

## PIGFORD SETTLEMENT

Mrs. HAGAN. Madam President, I rise to associate myself with the remarks of the chair of the Agriculture Committee, Senator LINCOLN, as well as Senators GRASSLEY and LANDRIEU, concerning the importance of providing funding to pay the still pending claims of the Black farmers who were discriminated against by the U.S. Department of Agriculture. This case has North Carolina roots. Timothy Pigford, a Black farmer, was the focal point for this class action lawsuit. He grew up in Columbus County and had a farm in Bladen County, NC. He was first denied a Federal loan to buy a farm in 1976.

Mr. Pigford and others filed a lawsuit in the U.S. District Court for the District of Columbia against the U.S. Department of Agriculture, *Pigford v. Glickman*, alleging that the USDA maintained a pattern and practice of discrimination against Black farmers.

In 1999, the government settled the *Pigford v. Glickman* case, finding that thousands of African-American farmers were in fact discriminated against when applying for benefits that would help their farms.

Under the terms of the settlement, eligible farmers initially were required to submit completed claims packages by October 12, 1999. This deadline was subsequently extended by the court to September 15, 2000. Approximately 61,000 petitions were filed after the original October 1999 deadline but before the September 2000 late filing deadline. Of these 61,000 petitions, only around 2,500 were permitted to proceed to a determination on the merits. Over 25,000 additional petitions were filed after the September 2000 late filing deadline and before the May 2008 enactment of the 2008 farm bill.

It is quite clear that inadequate notice was provided to those who had viable claims of discrimination against the USDA. Because of this inadequate notice, many farmers were denied participation in the Pigford claims resolution process as late filers.

The 2008 farm bill provided \$100 million to pay the outstanding claims of the so-called late filers. However, the amount of money that was set aside in the farm bill for the settlement is totally inadequate to satisfy the damages that more than 4,000 African-American farmers in North Carolina, and a total of 75,000 nationwide, could be eligible to receive.

Last February, Agricultural Secretary Tom Vilsack reached a settlement agreement with the farmers who filed claims after the deadline set by the court who were originally denied a determination of their Pigford claims. This settlement agreement provides, once and for all, sufficient awards for farmers who were the victims of discrimination at the hands of their own government, the U.S. Department of Agriculture.

The Federal Government has failed to live up to its obligations to our Black farmers, including more than 4,000 in my State of North Carolina.

Today the Senate has the opportunity to live up to its obligations and right this wrong. I believe it is imperative that we address this inequity for Black farmers across the country, including those in North Carolina, and I hope we are able to reach an agreement to resolve this issue today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURRIS. Madam President, even though he has left the floor, I would like to thank the distinguished Senator from Wyoming for permitting me to proceed. I want to comment on what the distinguished Senator from North Carolina spoke on because that is my topic as well. We hope to be able to bring up this issue on the Senate floor and get some justice for the Black farmers.

I come to the floor today to speak about justice and the Department of Agriculture. Let me go back a few years.

Though civil rights legislation in the 1960s was supposed to have outlawed racial discrimination, at least on the Federal level, a 1982 report issued by the Civil Rights Commission stated that the USDA was "a catalyst in the decline of the black farmer."

That year, African-American farmers received only 1 percent of all farm ownership loans, only 2.5 percent of all farm-operating loans, and only 1 percent of all soil and water conservation loans. That year, too, the Reagan administration closed the USDA's Civil Rights Office—the very arm that investigated discrimination complaints.

Adding insult to injury, when African-American and other minority farmers filed complaints, the USDA did little to address them. In 1983, President Reagan pushed through budget cuts that eliminated the USDA Office of Civil Rights—and officials admitted they "simply threw discrimination complaints in the trash without ever responding to or investigating them" until 1996, when President Clinton ordered the office re-opened.

Even when there were legal findings of discrimination at USDA, they often went unpaid—and those that did get paid, the money often came too late, since the farm had already been foreclosed.

In 1984 and 1985, the USDA lent \$1.3 billion to farmers nationwide to buy land. Of the almost 16,000 farmers who received those funds, only 209 were Black. By 1992, in North Carolina, the number of Black farms had fallen to 2,498, a 64 percent drop since 1978.

In Illinois, there are many similar stories. As a child growing up on the family farm in west central Illinois, Lloyd Johnson remembers cropland extending for miles around, all of it owned by African-Americans like him-

self. "For a stretch of four miles, it was black-owned land," the 66-year-old farmer recalls. "Now there's mighty few."

Today, Johnson's farm in Alton, IL, is one of just 59 run by African Americans across the State, down from 123 in 1997, according to revised figures from a 2002 census. As farming has become a big business, it has become one of the least diverse businesses around.

It was not always. In 1920, Illinois had 892 Black farmers, and African Americans owned 14 percent of the Nation's farmland. Now they hold less than 1 percent. The same pressure to consolidate that has reduced the ranks of farmers for the past century is making any turnaround unlikely, demographers say. The number of Black farmers in Illinois, currently less than one in 1,000, appears destined to eventually hit zero. Probably there will be none very shortly.

In 1990, The Minority Farmers Rights Act, created to address the injustices noted at USDA, and passed in this body by former Senator Wyche Fowler of Georgia, who sat on the Agriculture Committee, authorized \$10 million a year in technical assistance to minority farmers.

The new program was only able to garner \$2 to \$3 million a year under President Reagan, and was in danger of being de-funded altogether. As working capital and technical assistance was systematically denied to Black farmers across America, most rural African-American farmers did not have access to essential legal assistance and fell prey to land speculators and unscrupulous lawyers.

In 1994, the Land Loss Prevention Project filed a Freedom of Information Act lawsuit on behalf of Black farmers, turning key information over to Congress to investigate discriminatory practices by the USDA. Again, USDA released a report analyzing data from 1990 to 1995, and found that "minorities received less than their fair share of USDA money for crop payments, disaster payments, and loans."

In 1997, a USDA Civil Rights Team found the agency's system for handling civil rights complaints was still in shambles: the agency disorganized, the process for handling complaints about program benefits "a failure," and the process for handling employment discrimination claims was "untimely and unresponsive."

A follow-up report by the GAO in 1999 found that 44 percent of program discrimination cases, and 64 percent of employment discrimination cases, had been backlogged for over a year.

It was against this backdrop in 1997, that a group of Black farmers led by Tim Pigford of North Carolina filed a class action lawsuit against the USDA. In all, 22,000 farmers were granted access to the lawsuit, and in 1999, the government admitted wrongdoing and agreed to a \$2.3 billion settlement—the largest civil rights settlement in history.

However, African-American farmers had misgivings with the process of the Pigford settlement. Many farmers who joined the lawsuit were also denied payment. By one estimate, 9 out of 10 farmers who sought restitution under Pigford were denied. The Bush Department of Justice spent 56,000 office hours and 12 million contesting farmers' claims; and many farmers feel their cases were dismissed on technicalities.

I would like to remember what Congresswoman Eva Clayton, an African-American Democrat from North Carolina, said at a March 1999 Black farmers rally at the Federal Courthouse in Washington, DC: "There is reason to despair . . . There are several reasons why the number of black farmers is declining so rapidly. But the one that has been documented time and time again, is the discriminatory environment present in the Department of Agriculture . . . the very agency established to accommodate the special needs of farmers . . . Once land is lost, it is very difficult to recover . . . We stand here today in despair over this history. Yet, we also stand here today in hope that justice will prevail, and that the record will be set right for those farmers who have been wronged . . ."

Shortly after coming into office, President Obama's Secretary of Agriculture, Tom Vilsack, signaled a change in direction at USDA. The Secretary has declared "A New Civil Rights Era at USDA," and stepped-up handling of civil rights claims in the agency.

This year, Secretary Vilsack responded to concerns over handling of the original Pigford case, agreeing to a historic second payment in April, known as Pigford II, that would expand the settlement to farmers who were excluded from the first case.

We are here today to help put an end to this long-standing injustice. Pigford II is before us and will help make right this history of discrimination by one of our own government agencies.

I want to thank Leader REID for his unceasing efforts in bringing the Pigford II and Cobell settlements before us, and I thank others who came before me and those of us here today, on both sides of the aisle, who have advanced the force of justice on this issue.

I urge my colleagues to consider carefully this important question today.

The PRESIDING OFFICER. The Senator from Wyoming.

## SECOND OPINION

Mr. BARRASSO. Madam President, I come to the floor today, as I have week after week since the health care bill was signed into law, with a doctor's second opinion of the health care law. I do this as someone who has practiced medicine, taking care of the families in Wyoming as an orthopedic surgeon for

25 years; as someone who has been the medical director of the Wyoming Health Fairs, to give people low-cost blood screenings so they can have early detection of medical problems to help them find problems early. And early treatment following early detection is something that always works to keep down the cost of their medical care.

I wish to talk about the fact that we have seen again this week a new development, and the development this week is that the American people have spoken. They have done it in the Show Me State of Missouri. The Show Me State has shown Washington that they have rejected the President's takeover of the health care system in this country.

Like so many Americans, voters in Missouri are sick and tired of Washington forcing things upon them, telling them what they need to do, and now telling them what they need to buy—specifically in terms of the Federal mandate that people have health insurance, that they must go out and buy that or face penalties, taxes, fines related to the fact that they make a choice to not buy health insurance.

I think the voters are also tired of being ignored by Washington. That is why 71 percent of the voters in Missouri on Tuesday—71 percent, over 7 out of 10—who went to the polls rejected the demand by Washington that they be forced to buy a product, to buy health insurance. It is part of the law. It is a mandate. They have to have health insurance, have to buy it.

So how did the White House respond to this rejection of what has now been forced down the throats of the American voters? Well, Robert Gibbs, the White House Press Secretary, was questioned on this during the White House press conference, and he was asked what it means that voters in Missouri would vote against this Federal mandate, and Gibbs said "nothing." It means nothing. Well, to the voters of Missouri whom I have talked to, this is an insult. It does mean something. They expressed their opinion, and the White House said: Your opinion means nothing to us.

So instead of trying to address the concerns and fix the new law, right now the White House seems to be more focused on a slick public relations program. They have a whole campaign going.

It is interesting because the people of Missouri are not the only ones who are opposed to this law. Later this year, voters in a couple of other States will be voting as well on the impact and the mandate.

A new Rasmussen poll out just this past week says that 57 percent of Americans—I am talking about likely voters; that is how they polled this, likely voters—said this recently passed health care law, in their opinion, is bad for our country. So 57 percent of Americans feel the law that was forced down the throats of the American people, with the American people screaming:

Do not pass this law—even today, 57 percent of Americans, as they learn more and more about what is in the law, believe it is bad for the country. That is actually the highest level of pessimism about this law since the law was passed in March.

Support for the law continues to erode. So what happens? Well, the White House comes out with a public relations campaign, and once again they are setting their sights on America's seniors. They did it with a very expensive glossy mailer that went out to the seniors on Medicare. It looked to me like a propaganda piece—very misleading. Once again, they are focused on the seniors. Why? Well, because the seniors are those who are most opposed to the new health care law, the one that takes \$500 billion away from Medicare, not to save Medicare, the health care program for our seniors, but to start a whole new government program for someone else.

So this week, what happened? At the end of last week, the new director of Medicare and Medicaid, Dr. Berwick—and we have talked about him on the Senate floor. He is the one who had a recess appointment, the one who is in love with the British health care system, the new director who had the recess appointment who has never come to the Senate to share his answers with the American people. The American people have been denied the right to hear from him. He did not have time to share his views with the American people, but he did have time to introduce a slick new ad campaign to try to sell the new law to Medicare patients.

The health care law is out there now being promoted in a television ad for which the American taxpayer is going to have to pay the bill. The American taxpayers are going to pay the bill, and the ad stars Andy Griffith. During this ad—and we know Andy Griffith from Andy of Mayberry, the television show, and in later years, Matlock. He is used as the spokesman now to our seniors, telling seniors a number of things, making a number of promises. Let's go through them.

One is, he says seniors will have their "guaranteed benefits." Well, only in Mayberry does a \$500 billion cut equal better care for American seniors. Even the administration's own actuaries and own specialists in Medicare took a look at this, and they don't even agree with the commercials. They say the cuts are unlikely to be sustainable over time. They say that one in six hospitals and doctors offices related to Medicare providers are going to become unprofitable within 10 years, and many may be forced to close. They say the new law is going to jeopardize patient access to medical care.

Well, then Mr. Griffith says: "Well, more good things are coming." Well, what kinds of things for our seniors on Medicare? When you take a look at how the cuts are out there—there are cuts for home health, which is a lifeline for seniors who try to stay out of