford* debt relief for this universe of claims.

B. How the Monitor Analyzed the Amendments' Effect on Debt Relief

Prevailing Track A credit claimants' entitlement to debt relief arises from the Consent Decree and from the Debt Relief Stipulation and Order. Read together, the Consent Decree and Debt Relief Stipulation and Order provide that Track A debt relief is a function of the Adjudicator's findings of discrimination.

1. The Consent Decree and Debt Relief Stipulation and Order

The Consent Decree provides debt relief for class members who prevail on Track A credit claims. The Consent Decree debt relief provision provides in relevant part:

USDA shall discharge all of the class member's outstanding debt to USDA that was incurred under, or affected by, the program(s) that was/were the subject of the ECOA claim(s) resolved in the class member's favor by the adjudicator. The discharge of such outstanding debt shall not adversely affect the claimant's eligibility for future participation in any USDA loan or loan servicing program.

Consent Decree, ¶ 9(a)(iii)(A).

On February 7, 2001, the parties stipulated and the Court ordered that class members who are entitled to debt relief under the Consent Decree are entitled to the following:

The relief to be provided in [the debt relief paragraphs] of the Consent Decree to a class member who prevails on a claim of credit discrimination includes all debts which were identified by the Adjudicator . . . as having been affected by the discrimination. Additionally, such relief includes all debts incurred at the time of, or after, the first event upon which a finding of discrimination is based, except that such relief shall not include: (a) debts that were incurred under FSA programs other than those as to which a specific finding of discrimination was made by the Adjudicator or Arbitrator with respect to the class member (e.g., the Operating Loan program [OL program], the Farm Ownership loan program [FO program], the Emergency Loan program [EM program], etc.); (b) debts that were incurred by the class member prior to the date of the first event upon which the Adjudicator's or Arbitrator's finding of discrimination is based, or

(c) debts that were the subject of litigation separate from this action in which there was a final judgment as to which all appeals have been forgone or completed.

Debt Relief Stipulation and Order, ¶ 2 (footnote omitted).

2. *Two-Step Debt Relief Process*

To determine whether class members who received amended decisions received the appropriate *Pigford* debt relief, the Monitor applied a two-step process. In step one, the Monitor determined the “debt affected by” discrimination for each class member’s claim. In step two, the Monitor determined the appropriate “forward sweep.” Each of these steps is explained below.

a. *Debt “Affected By” Discrimination*

The first sentence of the Debt Relief Stipulation and Order quoted above provides that each prevailing class member is entitled to debt relief for all debts identified by the Adjudicator as having been affected by discrimination.

b. *“Forward Sweep”*

The second sentence of the Debt Relief Stipulation and Order quoted above provides that each prevailing class member is entitled to debt relief for all subsequent loans incurred in the same program(s) as the loan(s) that were identified by the Adjudicator as having been affected by discrimination. This “forward sweep” debt relief has been implemented to apply to all debt in the loan program(s) at issue from the date of the first event upon which a finding of discrimination is based through the end of the class period (December 31, 1996).

c. The Formula

As a result of the provisions cited above, the identification of the appropriate debt relief for each class member has two parts:

(1) Each loan or loan attempt identified by the Adjudicator as having been affected by discrimination

Plus

(2) All subsequent loans in the identified loan program(s) until the end of the class period.

For example, in the claim that corresponds to unique identification number 49, the Adjudicator's decision found discrimination in the context of a 1991 Operating Loan.²¹ Therefore, the claimant is entitled to debt relief regarding all Operating Loans that he or she incurred from the time of the 1991 event that formed the basis for the finding of discrimination through December 31, 1996.

C. Locating the Adjudicator's Finding of Discrimination in Amended Decisions

The format of Track A decisions is described on page 9 above. The Monitor and the parties treat the Adjudicator's narrative text, generally found on page 2 of the Track A decision, as the controlling document for purposes of calculating debt relief. This is despite the fact that some Track A decisions specify on page 3 what debt is to be forgiven.

There are at least two sets of problems with treating the computer-generated text on page 3 as authoritative as to debt relief. First, occasionally there are clerical errors in the process

²¹ The Monitor filed Exhibits B through E with the Monitor's April 7, 2006 Amended Decisions report listing information regarding the claims of class members who had received "technical" or "substantive" amendments to their original Adjudicator decisions. Those exhibits use unique identification numbers rather than claim numbers for each claim. The Monitor uses those same unique identification numbers in this report. The claim with unique identifier number 49 can be found on Exhibit B, C, and E of the Monitor's April 7, 2006 Report.

of generating page 3 of the decision. Since page 2 is the source document for the information found on page 3, page 2 is more reliable. The second problem, which is more significant, relates to timing.²² Approximately 20,118 claimants had received Track A decisions as of February 7, 2001—the date of issuance of the Debt Relief Stipulation and Order. In 11,947 of those 20,118 decisions, the claimant had prevailed on a Track A credit claim. According to the Facilitator, the formula used by the Facilitator to code the page 3 debt relief language in those 11,947 decisions was different from the formula the Facilitator later adopted in an effort to conform to the Stipulation and Order. In most, if not all, cases, the debt relief language in decisions that were issued before the Debt Relief Stipulation and Order was not consistent with the provisions of the Order.

The parties did not require the Facilitator to re-write and re-issue the text of previously issued Track A relief pages to bring them into compliance with the Debt Relief Stipulation and Order. Aware of the fact that the relief pages of Track A decisions were not updated to comply with the Order, USDA agreed to implement the terms of the Order based on the text of the Adjudicator’s narrative on page 2 of Track A decisions.²³

D. Determining Whether Class Members Received Appropriate Debt Relief

The Monitor reviewed each of the claims in which class members received an amended decision to determine the appropriate debt relief. Because of the problems explained above

²² The background regarding this situation is explained in more detail in the letter from the Facilitator. Monitor’s Progress Report on Amended Adjudicator Decisions, Exhibit 1, Letter from the Facilitator, at 3 (Jan. 16, 2007).

²³ Although the key document for determining debt relief is the Adjudicator narrative text on page 2 of the decision, the Monitor’s review included amended decisions that changed the USDA loan program or year identified on page 3 of the Adjudicator decision. The Monitor included these claims in the review to ensure that debt relief was properly calculated and implemented in all amended decision cases.

regarding the relief page of most Track A decisions, the Monitor looked to the Adjudicator’s narrative text on page 2 of each original decision and each amended decision. The Monitor also reviewed any Monitor decisions and any Adjudicator reexamination decisions that a class member may have received. Finally, the Monitor reviewed several categories of USDA records regarding each affected claimant. The records included USDA’s Current/Past Debt Inquiry records (CPDI), Online Borrower History records (OBH), archived microfiche loan records, Equity Recapture Screens, and, in some cases, certifications of no loan history. Samples of some of these records along with a narrative explanation of how to read the records are included in Exhibit 1. The sample records are redacted to remove any information about the claimants’ identities.

The steps taken to determine whether the class members in this universe who prevailed on credit claims received the appropriate debt relief are described in Table 1.

Step	Description
1. Analyze Adjudicator Decisions	<p>The Monitor reviewed the class member’s original and amended Adjudicator decisions to determine the dates of the adjudication decisions and to determine the formula for the class member’s entitlement to debt relief.</p> <p>For example, in the claim with unique identification number 134, the Adjudicator found discrimination in the context of USDA’s Operating Loan (OL) and Farm Ownership Loan (FO) programs in 1983. This finding entitles the claimant to the relief of all Operating Loans (OLs) and Farm Ownership Loans (FOs) received between the date of the 1983 event that formed the basis of the finding of discrimination and December 31, 1996.</p>

Table 1: Steps To Determine Whether Class Member Received Proper Debt Relief	
Step	Description
2. Identify Loans Outstanding at Time of Initial Prevailing Adjudication Decision	<p>The Monitor reviewed USDA loan records, including but not limited to Current/Past Debt Inquiries (CPDIs) and Online Borrower Histories (OBHs), to identify loans that were outstanding at the time of the initial prevailing adjudication decision.</p> <p>For example, in the claim with unique identification number 134, the claimant had three outstanding loans at the time of the Adjudicator’s initial prevailing adjudication decision: an Operating Loan (OL) that originated in 1989, and an Operating Loan (OL) and a Farm Ownership Loan (FO) that originated in 1990.</p>
3. Determine Which Loans Should Be Subject to Debt Relief	<p>The Monitor determined which of the loans identified in step two, above, should be subject to debt relief according to the narrative text on page 2 of the final adjudication decision.</p> <p>For example, because the claimant with unique identification number 134 had a finding of discrimination relating to a 1983 Operating Loan (OL) and a 1983 Farm Ownership Loan (FO), the Operating Loans he received in 1989 and 1990 and the Farm Ownership Loan he received in 1990 were all subject to <i>Pigford</i> debt forgiveness pursuant to “forward sweep.”</p>
4. Determine Whether Relief Was Fully Implemented	<p>The Monitor assessed the data discussed above to determine whether each class member who prevailed on a credit claim received all of the debt relief to which he or she is entitled. Additionally, the Monitor assessed whether USDA accepted voluntary payments on debts after those debts should have been forgiven, and whether the government took funds by administrative or Treasury offset to satisfy any debt subject to <i>Pigford</i> debt forgiveness after January 1, 1999.²⁴</p> <p>For example, in the claim with unique identification number 134, USDA granted <i>Pigford</i> debt forgiveness for the claimant’s 1989 and 1990 Operating Loans as well as his 1990 Farm Ownership Loan. In addition, USDA refunded the voluntary payments the claimant had made on his loans after the date of the initial prevailing Adjudicator decision.</p>

²⁴ For an explanation of offsets, see USDA Notice FLP-197, Collecting Farm Loan Program (FLP) Debt by Administrative Offset for *Pigford v. Glickman* Claimants (Apr. 6, 2001) (available at the Office of the Monitor website at <http://www.pigfordmonitor.org/flp/>).

Table 1: Steps To Determine Whether Class Member Received Proper Debt Relief

Step	Description
5. No Adverse Effect Analysis	<p>USDA has a “no adverse effect” policy which was explained in detail in the Monitor’s March 29, 2007 Second Progress Report on Adjudicator Decisions.²⁵ In essence, this policy should ensure that debt that receives <i>Pigford</i> debt forgiveness—and debt that would have received <i>Pigford</i> debt forgiveness had it still been outstanding at the time of the <i>Pigford</i> adjudication—will not be used as a reason to deny loans or loan servicing to the claimant in the future.²⁶ USDA uses a computer program to keep track of the loans that should not form the basis for future adverse action. One certain page or screen in that computer program, called the “ADPS Civil Rights Screenshot,” is currently the key document used by USDA in implementation of its “no adverse effect” policy.</p> <p>In step five of the analysis, the Monitor assessed the coding of the ADPS Civil Rights Screenshot for each affected claimant to determine whether it contains accurate information regarding the claimant’s prevailing claims.</p> <p>For example, in the claim with unique identification number 134, the ADPS Civil Rights Screen Shot accurately showed that the claimant is entitled to forgiveness of Operating Loans and Farm Ownership Loans from 1983 through 1996.</p>
6. Recommend Corrective Action	<p>Based on the information and analysis described above, the Monitor’s office prepared recommendations for the parties. The parties each had the opportunity to provide their views as to the proper result in these cases. In the end, the parties reached agreement as to the proper outcome in each affected case. The Monitor believes that these outcomes are in compliance with the Consent Decree and the Debt Relief Stipulation and Order.</p>

²⁵ Ordinarily, if USDA forgives or writes-off debt and the forgiveness causes a loss to the government, that forgiveness has an adverse effect on the farmer’s ability to obtain future loans or loan servicing from USDA. See, for example, 7 C.F.R. §§ 1941.12(a)(8), 1943.12(a)(10) (2007). USDA’s “no adverse effect” policy is intended to ensure that debt that is forgiven due to the Consent Decree (and debt that would have been forgiven by the Consent Decree had it not already been forgiven through some other program or paid off) does not cause such an adverse effect.

²⁶ The policy is found in USDA Notice FLP-460, Priority Consideration for Prevailing Claimants, at 8 (May 23, 2005) (available at the Office of the Monitor website at <http://www.pigfordmonitor.org/flp/>). The policy is explained in detail in Monitor Update No. 14, which is available at the Office of the Monitor website at <http://www.pigfordmonitor.org/updates/>.

E. Remaining Debt Relief Implementation Steps

In the course of examining the documents related to this universe of cases, the Monitor became aware of several issues that are problematic in USDA's debt relief implementation system. Some of the issues relate only to amended decisions. Other issues came to the Monitor's and the parties' attention as a result of the amended decisions investigation, but they relate to the *Pigford*-wide debt relief system.

The problems that were raised by the amended decisions cases—those which relate only to amended decisions, and those which relate to class-wide debt relief—now appear to have been resolved in principle. For some, steps remain to be taken to achieve full implementation. The steps that need to be taken are discussed below.

The Monitor notes that USDA has been completely cooperative in responding to the Monitor's requests for information about these issues, and in discussions with the Monitor has agreed to take additional steps to ensure full implementation of *Pigford* debt relief for all prevailing claimants. The Monitor is not making formal recommendations regarding these steps at this time because the Monitor believes that USDA is in the process of implementing solutions to these debt relief issues. If any difficulties impede implementation of USDA's remaining debt relief tasks, the Monitor will report to the Court about the difficulties, and, if appropriate, issue formal recommendations to the Court to resolve the difficulties.

The general steps that need to be taken to complete implementation of debt relief are listed below. The need for the actions described below applies to all debt relief cases, not only amended decisions cases.

1. System for Refunds of Voluntary Payments

There are some cases in which, after the date of the initial prevailing Adjudicator decision, USDA accepted from claimants voluntary payments on debts that qualify for *Pigford*

debt relief. USDA agrees to refund these payments to the claimants. A system is needed to identify these payments and refund them.

2. System for Refunds of Offsets

In some cases, USDA took payments owed to claimants by federal entities through a mechanism called “offset” and applied the payments to debts that qualify for *Pigford* debt relief.

USDA has agreed to refund to the claimants any such offsets taken after January 1, 1999.²⁷

A system is needed to identify these funds taken by offset and refund them.

3. System for Determining the Proper Loan Type for Debt Relief

In some cases, the Adjudicator’s narrative text on page 2 finds discrimination based on a certain set of facts in a particular loan program. For example, the decision may find discrimination in the late funding of an Operating Loan (OL) in 1983. Later, when USDA implements debt relief for the claimant, USDA records reveal that the 1983 loan described in the Adjudicator’s decision was actually an Emergency Loan (EM loan). The Debt Relief Stipulation and Order requires forgiveness of the debt “affected by” discrimination, along with “forward sweep” forgiveness of subsequent loans in the same loan program. In cases in which it is clear that the loan referred to in the Track A decision was in a different loan program than the program identified by the Adjudicator, USDA has agreed to “switch” the loan type for debt relief purposes to provide debt relief in the correct loan program. A system is needed to make sure that both the debt “affected by” and the “forward sweep” aspects of debt relief are implemented in these “switch” cases.

²⁷ For an explanation of USDA’s *Pigford* offset policy, see USDA Notice FLP-197, Collecting Farm Loan Program (FLP) Debt by Administrative Offset for *Pigford v. Glickman* Claimants (Apr. 6, 2001) (available at the Office of the Monitor website at <http://www.pigfordmonitor.org/flp/>).

4. System for Managing Tax Consequences of Revised Debt Relief

Implementation of the systems described above will likely trigger increased debt relief, which will in turn trigger tax consequences for affected claimants, and the need for further Consent Decree federal income tax relief.²⁸ USDA has agreed to coordinate with Class Counsel to put a system in place to notify claimants of *Pigford*-related transactions of this type that may have tax consequences for claimants.

5. System for Implementation of “No Adverse Action” Assurances

USDA’s current system for ensuring that no adverse action is taken against prevailing claimants due to *Pigford* debt forgiveness (or due to debt that would have received *Pigford* debt forgiveness had it still been outstanding) primarily relies on a computer screen referred to by USDA as the ADPS Civil Rights Screen Shot. The Monitor has encouraged USDA to put a system in place to make sure that these screen shots are accurately coded, and to make sure that USDA county offices understand how to use the screen shots. Alternatively, USDA could choose to design and implement a different type of system to communicate “no adverse action” information to county offices. This system should take into account issues regarding equity recapture screens, and issues regarding surviving spouses.²⁹

²⁸ See Consent Decree, ¶ 9(a)(iii)(C), regarding the tax relief component of relief for prevailing Track A credit claims.

²⁹ Equity recapture screens are the part of USDA’s computer records system that shows certain transactions that may indicate outstanding liabilities or losses caused to the government that could form the basis of future adverse actions against the borrower. These transactions may include “shared appreciation agreements” and “net recovery value buyout agreements” with recapture periods that may or may not have expired. For a discussion of these transactions toward the end of the class period, see 7 C.F.R. §§ 1951.909 (j)-(k), 1951.913, 1951.914 (1996). Surviving spouse issues focus on whether losses caused to the government due to loans that were the subject of *Pigford* debt forgiveness should cause an adverse effect for a deceased borrower’s spouse if the spouse, who may have been a co-borrower, seeks a future USDA loan.

V. FACILITATOR ELIGIBILITY RE-SCREENING

In the Monitor's April 7, 2006, Report on Amended Adjudicator Decisions, the Monitor advised the Court that in addition to amended Adjudicator decisions, there may have been amendments to the "eligibility" determinations made by the Facilitator. The Court's August 7, 2006, Order required the Monitor to further investigate and report to the Court regarding any claimant who received an initial notification from the Facilitator that they were eligible to participate in the claims process and then later received a notice of rejection or other notification from the Facilitator resulting in the denial of the claimant's opportunity to participate in the claims process.

A. Summary of Investigation

The Monitor requested information from the Facilitator regarding any "amended" decisions in the eligibility screening process. The Monitor obtained that information in a letter from the Facilitator dated January 15, 2007, which the Monitor has provided to the Court as Exhibit 1 to the Monitor's January 16, 2007, Progress Report on Amended Decisions. The Monitor has discussed the re-screening criteria with the Facilitator and shared with the parties information provided by the Facilitator. The Facilitator reports that although 4,600 claims were re-screened after the Court approved the Consent Decree, no class member was denied eligibility to participate in the claims process as a result of re-screening.

B. Facilitator Eligibility Screening

Under paragraph 5(f) of the Consent Decree, the Facilitator is charged with the task of screening claim packages to determine whether each claimant meets the criteria for class

membership. The Consent Decree requires the Facilitator to make this determination within twenty days of receiving a completed claim package. If a claimant is determined to be a class member, the Consent Decree requires the Facilitator to assign the class member a Consent Decree case number and forward the claim to Class Counsel and USDA and to the Adjudicator (Track A) or the Arbitrator (Track B), as appropriate. If a claimant is found not to be a class member, the Consent Decree requires the Facilitator to notify the claimant and the parties' counsel of that finding.

C. Screening of First 4,600 Claims

The Facilitator's January 15, 2007, letter, attached as Exhibit 1 to the Monitor's January 16, 2007, Progress Report, describes the actions taken to implement the Facilitator's eligibility screening process prior to the Court's final approval of the Consent Decree.

According to the Facilitator, with the agreement of the parties, the Facilitator began screening Claim Sheet and Election Forms after January 5, 1999, the date on which the Court granted preliminary approval of the Consent Decree. Shortly after the Court granted final approval of the Consent Decree on April 14, 1999, the parties met with the Facilitator to finalize the screening procedures for completed Claim Sheet and Election Forms. The final screening procedures differed from the screening procedures the Facilitator had used for the first 4,600 claims.

D. Re-Screening of 4,600 Claims

The Facilitator indicated that beginning in May 1999, by agreement of the parties, the Facilitator re-screened the first 4,600 claims using the final screening procedures. This re-screening process was completed in July 1999. The Facilitator reports that each of the 4,600

claimants received notification of the re-screening. In the cases in which deficiencies in the Claim Sheet and Election Form were identified, the claimant was given notice and an opportunity to cure the deficiency by October 12, 1999, the 180-day deadline for the submission of claim packages. Appendix D to the Facilitator's January 15, 2007, letter contains samples of the letters that the Facilitator sent to claimants whose claim packages were re-screened by the Facilitator from May to July 1999.

E. Results of Re-Screening

The Facilitator has reported to the Monitor that the Facilitator's computer database is dynamic and therefore does not contain information regarding how many of the 4,600 claimants were initially deemed eligible but then received a notice of deficiency as a result of the re-screening process. The Facilitator reported to the Monitor that all claimants who received a notice of deficiency as a result of the re-screening process were able to cure that deficiency. The Facilitator reports that of the 122 claimants who were denied eligibility in the group of 4,600, none had previously been deemed eligible. In other words, none of the 122 who were ultimately ineligible became ineligible as a result of the re-screening process.

The Monitor has discussed the Facilitator's re-screening process with counsel for the government and with Class Counsel. Neither party has identified any concerns with the Facilitator's re-screening process or the results of that re-screening process.

VI. CONCLUSIONS AND RECOMMENDATIONS

The Monitor has worked with the Facilitator and USDA to obtain the information needed to assess the effect of amended decisions on both eligibility for the claims process and on relief provided to prevailing claimants for the groups of claimants identified in the Court's

August 7, 2006, Order. The Monitor has worked with Class Counsel and with counsel for the government to analyze the appropriate cash relief and debt relief for each of the class members who received amended Adjudicator decisions. The Monitor has reviewed with the parties the information provided by the Facilitator regarding the re-screening of the first 4,600 claims for eligibility. The Monitor has received the full cooperation of the Facilitator and the parties in addressing the matters the Court has directed the Monitor to investigate. The Monitor found no outstanding problems that require the Court's attention at this time. The Monitor will continue to work with the parties to ensure that debt relief systems are implemented, and to ensure that each class member receives the debt relief and cash relief that they have been awarded and that the parties have agreed is appropriate.

The Monitor anticipates that over the next month the parties and the Monitor will establish a timetable for completion of the tasks that must be accomplished in order to:

1. Complete reporting regarding the universe of amended decisions claims addressed in this report;
2. Complete implementation of cash and debt relief for the universe of amended decisions claims addressed in this report; and
3. Complete implementation of class-wide debt relief as to all prevailing credit claims that have already completed the adjudication process.

The Monitor anticipates that the bulk of those tasks can be completed over the next three months. The Monitor recommends that the Court order the Monitor to continue to work with the parties on the implementation tasks described in this report and to report back to the Court on or

before October 11, 2007, regarding the tasks that have been completed and the tasks, if any, that remain to be completed.

Dated: July 9, 2007.

Respectfully submitted,

s/Randi Ilyse Roth
Randi Ilyse Roth
Monitor
Post Office Box 64511
St. Paul, Minnesota 55164-0511
877-924-7483

Exhibit 1

Sample Debt Relief Records

Information regarding recent USDA loan activity is available through USDA's borrower database.¹ The Monitor relied primarily on the results of two types of USDA database searches in analyzing debt relief for each claimant. One of those searches, the Current/Past Debt Inquiry (CPDI), provides an overview of all loans to a specific borrower that have not been purged from USDA's borrower database.² The other search, the Online Borrower History Inquiry (OBH), provides detailed information for each of the loans identified in the CPDI.³ The Monitor's understanding of the meaning of the codes used in the screen prints in this exhibit is based on USDA Information Memo for the Monitor, Memo #6, "Interpreting USDA Computer and Archived Records" (May 2, 2005) ("Memo #6"). Memo #6 is attached to this report as Exhibit 3.

This "Sample Debt Relief Records" exhibit illustrates how to understand debt relief records by analyzing the records of two claimants in this universe of decisions.

Example #1: Unique Identification Number 49

The attached sample documents are redacted CPDI and OBH search results for the claim with unique identification number 49. The adjudication decision for this claim found discrimination in the context of USDA's Operating Loan (OL) program in 1991.

As explained in the text of this report, based on this finding of discrimination, this claimant is entitled to "affected by" debt relief for the 1991 OL found to have been affected by discrimination, and is entitled to "forward sweep" debt relief. "Forward sweep" debt relief generally applies to loans in the same loan program as the loan found to be affected by discrimination. The loan program can be identified by a "Fund Code." The codes for the main types of loan programs at issue are:

Operating Loan (OL):	44
Farm Ownership Loan (FO):	41
Emergency Loan (EM):	43

Therefore, this claimant's "forward sweep" loans would be all loans with Fund Code 44 that were incurred between the date of the 1991 event that formed the basis of the finding of discrimination and December 31, 1996.

¹ USDA periodically purged its borrower database of loan information that met certain purge criteria. The last purge occurred in 1993. *See* USDA Information Memo for the Monitor, Memo # 6, "Interpreting USDA Computer and Archived Records" (May 2, 2005) (attached as Exhibit 3). For the purposes of this report, the Monitor relied on USDA's borrower database for the identification of loans that were outstanding at the time a claimant received an Adjudicator decision.

² Each line of the CPDI contains information regarding a single loan.

³ Separate OBH searches contain information for each individual loan. Each line of the OBH contains information regarding a single transaction.

CPDI (Current/Past Debt Inquiry)

Several loans appear in this claimant's CPDI. Some were resolved prior to the Adjudicator's initial decision. Others are still outstanding.

Arrow #1 points to loans with "Last Payment Dates" in 1988 and 1990 and "Fully Paid Codes" of R00 and T05. This indicates that these loans, loan numbers 6, 7, and 8, were resolved in 1988 and in 1990, and were therefore resolved prior to the Adjudicator's decision. These loans were either paid in full (R00) or rescheduled (T05).

Arrow #2 points to three loans with no "Fully Paid Code." This indicates that these loans, loan numbers 9, 10, and 11, are still outstanding. The "Date of Loan" for these loans is April 16, 1990. Because these loans were incurred before 1991, the date identified in the Adjudicator's decision as when discrimination occurred, these loans are not subject to *Pigford* debt relief.

Arrow #3 points to an Operating Loan (Fund Code (FD CD) of 44) that originated in 1991 as loan number 12. This appears to be the loan that the Adjudicator found to be affected by discrimination.

Arrow #4 points to a "Fully Paid Code" of S00 for loan number 12. This indicates that loan number 12 was resolved through a USDA regulatory provision referred to as "debt settlement."

No other Operating Loans appearing in the CPDI seem to be the proper subject of *Pigford* debt relief.⁴

OBH (Online Borrower History)

The OBH provides more detailed information about the claimant's loan history. **Arrow #5** points to the first cash advance on loan number 12, and indicates that this loan closed on June 17, 1991.

Arrow #6 points to the debt settlement of loan number 12. The OBH confirms that the debt settlement occurred in 2001. Loan number 12, therefore, was resolved by debt settlement after the Adjudicator's decision, which occurred in 1999. There are no payments or administrative offsets reflected in the OBH for this loan. This suggests that no refunds are due to this claimant.

ADPS Civil Rights Screenshot

The ADPS Civil Rights Screenshot accurately reflects the relief for this claimant. **Arrow #7** points to years (1991-1996) and loan program (OL) for which this claimant is entitled to relief.

⁴ The Monitor also reviewed the OBH searches for all of the loans identified in the CPDI to determine that no other loans were subject to *Pigford* debt forgiveness.

Example #2: Unique Identification Number 134

The attached sample documents are redacted CPDI and OBH search results, as well as archived records, for the claim with unique identification number 134. The adjudication decision for this claim found discrimination in the context of USDA's Operating Loan (OL) and Farm Ownership Loan (FO) programs in 1983. Therefore, this claimant is entitled to "affected by" debt relief for the 1983 OL and FO loans that formed the basis of the finding of discrimination, and is entitled to "forward sweep" debt relief for all OL and FO loans incurred between the date of the 1983 event that formed the finding of discrimination and December 31, 1996.

CPDI (Current/Past Debt Inquiry)

Three loans in the CPDI were subject to *Pigford* debt relief.

Arrow #8 points to loan numbers 24, 25, and 26. Each of these loans has a "Last Payment Date" near in time to the Adjudicator's initial decision.⁵ The Fund Code (FD CD) of 41 for loan number 24 indicates that it is a Farm Ownership Loan. Fund Code 44 for loan numbers 25 and 26 indicate that they are Operating Loans.

Arrow #9 points to the "Fully Paid Codes" S00 and S03. These codes indicate that all three of these loans were resolved through "debt settlement."⁶ The remaining debt relief analysis of this claim focuses on USDA's records regarding the Claimant's Farm Ownership Loan.

OBH (Online Borrower History) and Archived Records

The OBH helps trace a loan back to its origination and identify payments, offsets, and refund.

Arrow #10 points to an August 15, 1994 transaction transferring loan number 23 to loan number 24. This loan had been reamortized several times and USDA provided archived records that suggest it originated in 1983 as loan number 02.⁷

⁵ The initial Adjudicator decision was on November 1, 1999. The Last Payment Dates for loan numbers 24 and 26 are November 1, 1999, and April 15, 1999, for loan number 25. The Monitor also reviewed the OBH searches for all of the loans identified in the CPDI to determine that no other loans were subject to *Pigford* debt forgiveness.

⁶ Further analysis of USDA's records indicates that the two Operating Loans, loan numbers 25 and 26, originated in 1989 and 1990 and both were rescheduled in 1994. These Operating Loans, therefore, were subject to forgiveness under "forward sweep" because they originated after the date of the event that formed the basis of the finding of discrimination. Both Operating Loans, loan numbers 25 and 26, were resolved through "debt settlement." There were no refundable payments or offsets associated with these loans.

⁷ In some cases, such as this one, a loan had been rescheduled or reamortized and the origination of the loan was no longer reflected in USDA's borrower database. In those cases, USDA provided the Monitor's office with archived records containing loan transactions dating back to the beginning of the class period.

Arrow #11 points to the origination of loan number 02 in USDA's archived records. Loan 41-24, therefore, appears to have originated as the 1983 FO that was identified in the Adjudicator decision as "affected by" discrimination.

Arrow #12 on the OBH points to a voluntary payment made on loan number 24 by the claimant after the date of the initial adjudicator decision.⁸

Arrow #13 points to a refund of one of the voluntary payments that had been made by the claimant on loan number 24. According to these records, the Claimant made voluntary payments that totaled \$24,613.50 after the initial adjudicator decision, all of which were refunded to the Claimant.

Arrow #14 points to the debt settlement of loan number 24 after the original Adjudicator decision. This debt settlement was processed in December 1999 (PRC DT) with an effective date of November 1, 1999.

Arrow #15 points to the subsequent reversal of this debt settlement of loan number 24 in December 1999 (PRC DT).

Arrow #16 points to the debt settlement of loan number 24. This debt settlement was processed on January 5, 2002 (PRC DT). It had an effective date (EFV DT) of November 1, 1999, the same date as the original Adjudicator decision. It appears, therefore, that the debt settlement of this loan after the original Adjudicator decision was reversed and reinstated after the August 30, 2001 amended Adjudicator decision.

ADPS Civil Rights Screenshot

The ADPS Civil Rights Screenshot accurately reflects the relief for this claimant. **Arrow #17** points to years (1983 through 1996) and loan programs (OL and FO) for which this claimant is entitled to relief.

⁸ Some transactions in this OBH reflect deferral or set aside activity that do not involve any refundable payments. There were no offsets associated with this loan.

ADMI0023

ADPS

OPR ID

CURRENT/PAST DEBTS INQUIRY

12/12/06

06:44:53

PAGE 0002

MORE

BORROWER ID: NAME

SCHEDULE STATUS 208,371.06 B TRAINING CODE

RECAPTURE DUE TRAINING EFFECTIVE DATE 000000

RECOMMEND RESTRICTION CR TRAINING COMPLETION DATE 000000

DATE TRAINING CDE PROCESSED 000000

STATE/ COUNTY	FD OFFICE	LN CD	DATE OF LOAN	LOAN AMOUNT/ UNPAID PRIN AND INTEREST	LAST PAYMENT DATE	FULLY PAID CODE	LOAN STATUS	ACT/ COLL	CR BUR STAT CODE
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	44	06	03/21/88	87,000.00	11/28/88	R00		0	
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	44	07	03/15/88	3,101.83	10/20/88	T05		0	
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	44	08	05/15/89	81,543.24	02/22/90	T05		0	
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TOTAL OF 00 LOANS FOR THIS BORROWER
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 TO PAGE BACKWARD PRESS PA2 OR ENTER PAGE NUMBER



#1

ADMI0023

ADPS

OPR ID [REDACTED]

CURRENT/PAST DEBTS INQUIRY

12/12/06

06:44:53

PAGE 0003

MORE

BORROWER ID: [REDACTED]

NAME [REDACTED]

SCHEDULE STATUS 208,371.06 B

TRAINING CODE

RECAPTURE DUE

TRAINING EFFECTIVE DATE 000000

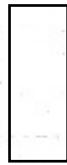
RECOMMEND RESTRICTION CR

TRAINING COMPLETION DATE 000000

DATE TRAINING CDE PROCESSED 000000

STATE/ COUNTY OFFICE	FD CD	LN NBR	DATE OF LOAN	LOAN AMOUNT/ UNPAID PRIN AND INTEREST	LAST PAYMENT DATE	FULLY PAID CODE	LOAN STATUS	ACT/ COLL	CR BUR STAT CODE
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[REDACTED]	44	10	04/16/90	46,002.67	03/21/05	[REDACTED]	62,306.21	B 0	C
[REDACTED]	44	11	04/16/90	48,456.76	06/22/90	[REDACTED]	102,334.06	B 0	C

TOTAL OF 00 LOANS FOR THIS BORROWER
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 TO PAGE BACKWARD PRESS PA2 OR ENTER PAGE NUMBER



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ADMI0023

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12/12/06

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PAGE 0004

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BORROWER ID: [REDACTED]

NAME [REDACTED]

SCHEDULE STATUS 208,371.06 B

TRAINING CODE

RECAPTURE DUE

TRAINING EFFECTIVE DATE 000000

RECOMMEND RESTRICTION CR

TRAINING COMPLETION DATE 000000

DATE TRAINING CDE PROCESSED 000000

STATE/ COUNTY	FD LN	DATE OF LOAN	LOAN AMOUNT/ UNPAID PRIN AND INTEREST	LAST PAYMENT DATE	FULLY PAID CODE	LOAN STATUS	ACT/ COLL	CR BUR STAT CODE
[REDACTED]	44 12	06/17/91	83,000.00	05/23/01	S00		3	J
[REDACTED]	44 98	02/13/02	350.00			350.00	A B 0	C
[REDACTED]	44 99	10/04/94	.00		Z99		B 0	

LIST COMPLETE
PRESS PA3 FOR NEW BORROWER INQUIRY

#3

#4

AWMI18
ADPS
OPR ID

SUMMARY
INQUIRY CODE OH
ONLINE BORROWER HISTORY INQUIRY

12/12/06
09:21:44
PAGE 01
END

BASE NUMBER [REDACTED]
LOAN NUMBER: 12 FUND CODE 44 NOTE RATE 05.0000 LOAN AMOUNT 83,000.00
DATE LOAN OBLGN 09/30/91 ASSISTANCE TYPE 000

DESC	TC	S	INT	RT	EFV	DT	CONTROL	AMT	INT PAID	PRIN PAID	PRC	DT
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DBT STTLMT	3K	S	05.000		052301			123,443.28	40,443.28	83,000.00		071801
CASH ADVNC	F1	.	05.000		120491			9,900.00				112691
CASH ADVNC	F1	.	05.000		103191			5,000.00				102491
CASH ADVNC	F1	.	05.000		101691			5,000.00				100891
CASH ADVNC	F1	.	05.000		091291			10,000.00				090591
CASH ADVNC	F1	.	05.000		081391			13,000.00				080691
CASH ADVNC	F1	.	05.000		071891			20,000.00				071191
CASH ADVNC	F1	.	05.000		070991			20,000.00				070191
CASH ADVNC	1F	.	05.000		061791			100.00				061891

CHECK DETAIL HISTORY SCREEN FOR TRANSACTIONS



#5



#6

ADMUCR01

ADPS
OPR ID [REDACTED]

APPROVED CIVIL RIGHTS CLAIM PRIORITY ACTIVITY
VIEW MODE

12/13/06
12:05:35
PAGE 001
MORE

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CLAIMANT NME	[REDACTED]	AJUDCTR DECISION DTE	052301
ADDRESS-1	[REDACTED]	DATE RECVD FROM OGC	071601
ADDRESS-2	[REDACTED]	DATE RECVD BY FLP	071801
CITY	[REDACTED]	DATE PRIORITY EXPIRES	041405
STATE ABBR	[REDACTED]	TTL WRITE OFF AMT	123443.28
RACE DESC CODE 2	[REDACTED]	DATE PRIORITY LETTER	101900
CLAIMANT STATUS	[REDACTED]		

-----LOAN TYPE/YEAR CLAIMED FOR DISCRIMINATION INFORMATION-----

LOAN TYPE YEAR-1981	LOAN TYPE YEAR-1982
LOAN TYPE YEAR-1983	LOAN TYPE YEAR-1984
LOAN TYPE YEAR-1985	LOAN TYPE YEAR-1986
LOAN TYPE YEAR-1987	LOAN TYPE YEAR-1988
LOAN TYPE YEAR-1989	LOAN TYPE YEAR-1990
LOAN TYPE YEAR-1991 OL	LOAN TYPE YEAR-1992 OL
LOAN TYPE YEAR-1993 OL	LOAN TYPE YEAR-1994 OL
LOAN TYPE YEAR-1995 OL	LOAN TYPE YEAR-1996 OL

F9 - UPDATE, F10 - DELETE CLAIM, F11 - REFRESH, CLEAR - EXIT, ENTER - PAGE 2

#7

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CURRENT/PAST DEBTS INQUIRY

12/12/06
06:49:29
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***END**

BORROWER ID: [REDACTED] NAME [REDACTED]
SCHEDULE STATUS .00 TRAINING CODE
RECAPTURE DUE TRAINING EFFECTIVE DATE 000000
RECOMMEND RESTRICTION CR TRAINING COMPLETION DATE 000000
DATE TRAINING CDE PROCESSED 000000

STATE/ COUNTY OFFICE	FD CD	LN NBR	DATE OF LOAN	LOAN AMOUNT/ UNPAID PRIN AND INTEREST	LAST PAYMENT DATE	FULLY PAID CODE	LOAN STATUS	ACT/ COLL	CR BUR STAT CODE
[REDACTED]	41	24	08/15/94	144,472.03	11/01/99	S03		0	J
[REDACTED]	44	25	08/15/94	6,478.86	04/15/98	S00	A	0	J
[REDACTED]	44	26	08/15/94	44,739.24	11/01/99	S00	A	0	J

LIST COMPLETE
PRESS PA3 FOR NEW BORROWER INQUIRY

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#8 #9

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SUMMARY
INQUIRY CODE OH
ONLINE BORROWER HISTORY INQUIRY

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09:28:08
PAGE 07
END

CASE NUMBER	[REDACTED]	NAME	[REDACTED]	LOAN NUMBER: 24	FUND CODE 41	NOTE RATE 05.0000	LOAN AMOUNT *	144,472.03
DESC	TC S	INT RT	EFV DT	CONTROL AMT	INT PAID	PRIN PAID	PRC DT	
INT SETASD	5S .	05.000	020199	3,364.42	.....	.....	070799	
NOTE SETSD	5S .	05.000	020199	10,869.59	3,364.42	7,505.17	070799	
DFRL SETSD	5S .	05.000	020199	538.41	538.41	.....	070799	
DFRL EXP	Y5 .	05.000	081598	.....	.....	.....	083198	
DFRL EXP	Y5 .	.....	081598	28,894.41-	.....	.....	083198	
DFRL EXP	Y5 .	.....	081598	28,894.41	.....	.....	083198	
PMT NOTE	2B R	05.000	041598	3.00	3.00	.....	042198	
PMT NOTE	2A R	05.000	022097	1.00	1.00	.....	022597	
PMT NOTE	2A R	05.000	122995	1.00	1.00	.....	011196	
PMT NOTE	2A R	05.000	123094	1.00	1.00	.....	011295	
LN DFRL	5W D	.....	081594	28,894.41	.....	.....	081894	
LN TRANSFD	1M .	05.000	081594	144,472.03	.....	.....	081594	
LN TRANSFD	1M .	.....	.....	TRANSFERRED FR 48 017 0413202613 LN 23			081594	



#10

	KD	FD	INT/RT	LM	ADU	INT. CR.	PRI. CR.	TOT. CR	TC	DAT/CHG	DAT/DEP	FOCAL	DAT-L
2398	0194	10	250	01	4300000				IF	110383		952745	092483
	LOAN TOTALS		01	4300000								952745	
6069	0041	10	750	02	8700000				IF	110383		2021677	092483
	LOAN TOTALS		02	8700000								2021677	
	YEAR 1983 TOTAL			13000000								2974422	

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No Activity 1974-1982

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SUMMARY
INQUIRY CODE OH
ONLINE BORROWER HISTORY INQUIRY

12/12/06
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PAGE 05
MORE

CASE NUMBER [REDACTED] NAME [REDACTED]
LOAN NUMBER: 24 FUND CODE 41 NOTE RATE 05.0000 LOAN AMOUNT * 144,472.03
DATE LOAN OBLGN 09/30/91 ASSISTANCE TYPE 000

DESC	TC	S	INT	RT	EFV	DT	CONTROL	AMT	INT PAID	PRIN PAID	PRC	DT
PMT NOTE	2A	R	05.000		091300			199.00	199.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			115.00	115.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			179.00	179.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			1,101.00	1,101.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			204.00	204.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			370.00	370.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			1,226.00	1,226.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			33.00	33.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			145.00	145.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			1,056.00	1,056.00	.....	091800	
DFRL	3K	S	.....		110199			28,894.41-	28,894.41-	.....	121399	
RV DBT SMT	3K	S	05.000		110199			53,239.32-	8,767.28-	44,472.04-	121399	
RV DBT SMT	3K	S	05.000		110199			99,999.99-	99,999.99-	121399	
RC INT ISA	5T	.	05.000		110199			538.41	121399	

#12

AWMI18

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SUMMARY

INQUIRY CODE OH

ONLINE BORROWER HISTORY INQUIRY

12/12/06

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PAGE 02

MORE

CASE NUMBER	[REDACTED]	NAME	[REDACTED]									
LOAN NUMBER:	24	FUND CODE	41	NOTE RATE	05.0000	LOAN AMOUNT *	144,472.03					
DATE LOAN OBLGN	09/30/91	ASSISTANCE TYPE	000									
DESC	TC	S	INT	RT	EFV	DT	CONTROL	AMT	INT PAID	PRIN PAID	PRC	DT
REFUND	2R	V	.....	111301			1,785.00				010202	
PMT RVRSL	2U	V	05.000	111301			1,525.30-	1,525.30-			010202	
DFRL	2U	V	.....	111301			259.70-	259.70-			010202	
REFUND	2R	R	.....	082301			176.00				010202	
PMT RVRSL	2U	R	05.000	082301			166.50-	166.50-			010202	
DFRL	2U	R	.....	082301			9.50-	9.50-			010202	
REFUND	2R	R	.....	082001			7,828.00				010202	
PMT RVRSL	2U	R	05.000	082001			6,744.85-	6,744.85-			010202	
DFRL	2U	R	.....	082001			1,083.15-	1,083.15-			010202	
REFUND	2R	R	.....	091300			9,247.00				010202	
PMT RVRSL	2U	R	05.000	091300			8,537.57-	8,537.57-			010202	
DFRL	2U	R	.....	091300			709.43-	709.43-			010202	
RV INT ISA	5T	.	05.000	020100			1,152.82-				010202	
RV PRN ISA	5T	.	05.000	020100			1,002.18-				010202	

#13



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SUMMARY
INQUIRY CODE OH
ONLINE BORROWER HISTORY INQUIRY

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PAGE 06
MORE

CASE NUMBER	NAME	LOAN NUMBER: 24	FUND CODE 41	NOTE RATE 05.0000	LOAN AMOUNT *	144,472.03	DATE LOAN OBLGN 09/30/91	ASSISTANCE TYPE 000	DESC	TC	S	INT	RT	EFV	DT	CONTROL	AMT	INT PAID	PRIN PAID	PRC	DT																																																																																																																	
RC PRN	ISA	5T	.05.000	110199	7,505.17	121399	RC INT	ISA	5T	.05.000	110199	3,364.42	121399	RC ISA	NT	5T	.05.000	110199	10,869.59	3,364.42	7,505.17	121399	RC ISA	DFR	5T	.05.000	110199	538.41	538.41	121399	DFRL	3K	S	110199	28,894.41	28,894.41	121099	DBT	STTLMT	3K	S	05.000	110199	53,239.32	8,767.28	44,472.04	121099	DBT	STTLMT	3K	S	05.000	110199	99,999.99	99,999.99	120699	CL	INT	ISA	5T	.05.000	110199	538.41-	120699	CL	INT	ISA	5T	.05.000	110199	3,364.42-	120699	CL	PRN	ISA	5T	.05.000	110199	7,505.17-	120699	CL	ISA	NT	5T	.05.000	110199	10,869.59-	3,364.42-	7,505.17-	120699	CL	ISA	DFR	5T	.05.000	110199	538.41-	538.41-	120699	INT	SET	ASD	5S	.05.000	020199	538.41	070799	PRIN	SET	ASD	5S	.05.000	020199	7,505.17	070799

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#14

AWMI18
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SUMMARY
INQUIRY CODE OH
ONLINE BORROWER HISTORY INQUIRY

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PAGE 05
MORE

CASE NUMBER [REDACTED] NAME [REDACTED]
LOAN NUMBER: 24 FUND CODE 41 NOTE RATE 05.0000 LOAN AMOUNT * 144,472.03
DATE LOAN OBLGN 09/30/91 ASSISTANCE TYPE 000

DESC	TC	S	INT	RT	EFV	DT	CONTROL	AMT	INT PAID	PRIN PAID	PRC	DT
PMT NOTE	2A	R	05.000		091300			199.00	199.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			115.00	115.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			179.00	179.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			1,101.00	1,101.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			204.00	204.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			370.00	370.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			1,226.00	1,226.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			33.00	33.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			145.00	145.00	.....	091800	
PMT NOTE	2A	R	05.000		091300			1,056.00	1,056.00	.....	091800	
DFRL	3K	S	.....		110199			28,894.41-	28,894.41-	.....	121399	
RV DBT SMT	3K	S	05.000		110199			53,239.32-	8,767.28-	44,472.04-	121399	
RV DBT SMT	3K	S	05.000		110199			99,999.99-	99,999.99-	121399	
RC INT ISA	5T	.	05.000		110199			538.41	121399	

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#15

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OPR ID [REDACTED]

SUMMARY
INQUIRY CODE OH
ONLINE BORROWER HISTORY INQUIRY

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PAGE 01
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CASE NUMBER [REDACTED] NAME [REDACTED]
LOAN NUMBER: 24 FUND CODE 41 NOTE RATE 05.0000 LOAN AMOUNT * 144,472.03
DATE LOAN OBLGN 09/30/91 ASSISTANCE TYPE 000

DESC	TC	S	INT	RT	EFV	DT	CONTROL	AMT	INT PAID	PRIN PAID	PRC	DT
DFRL	3K	S	.....		110199			28,894.41	28,894.41	.....		010502
DBT STTLMT	3K	S	05.000		110199			108,767.27	8,767.28	99,999.99		010502
DBT STTLMT	3K	S	05.000		110199			44,472.04	.....	44,472.04		010502
CL INT ISA	5T	.	05.000		110199			538.41-	.....	.....		010302
CL INT ISA	5T	.	05.000		110199			3,364.42-	.....	.....		010302
CL PRN ISA	5T	.	05.000		110199			7,505.17-	.....	.....		010302
CL ISA NT	5T	.	05.000		110199			10,869.59-	3,364.42-	7,505.17-		010302
CL ISA DFR	5T	.	05.000		110199			538.41-	538.41-	.....		010302
REFUND	2R	V	.....		120401			2,173.50	.....	.....		010202
PMT RVRSL	2U	V	05.000		120401			2,160.83-	73.93-	2,086.90-		010202
DFRL	2U	V	.....		120401			12.67-	12.67-	.....		010202
REFUND	2R	V	.....		113001			3,404.00	.....	.....		010202
PMT RVRSL	2U	V	05.000		113001			3,350.16-	2,297.19-	1,052.97-		010202
DFRL	2U	V		113001			53.84-	53.84-		010202

#16

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ADPS

OPR ID [REDACTED]

APPROVED CIVIL RIGHTS CLAIM PRIORITY ACTIVITY
VIEW MODE

12/13/06

12:21:01

PAGE 001

MORE

CLAIM NUMBER	[REDACTED]	SOCIAL SECURITY NBR	[REDACTED]
CLAIMANT NME	[REDACTED]	AJUDCTR DECISION DTE	083001
ADDRESS-1	[REDACTED]	DATE RECVD FROM OGC	041702
ADDRESS-2	[REDACTED]	DATE RECVD BY FLP	043002
CITY	[REDACTED]	DATE PRIORITY EXPIRES	041405
STATE ABBR	[REDACTED]	TTL WRITE OFF AMT	245913.49
RACE DESC CODE 2	[REDACTED]	DATE PRIORITY LETTER	101900
CLAIMANT STATUS	[REDACTED]		

-----LOAN TYPE/YEAR CLAIMED FOR DISCRIMINATION INFORMATION-----

LOAN TYPE YEAR-1981	LOAN TYPE YEAR-1982
LOAN TYPE YEAR-1983 OL FO	LOAN TYPE YEAR-1984 OL FO
LOAN TYPE YEAR-1985 OL FO	LOAN TYPE YEAR-1986 OL FO
LOAN TYPE YEAR-1987 OL FO	LOAN TYPE YEAR-1988 OL FO
LOAN TYPE YEAR-1989 OL FO	LOAN TYPE YEAR-1990 OL FO
LOAN TYPE YEAR-1991 OL FO	LOAN TYPE YEAR-1992 OL FO
LOAN TYPE YEAR-1993 OL FO	LOAN TYPE YEAR-1994 OL FO
LOAN TYPE YEAR-1995 OL FO	LOAN TYPE YEAR-1996 OL FO

F9 - UPDATE, F10 - DELETE CLAIM, F11 - REFRESH, CLEAR - EXIT, ENTER - PAGE 2

#17

Exhibit 2

INFORMATION MEMO FOR THE MONITOR
MEMO # 4

FROM: Carolyn B. Cooksie
Deputy Administrator for
Farm Loan Programs

SUBJECT: Criteria for Discharging Loans under the Consent Decree

USDA's criteria for discharging debts under the Consent Decree is based on the Consent Decree itself and the February 7, 2001 Stipulation and Order. Relevant to the discharge of debts, those documents provide as follows:

1. Consent Decree dated April 14, 1999

As per paragraph 9 (a) (iii) (A):

"USDA shall discharge all of the class member's outstanding debt to USDA that was incurred under, or affected by, the program(s) that was/were the subject of the ECOA (Equal Credit Opportunity Act) claim(s) resolved in the class member's favor by the adjudicator."

As per paragraph 10 (g) (ii):

"USDA shall discharge all of the class member's outstanding debt to the Farm Service Agency that was incurred under, or affected by, the program(s) that were the subject of the claim(s) resolved in the class member's favor by the arbitrator."

2. Stipulation and Order dated February 7, 2001

As per paragraph 2:

"The relief to be provided in paragraph 9 (a) (iii) (A) & 10 (g) (ii) of the Consent Decree to a class member who prevails on a claim of credit discrimination includes all debts which were identified by the Adjudicator or the Arbitrator as having been affected by the discrimination. * Additionally, such relief includes all debts incurred at the time of, or after, the first event upon which a finding of discrimination is based, except that such relief shall not include: (a) debts that were incurred under FSA programs other than those as to which a specific finding

of discrimination was made by the Adjudicator or Arbitrator with respect to the class member (e.g., the Operating Loan program (OL program), the Farm Ownership loan program (FO), the Emergency Loan program (EM program), etc.): (b) debts that were incurred by the class member prior to the date of the first event upon which the Adjudicator's or Arbitrator's finding of discrimination is based, or (c) debts that were the subject of litigation separate from this action in which there was a final judgement as to which all appeals have forgone or completed."

- * "Debts "affected by" the discrimination will not be forgiven to the extent that they were the subject of separate litigation in which there was a final judgement as to which all appeals have been forgone or completed."

Scenarios

(a) If the Adjudicator or Arbitrator determines that the claimant prevails on his or her credit claim(s) and is entitled to a cash payment and that a specific debt or debts is to be discharged (such as an Operating loan (OL) for 1984) then:

Any amount outstanding for the 1984 OL and any other OL s made after the 1984 OL up to December 31, 1996 will be discharged.

If no amount is outstanding for the 1984 OL, but other OLs made after the 1984 OL are outstanding, these OLs made up to December 31, 1996 will still be discharged.

No other types of loans, such as EM or FO loans, will be discharged, unless USDA determines that an outstanding EM clearly was made for operating purposes.

No OLs made prior to the 1984 OL named by the Adjudicator or Arbitrator will be discharged, (for instance, a 1983 OL would not be discharged), unless the Adjudicator or Arbitrators' decision makes a finding of discrimination on a year prior to 1984. For example, if the decision also found discrimination in the denial of a 1982 OL, any outstanding OLs from 1982 (rather than 1984) up to December 31, 1996, will be discharged..

(b) If the Adjudicator or Arbitrator determines that the claimant is entitled to a cash payment but does not identify any loans to be discharged in the decision, then:

Any outstanding debts made from the year of the finding(s) of discrimination up to December 31, 1996, will be discharged. For example, if the finding of

discrimination concerns the denial of an application for a 1982 OL, then any outstanding OLs made from 1982 up to December 31, 1996 will be discharged.

No other types of loans, such as EM or FO loans, will be discharged, unless USDA determines that an outstanding EM clearly was made for operating purposes.

- (c) Same case scenario as (a) above, but in addition, the Adjudicator or Arbitrator also identifies a 1995 EM loan to be discharged. Then, in addition to what the claimant receives in (a), he or she is also entitled to:

The discharge of all EM loans with amounts outstanding made after the identified 1995 EM loan up to December 31, 1996, even if the identified loan did not have any outstanding balance.

Relief Not Ordered by the Consent Decree

A decision was made by USDA to refund offsets taken by USDA, between January 1, 1999 and the date of the Adjudicator's Decision, to claimants who prevail on Farm Loan issues.

Exhibit 3

MAY 2005

INFORMATION MEMO FOR THE MONITOR

MEMO #6

FROM: Carolyn B. Cooksie
Deputy Administrator for
Farm Loan Programs *Carolyn B. Cooksie*

SUBJECT: Interpreting USDA Computer and Archived Records

This Memorandum describes the operation of the Farm Service Agency's (FSA) (and its predecessor, the Farmers Home Administration) computer database and archived records for farm loans. This Memorandum supercedes Monitor Information Memos #2 and #3, both issued on September 25, 2001, and Assistant Deputy Administrator Almeda (Dee) Cole's letter to the Office of the Monitor, dated June 27, 2001.

1. Structure of FSA Program Loan Computer Records.

All of FSA's electronic data for direct loans is stored on a mainframe computer in a database called the Program Loan Accounting System (PLAS). The information stored in PLAS includes, but is not limited to, direct loan program types, amounts, disbursements, payments, transfers, charges, case number changes, servicing, and debt settlement. PLAS contains information dating back to 1974, although an on-line history of a borrower's loan transactions is available only from 1989, onward. FSA uses the Automated Discrepancy Processing System (ADPS) to input and retrieve data to and from PLAS. ADPS uses the Alpha Cross Reference to search by name to find a borrower's identification number, commonly referred to as the "borrower's case number", which consists of a state code, a county code, and the borrower's social security number, tax identification number, or six or seven digit assigned number. Using this case number, ADPS can retrieve loan information about a borrower through a Current / Past Debts Inquiry (CPDI) or a Listing of All Loans Submenu (LA). The CPDI is an inquiry that provides the capability to screen applicants who have had previous loans or have current loans. This document is an online process that accesses the data base by case number and provides a summary of all open and fully paid loans, operating-type credit cost items, and amounts vouchered but unclosed that are stored on the database at the time of the inquiry. The LA is a submenu screen that lists all loans and operating-type credit cost items for the requested case number. The LA provides access to submenu screens for loan inquiry by program type. LA screens were submitted in USDA responses to claims on a non-significant number of cases (less than 10%).

a. 450-11 Annual Statements (Archived Records)

Once each year, the accounting information in PLAS for all borrowers for the previous calendar year is copied to microfiche as a 450-11 Annual Statement. The 450-11 Microfiche are stored at FSA's St. Louis Finance Office and exist for each year from 1974 through the present. The 450-11 Microfiche for each year are organized by state

code, then county code, and then the borrower's case number. For the years 1981 through 1984, the Finance Office also maintains a set of microfiche organized by borrower's last names, then the state, county, and case number. To search the 450-11 Microfiche for a borrower's loan records, the accurate state code, county code, and borrower case number and/or name must be used.

b. Purged Records from PLAS

There have been three purges of paid or settled farm loans to free up storage space on the mainframe computer with the last occurring on August 21, 1993. Because the record purges were conducted based on loan resolution criteria that were applied to loans only on the date of the purge, it is possible for a borrower's CPDI or LA screen to show all open loans, a mixture of paid and open loans, or all paid or settled loans. It is also possible that some of a borrower's past loans will not appear at all on a CPDI or LA screens or that there will be no CPDI record of a past borrower because all of that borrower's loans were resolved and met the criteria for the August 21, 1993 purge. PLAS contains a complete record of all loans that remained on PLAS or were issued after August 21, 1993.

All loan information pertaining to purged files were preserved on 450-11 Microfiche. These purged records were preserved on microfiche as Repak Fiche. FSA does not use Repak Fiche in searching for a borrower's past loan information because the 450-11 Microfiche includes all the loan records of borrowers and is the most complete set of microfiche available to FSA.

c. Guaranteed Loans

Information regarding guaranteed loans was initially entered into PLAS through ADPS until May 2001. Upon closing a guaranteed loan, however, the information regarding that loan is transferred to a separate database, the Guaranteed Loan Accounting System (GLAS). Since May 2001, guaranteed loans are initially entered into GLS and the obligation is updated to PLAS. After the transfer, only minimal information is retained in PLAS regarding the guaranteed loan. If the CPDI includes a statement that the borrower received only guaranteed loans, it could mean either that the borrower never received direct loans, or that the borrower had received direct loans that had been purged, leaving only records of the guaranteed loans in PLAS.

2. Rounding Loan Obligations to the Nearest \$10.

When FSA approves a new loan, the loan amount is rounded to the nearest \$10. The Agency uses standard rounding rules when it approves a loan (for example, a loan request of \$255 will be rounded up to \$260 and a request of \$254 will be rounded down to \$250). Any loan that has an original loan amount that is not in a multiple of \$10 is likely the result of the restructuring of an existing loan, not a new loan.

3. Loan Amounts

The CPDI includes a column for the loan amount. For most open loans, other than those with a Fully Paid Code (Fully Paid Code field is blank), the amount reflected in this column will be identical to the amount obligated. A list of Fully Paid Codes is attached

to this memo as Exhibit B. For most CPDI loan records, except as discussed below for restructuring or debt settlement, a loan amount rounded to the nearest \$10, followed by one of the Fully Paid Codes in Exhibit B, represents the amount of the original loan obligation. However, there may be select cases involving bankruptcy and assumptions where the loan amount may not represent the original loan obligation.

a. Loan Amounts After Restructuring or Debt Settlement.

When a loan has been resolved by restructuring (Fully Paid Code T05), PLAS inserts in the Loan Amount column on the CPDI the amount of principal that had been paid on the original obligation prior to the restructuring. If no principal had been paid on the original loan balance by the date of loan servicing, ".00" would appear in the Loan Amount column. As a result, if the CPDI indicates that a loan has been resolved by restructuring, it is not possible to determine from the figure in the Loan Amount column, whether the loan that was restructured was initially a new loan or a previous loan restructuring. The on-line borrower history (for loans issued from 1989 onward) and the 450-11 Microfiche would indicate the original amount for a loan that was restructured.

When a loan is resolved by debt settlement (Fully Paid Code S00 or S03), PLAS will usually reflect the original loan amount on the CPDI. However, some types of debt settlement will reflect a different amount. The CPDI column marked "Last Payment Date" indicates the last time a payment was credited to the borrower's account, but is not necessarily the same date that a loan servicing or debt settlement action took place.

4. Consecutively Numbered Loans.

When a FSA direct or guaranteed farm loan is obligated for an individual, it is automatically assigned a 2 digit number by PLAS. For each borrower, the loan numbers begin with 01 and are assigned sequentially. The numbers are assigned based on the order that the direct or guaranteed loan is obligated or when a loan is restructured. As long as that loan transaction resides in PLAS for that borrower's specific loan number, the same loan number cannot be used for another loan for that borrower's specific case number.

a. Non-sequential Loan Numbers. Although the loan numbers are assigned in sequential order when obligated, they may not appear as such on the CPDI or the 450-11 Microfiche records due to the following:

- A loan number may be missing from the sequence in the CPDI, because the loan was resolved and purged from PLAS.
- Loan number 74, 75, and 76 can never be used.
- A loan may have been approved and the funds obligated, but not closed. Then the loan is cancelled. The loan would not appear on the CPDI and/or Microfiche.
- In processing a restructuring transaction (IM) for an outstanding loan, the Agency could skip the next available loan number because of processing complications.
- When a guaranteed loan is obligated, it is assigned the next available number in the sequence. However, when that same loan is closed in the Guaranteed Loan

Accounting System (GLAS) the loan number for the first guaranteed loan that the borrower receives becomes 50. The obligation loan number associated with that guaranteed loan would not appear in a CPDI; however, in most cases, the CPDI would contain a notation that the borrower received guaranteed loans. *Note: The 450-11 Microfiche for this borrower would show a break in sequence if this same borrower receives another direct loan in the future.*

b. Recoverable Cost Items and Protective Advances. Loan charges, such as taxes, advertising and filing fees, fees for filing financing statements, etc., that are paid by FSA on all loans, other than real estate, are charged to the borrower's account and are assigned loan numbers in PLAS starting with 99 and then following in descending order. These loan numbers will appear in the CPDI and/or 450-11 Microfiche.

NOTE: It is possible that in later years of the Consent Decree class period, PLAS could assign to a new loan obligation a loan number that had been previously used for a borrower's loan portfolio. This could happen in a situation where the loan for which the number was originally used was resolved and removed from PLAS.

5. Transaction Codes.

All disbursements, payments, charges, servicing actions, and debt settlements are classified by particular transaction codes. A list of these codes is attached to this memo as Exhibit C. These codes are available through the ADPS On-line Borrower History and are reflected in the 450-11 Microfiche in a column labeled "TC." Code 1F generally represents the initial disbursement of loan funds and the date of loan closing. Code F1 (the reverse) is a computer generated code that generally reflects a subsequent disbursement of the same loan. However, Code F1 can also represent the initial disbursement of loan funds and the date of loan closing. The 1F/F1 Transactions may appear on the 450-11 Microfiche singularly or in combination to reflect multiple fund disbursements on the loan. If the amounts of the 1F/F1 Transactions total the amount of the loan, then the records are complete regarding the origination of the loan. Codes 2A, 2B, 2X, and 2Y represent various forms of regular payments by the borrower.

Code 1M represents loan servicing or restructuring. When a loan is restructured a 1M transaction code will appear for the last transaction for the original loan number, and a 1M transaction code will appear for the first transaction of the new loan number, typically with the same transaction date.

Note: A complete listing of transaction codes utilized in servicing direct and guaranteed farm loans can be provided as requested.

EXHIBITS

Exhibit A – Listing of Valid Current/Past Debts Inquiry and Other Farm Loan Status Screen Funds Codes and Descriptions

Exhibit B – Listing of Valid Farm Loan Fully Paid Codes and Descriptions

Exhibit C – Copy of Forms Manual Insert – Form FmHA 451-26. pg. 2- Listing Applicable Transactions Codes utilized in PLAS

Exhibit A

VALID CURRENT/PAST DEBTS INQUIRY AND OTHER FARM LOAN STATUS SCREEN FUND CODES AND DESCRIPTIONS	
LOAN FUND CODES	LOAN DESCRIPTIONS
00	GRANTS
01	DIRECT FARM OPERATING
13	DIRECT EMERGENCY
14	SPECIAL LIVESTOCK
15	EMERGENCY LIVESTOCK
17	PUERTO RICO HURRICANE RELIEF
22	RURAL REHABILITATION
24	WATER FACILITIES
25	FLOOD DAMAGE
26	EMERGENCY CROP AND FEED
29	INSURED ECONOMIC EMERGENCY
31	DIRECT FARM OWNERSHIP JANUARY BILLING
32	DIRECT FARM OWNERSHIP MARCH 31ST BILLING
33	DIRECT FARM OWNERSHIP (SRRC) JANUARY BILLING
34	DIRECT FARM OWNERSHIP (SRRC) MARCH BILLING
35	DIRECT SOIL / WATER
36	DIRECT RURAL HOUSING (INDIVIDUAL)
37	DIRECT RURAL HOUSING (SENIOR CITIZEN)
38	DIRECT RECREATION
39	SOIL / WATER (BRLF)
40	INSURED EMERGENCY REFINANCED
41	INSURED FARM OWNERSHIP JANUARY BILLING
42	INSURED FARM OWNERSHIP MARCH 31ST BILLING
43	INSURED EMERGENCY
44	INSURED FARM OPERATING
45	INSURED SOIL AND WATER
46	INSURED RURAL HOUSING (INDIVIDUAL)
47	INSURED RURAL HOUSING (SENIOR CITIZEN)
48	INSURED RECREATION
49	INSURED FARM OWNERSHIP FOR NON-FARM ENTERPRISE
74	DIRECT SOIL AND WATER - GRAZING AND OTHER SHIFTS IN LAND USE
76	DIRECT SOIL AND WATER TO ASSOCIATIONS - IRRIGATION, DRAINAGE, SOIL
94	INSURED SOIL AND WATER TO ASSOCIATIONS - GRAZING AND OTHER SHIFTS IN LAND USE
96	INSURED SOIL AND WATER TO ASSOCIATIONS - IRRIGATION, DRAINAGE, SOIL
98	INSURED INDIAN LAND ACQUISITION

Exhibit B

VALID FARM LOAN FULLY PAID CODES AND DESCRIPTIONS							
DESCRIPTION	SOIL & WATER	RURAL HOUSING	FARM OWNERSHIP	OPERATING LOAN	EMERGENCY LOAN	RECR LOAN	ALL LOANS
JUDGMENT	A07	A00	A03	A00	A00/A03	A03	
ACQUIRED PROPERTY	C07	C00	C03	C00	C00/C03	C03	
DEFALCATION	D07	D00	D03	D00	D00/D03		
CONSERVATION EASEMENT	E07	E00	E03	E00	E00/E03	E03	
SALE OF FARM - OUTSIDE PROGRAM			G04				
ANY OTHER REASON (EXTRA PAYMENT)	G07	G00	G07	G00	G00/G07		
REFINANCING	H07	H00	H07				
LOST REMITTANCE	I07	I00	I07	I00	I00/I07		
3M CANCELLATIONS				M00	M00		
3S SUBSIDY PAYMENT		J00					
NET RECOVERY BUYOUT / SHARED APPRECIATION WRITEDOWN (FOR FARM SERVICE BUILDINGS ONLY)		Q00					
NET RECOVERY BUYOUT / SHARED APPRECIATION WRITEDOWN	Q07		Q03	Q00	Q00/Q03		
ANY OTHER REASON (REGULAR PAYMENT)	R07	R00	R07	R00	R00/R07		
WRITEOFF - OTHER THAN PL 878				S00	S00		
WRITEOFF - PL 878				W00	W00		
WRITEOFF	S07	S00	S03			S03	
SALE OF FARM - INSIDE PROGRAM OR ASSUMPTION AGREEMENT - RESCHEDULE - REAMORTIZATION	T05	T05	T05	T05	T05	T05	
REFINANCED	Y01	Y01	Y01	Y01	Y01		
USED EXCEPT FOR REPORTING PURPOSES			Y02		Y02		
REFINANCE WITH DIRECT FP LOAN (NOT CURRENTLY USED EXCEPT FOR REPORTING PURPOSES)			Y06		Y06		
PAID IN FULL							R10
CREDIT SALE REVERSAL							T04
CASE NUMBER CHANGE PER FORM FMHA 450-10							Z97
ASSUMPTION AGREEMENT - SAME RATES AND TERMS							Z98
PAID IN FULL OR RETURNED CHECK							Z99
TRANSFER TO RURAL HOUSING		Z46					

Exhibit C

(Forms Manual Insert - Form RD 451-26)

- (6) Effective date of the Transaction: for example, on new loans, the date is the date the loan is closed.
- (7) Loan Code includes Kind of Account (K); Fund Code (F); and Loan Number (Ln No) of the loan to which the transaction is applicable. (Only the fund code and loan number shown in the heavily outlined portion should be used on documents prepared in County Offices requiring fund code and loan number).
- (8) Self-explanatory.
- (9) Applicable transaction code.

<u>Code</u>	<u>Name of Transaction</u>	<u>Code</u>	<u>Name of Transaction</u>
1D	Obligation Cancellation Only	3J	Debt Settlement - Operating Loan
1F	Loan Closing	3K	Debt Settlement - Real Estate Loan
1G	Credit Sale	3L	Writeoffs - Lease Account
1J	Cancellation of Closed Advance	3M	Disaster Credit
1L	Recoverable Loan Cost	3P	Noncash Credit - Third Party Judgment
1M	New Rates and Terms	3Q	Net Recovery Buyout
1O	Soil Conservation Service Advance	3R	Shared Appreciation Writedown
1P	Insurance Charge	3S	Subsidy Payment
1R	Default Charge	3T	Third Party Judgment
IV	Capitalized Interest	3V	Establish Equity Receivable
W	Loan Charge Adjustment	3Z	Interest Cancellation - Moratorium Period
2A or 2B	Field Office Collection	4E	Replacement of Interim Instruments
2C	Uncollectible - Field Office Collection	4G	Same Rates and Terms
2E	Acquired Property or Lease Payment	4J	Focal Interest Adjustment
2F	Payment Reversal/Reapplicable - Same Borrower	4L	Correction of Annual Installments
2U	Payment Reversal/Reapplication - Different Borrower	4M	Maturing of Account
2W	Uncollectible - Direct Payment	4P	Schedule Status Adjustment
2X or 2Y	Direct Payment	4S	Miscellaneous Adjustment
2Z	Reapplication- Correct Payment Type	4Z	Interest Credit Agreement
3B	Judgment	5G	Establish Descriptive Code - Deferral and Debt Set-Aside Only
3C	Default Credit	5H	Remove Descriptive Code- Deferral And Debt Set-Aside Only
3D	Acquisition - Chattel Property	5S	Record Debt Set-Aside
3E	Acquisition - Real Property	5T	Reverse Debt Set-Aside
3F	Employee Defalcation	5W	Record/Reverse Loan Deferral
3G	Noncash Credit - Administrative Adjustment	5Y	Loan Deferral Expiration/ Cancellation
3H	Conservation Easement		

2X Direct Payment - Initial Update (transaction record normally generated only for annual rural housing loans. A transaction record also is generated for monthly rural housing loans when the payment is a multiple loan application or unpaid balance is less than amount of 1 month's installment).

2Y Direct Payment - Subsequent Update (transaction record generated on both annual and monthly rural housing loans).