

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TIMOTHY C. PIGFORD, *et al.*,)
)
 Plaintiffs,)
)
 v.)
)
 TOM VILSACK, Secretary,)
 United States Department of)
 Agriculture,)
)
 Defendant.)

Civil Action No.
97-1978 (PLF)

CECIL BREWINGTON, *et al.*,)
)
 Plaintiffs,)
)
 v.)
)
 TOM VILSACK, Secretary,)
 United States Department)
 of Agriculture,)
)
 Defendant.)

Civil Action No.
98-1693 (PLF)

MONITOR'S REPORT REGARDING IMPLEMENTATION OF
THE CONSENT DECREE FOR THE PERIOD OF
JANUARY 1, 2010, THROUGH DECEMBER 31, 2010

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This is the tenth in a series of Monitor reports concerning the good faith implementation of the Consent Decree.¹ This report covers the period of January 1, 2010, through December 31, 2010, and fulfills, in part, the Monitor's obligation to make periodic written reports on the implementation of the Consent Decree to the Court, the Secretary of Agriculture, Class Counsel, and counsel for the United States Department of Agriculture (USDA).²

During calendar year 2010, the parties and the neutrals (the Facilitator, the Adjudicator, and the Arbitrator) continued to work in good faith to implement the Consent Decree. As of the end of 2010, a total of approximately 15,747 claimants had prevailed in the Track A or Track B claims process or had settled their claims with the Government. As of the end of 2010, the Government had provided a cumulative total of approximately \$1.05 billion (\$1,054,076,109) in cash relief, estimated tax payments, and debt relief to prevailing claimants.

This report provides information about the implementation of the Consent Decree during 2010. The Monitor did not independently compile the statistical information provided in this report. The Monitor received data from the Consent Decree Facilitator³ and USDA for the statistics contained in this report. Section I of this report provides statistics on the outcome of the claims process for the claimants who were deemed eligible to file claims under the Consent Decree. Section II provides information regarding the relief provided to claimants who prevailed under the standards set forth in paragraph 9 (Track A) and paragraph 10 (Track B) of the

¹ The Monitor's prior reports are available on the Monitor's web site at <http://www.pigfordmonitor.org/reports/>.

² Paragraph 12(b)(i) of the Consent Decree requires the Monitor to make periodic written reports on the good faith implementation of the Consent Decree. A Stipulation and Order filed on March 24, 2003, orders the Monitor to report regarding each twelve-month period, upon the request of the Court or the parties, or as the Monitor deems necessary. The Consent Decree and the Court's orders referenced in this report are available on the Monitor's web site at <http://www.pigfordmonitor.org/orders/>.

³ The Facilitator is Epiq Systems, formerly known as Poorman-Douglas Corporation. *See* Consent Decree, paragraph 1(i).

Consent Decree. Section III describes Orders issued by the Court during 2010 concerning the Monitor's duties, the review of Consent Decree documents by the National Archives and Records Administration, and the implementation of *Pigford* debt relief. Section IV reports on the Monitor's activity pursuant to paragraph 12 of the Consent Decree, including problems brought to the Monitor's attention through letters and calls received on the Monitor's toll-free phone line and decisions issued by the Monitor in response to petitions for reexamination of claims. Section V reports on significant Consent Decree implementation issues addressed by the parties and neutrals during 2010. Section VI reports on the parties' continued good faith implementation of the Consent Decree in calendar year 2010.

I. CLAIMS PROCESSING STATISTICS

The Consent Decree established a claims process for individuals who are members of the class certified by the Court. Paragraph 2(a) of the Consent Decree defined members of the class as:

All African American farmers who:

- (1) farmed, or attempted to farm, between January 1, 1981 and December 31, 1996;
- (2) applied to the United States Department of Agriculture (USDA) during that time period for participation in a federal farm credit or benefit program and who believed that they were discriminated against on the basis of race in USDA's response to that application; and
- (3) filed a discrimination complaint on or before July 1, 1997, regarding USDA's treatment of such farm credit or benefit application.

As of the end of 2010, a total of 22,721 class members were deemed eligible to participate in the Consent Decree claims process. A summary of the results of the claims process for these 22,721 class members, as of the end of 2010, is presented below.

A. Eligibility

To participate in the claims process, class members filled out a Claim Sheet and Election Form (“Claim Sheet”).⁴ The Claim Sheet and the Consent Decree informed class members of the requirements for eligibility to file a claim.

1. Timely Filed Claims

The Consent Decree set a deadline for filing a timely claim: 180 days from the date of the Court’s Order approving the Consent Decree. The Court approved the Consent Decree on April 14, 1999. Therefore, the deadline for filing a claim was 180 days from April 14, 1999, or October 12, 1999.

Table 1 sets forth the number of claimants⁵ who filed timely claims and who were found eligible to participate in the claims process, as of the end of 2010.

Table 1: Statistical Report Regarding Timely Filed Claims⁶	
Statistical Report as of:	End of 2010
A. Number of Claimants Who Filed Claims on or before October 12, 1999, and Who Were Found Eligible for Claims Process	20,816

⁴ A sample Claim Sheet and Election Form is available on the Monitor’s web site. See Appendix 9 to the Monitor’s Report Regarding Implementation of the Consent Decree for the Period of January 1, 2006, through December 31, 2006, at http://www.pigfordmonitor.org/reports/rpt20071231_2006.pdf.

⁵ The term “claimant” is defined in the Consent Decree as any person who submits a claim package for relief under the terms of the Consent Decree. Consent Decree, paragraph 1(c). The Claim Sheet contains a signature line for the farmer who submits the claim package. Claim packages have been submitted on behalf of: (1) an individual person; (2) a husband and wife who filed a single claim package together; and (3) a farming entity, such as a partnership or joint operation.

⁶ Table 1 statistics are provided by the Facilitator and include both initial eligibility decisions and decisions made by the Facilitator on reexamination after a petition for Monitor review of an eligibility denial. The statistics are cumulative, as of December 31, 2010. The Monitor granted a total of 22 petitions for review of Facilitator eligibility decisions. On reexamination, the Facilitator found all 22 claimants eligible to participate in the claims process. For more information on petitions for review of Facilitator eligibility decisions, see pages 22 to 24 of the Monitor’s Report Regarding Implementation of the Consent Decree for the Period January 1, 2007, through December 31, 2007, available at: http://www.pigfordmonitor.org/reports/Rpt20081230_2007.pdf. No petitions for review of Facilitator eligibility decisions remained pending as of the end of 2010.

2. Requests for Permission to File A Late Claim

Many individuals attempted to file a claim after the October 12, 1999 deadline.

Paragraph 5(g) of the Consent Decree provided a process for requesting permission to file a claim after the October 12, 1999 deadline. Requests to file a “late claim” could be granted only if a claimant failed to meet the October 12, 1999 filing deadline due to extraordinary circumstances beyond the claimant’s control. Court Orders set a deadline of September 15, 2000, for filing a request for permission to file a late claim and designated the Arbitrator as the decision maker on late claim requests.⁷

As of the end of 2010, the Arbitrator had granted permission for a total of 2,585 class members to file a late claim. The Arbitrator granted some requests to file a late claim for people who were affected by significant personal health matters. The Arbitrator granted other requests to file a late claim for people who were affected by the impact of Hurricane Floyd in portions of North Carolina and other states along the eastern seaboard.

The Arbitrator denied the requests of 58,667 class members to file a late claim. The Arbitrator concluded that reasons such as a lack of knowledge about the litigation or lack of notice of the claims process did not meet the very high Consent Decree standard of extraordinary

⁷ The Arbitrator is Michael K. Lewis of JAMS, formerly of ADR Associates. See Consent Decree, paragraph 1(b). On December 20, 1999, the Court delegated to the Arbitrator the authority to decide, on a case-by-case basis, whether a class member met the standards of paragraph 5(g) and therefore could file a late claim. On July 14, 2000, the Court approved a stipulation by the parties setting a September 15, 2000 deadline for the filing of late claims requests. The Court’s Orders are available at <http://www.pigfordmonitor.org/orders/19991220order.pdf> and <http://www.pigfordmonitor.org/orders/20000714order.pdf>.

circumstances beyond a class member’s control.⁸ On May 7, 2009, the parties stipulated and the Court ordered that the review of the late claims requests filed in this case is complete.⁹

Table 2 sets forth information, as of the end of 2010, regarding late claims requests.

Table 2: Statistical Report Regarding Late Claim Requests¹⁰	
Statistical Report as of:	End of 2010
A. Number of People Who Filed Late Claim Requests on or before September 15, 2000	61,252
B. Number of People Whose Requests to File Late Were Denied	58,667
C. Number of People Whose Requests to File Late Were Granted	2,585
D. Number of People Whose Requests to File Late Were Granted Who Filed a Completed Claim Package and Who Were Found Eligible for Claims Process	1,905

3. Eligibility Determination on Completed Claim Packages

As part of the eligibility screening process, the Facilitator reviewed the information provided by each claimant in their completed claim package. In addition to asking claimants whether they farmed or attempted to farm and applied to participate in a federal farm program with USDA between January 1, 1981, and December 31, 1996, the Claim Sheet requested

⁸ Paragraph 5(g) states that a request to file a claim after the deadline established in the Consent Decree shall be granted “only where the claimant demonstrates that his failure to submit a timely claim was due to extraordinary circumstances beyond his control.” For more information on the Arbitrator’s evaluation of late claim requests, see Arbitrator’s November 14, 2001 Report on the Late-Claim Process, available at: <http://www.pigfordmonitor.org/arbrrpts/arb20011114.pdf> and pages 33 through 37 of the Monitor’s Report Regarding Implementation of the Consent Decree for the Period of January 1, 2008, through December 31, 2008, available at: http://www.pigfordmonitor.org/reports/Rpt20090617_2008.pdf.

⁹ The Stipulation and Order is available at: http://www.pigfordmonitor.org/orders/20090507stip&order_5g.pdf.

¹⁰ Table 2 statistics are provided by the Facilitator and are as of December 31, 2010. Some people filed more than one late claim request. Prior reports indicated the number of requests granted and denied by the Arbitrator. The statistics provided in this report reflect the number of individual people who filed late claim requests and the total number of people whose requests were granted by the Arbitrator (either initially or on reconsideration).

information about whether claimants complained about USDA discrimination between January 1, 1981, and July 1, 1997.¹¹

Claimants who did not complain of USDA discrimination on or before July 1, 1997, could be deemed eligible to participate in the Consent Decree claims process only if they met the requirements for “equitable tolling” of the discrimination complaint requirement. To meet the equitable tolling requirement under the Consent Decree, claimants must have demonstrated that: (1) extraordinary circumstances beyond their control prevented them from filing a discrimination complaint; (2) they were induced or tricked by USDA’s misconduct into not filing a complaint; or (3) they attempted to actively pursue their judicial remedies by filing a pleading that had been found defective.¹²

Table 3 sets forth the number of claimants deemed eligible to participate in the claims process, as of the end of 2010.

¹¹ Page 2 of the Claim Sheet described the documentation claimants could submit as proof of their complaint. Claimants could submit: (1) a copy of the written discrimination complaint they had filed with USDA; (2) a copy of the correspondence they had sent to a member of Congress, the White House, or another government official; or (3) a third-party Declaration signed by a person with first-hand knowledge of the complaint.

¹² Paragraph 6 of the Consent Decree required the Adjudicator to decide if a claimant met these standards. The Adjudicator is Lester Levy of JAMS, Inc., formerly known as JAMS-Endispute, Inc. The Consent Decree required the Adjudicator to apply the rules for equitable tolling of claims against the Government set forth in a United States Supreme Court case, *Irwin v. United States*, 498 U.S. 89 (1990) (also known as *Irwin v. Department of Veterans Affairs*).

Table 3: Statistical Report Regarding Prior Complaints of Discrimination ¹³	
Statistical Report as of:	End of 2010
A. Number of Eligible Claimants Who Complained of Discrimination by USDA Between January 1, 1981, and July 1, 1997	22,686
B. Number of Eligible Claimants Who Satisfied the “Tolling” Requirements	35
C. Total Number of Eligible Claimants	22,721

B. Track A

The Claim Sheet required claimants to elect whether to pursue their claim under Track A or Track B of the claims process. As of the end of 2010, a total of 22,551 claimants, or approximately ninety-nine percent of the 22,721 claimants eligible to participate in the claims process, elected to pursue their claims under Track A. Of the 22,551 claimants who elected to pursue their claims under Track A, a total of 15,645 (approximately sixty-nine percent) prevailed in the claims process, as of the end of 2010.

In reviewing whether a Track A claimant had presented sufficient evidence to prevail, the Adjudicator applied the substantial evidence standard¹⁴ and considered whether the evidence in the record for each claim met the requirements of paragraph 9 of the Consent Decree.

Paragraph 9 sets forth requirements for two types of Track A claims: credit claims and non-credit claims.

¹³ Table 3 statistics are provided by the Facilitator and include both initial eligibility decisions and decisions made by the Facilitator on reexamination after a petition for Monitor review of an eligibility denial. The statistics are cumulative, as of December 31, 2010.

¹⁴ The Consent Decree defines “substantial evidence” as such relevant evidence as appears in the record before the Adjudicator that a reasonable person might accept as adequate to support a conclusion after taking into account other evidence in the record that fairly detracts from that conclusion. Consent Decree, paragraph 1(l).

1. Track A Credit Claims

Credit claims involve allegations of discrimination in loan programs, such as USDA's Operating Loan, Emergency Loan, Soil and Water Loan, and Farm Ownership Loan programs.¹⁵

Claimants who prevailed in Track A credit claims alleged, for example, that:

- a. USDA delayed the processing or disbursement of their loans, which caused them to delay planting their crops and resulted in a reduced yield;
- b. USDA did not grant them the amount of funding they requested and needed for their farming operation;
- c. USDA required them to pledge excessive collateral, making it difficult to secure additional funding when they ran short of operating capital;
- d. USDA required them to use a supervised bank account, which forced them to drive long distances to obtain approvals each time they sought to make a farming purchase, such as for fertilizer, seed, or equipment repair;
- e. USDA denied them a loan;¹⁶ and/or
- f. USDA failed to provide appropriate loan servicing for their outstanding farm program loans.¹⁷

¹⁵ See Consent Decree, paragraph 9(a) for the requirements to prevail in a Track A credit claim. Each USDA farm loan program had its own eligibility requirements and loan purposes. *See* 7 C.F.R. Part 1941 (Operating Loans); Part 1943, Subpart A (Farm Ownership Loans); Part 1943, Subpart B (Soil and Water Loans); and Part 1945 (Emergency Loans) (1981-1996).

¹⁶ Loan denial claims included both allegations that claimants applied for and were denied a loan and allegations that claimants made a *bona fide* attempt to apply for a loan and a USDA employee refused to provide loan application forms or otherwise actively discouraged the claimant from applying. The parties articulated principles for attempt-to-apply claims in an agreement entitled "Constructive Application" Principles. See Appendix 5 of the Monitor's Report and Recommendations Regarding Implementation of the Consent Decree for the Period of March 1, 2000, through August 31, 2000, available at: <http://www.pigfordmonitor.org/reports/rpt20001226.pdf>.

¹⁷ Loan servicing is a term used in USDA regulations for tools to help borrowers recover from financial difficulties and maintain their farming operations. USDA loan servicing programs included consolidation, rescheduling, reamortization, reduction in interest rates (including "limited resource" interest rates), and deferral of payments scheduled on loan accounts. Beginning in 1988, loan servicing tools also included loan write-downs and write-offs, as well as options to help borrowers retain their farmland security property, such as net recovery buyouts and the leaseback/buyback program. *See* 7 C.F.R. Part 1951 (1981-1996). Other options included compromise, adjustment, charge-off, or cancellation of debts. *See* generally 7 C.F.R. Part 1956 (1988-1996).

Claimants who prevailed in Track A credit claims established that the treatment they received from USDA was less favorable than that accorded specifically identified, similarly situated white farmers and that this treatment led to economic damage.¹⁸

2. Track A Non-Credit Claims

Non-credit claims involved farm benefit programs. USDA offered a wide array of non-credit programs during the class period. Each program had its own purposes and requirements.¹⁹ Claimants who prevailed in non-credit claims alleged, for example, that USDA denied them disaster relief when their crops were affected by drought or excessive rainfall.²⁰ Claimants who prevailed in non-credit claims established that they were treated differently than specifically identified, similarly situated white farmers who applied for the same non-credit benefit.²¹

¹⁸ See Consent Decree, paragraph 9(a)(i)(C),(D).

¹⁹ Throughout the class period, USDA provided disaster payments to qualifying producers who suffered a minimum production loss on an eligible crop that resulted from damaging weather or a related condition within certain crop years. See generally 7 C.F.R. Part 1477 (1988-1996). In some years of the class period, regulations concerning disaster payments were for specific crops and for specific years. See, e.g., 7 C.F.R. § 730.25 (1981) (regulations for disaster payments for rice for crop years 1978 to 1981).

The Agricultural Conservation Program provided federal funds to share the costs of conservation practices, such as conserving water and protecting against soil erosion. See generally 7 C.F.R. §§ 701.3-701.26 (1981-1996). Another program, the Conservation Reserve Program (CRP), offered annual rental payments and cost-share assistance for landowners or farm operators who converted eligible cropland to permanent vegetative cover pursuant to approved conservation plans. See generally 7 C.F.R. Parts 704 and 1410 (1987-1996).

USDA also administered farm commodity price and income support programs for certain crops. For example, USDA provided non-recourse loans to producers for their harvested crop at a price set by the federal government. As with USDA regulations concerning disaster payments, some regulations concerned specific crops. See, e.g., 7 C.F.R. §§ 1427.1, 1427.5 (1981-1991); 7 C.F.R. § 1427.5 (1992-1996) (regulations governing non-recourse loans for cotton). USDA provided deficiency payments when certain crop prices fell below set prices. See generally 7 C.F.R. Part 1413 (1989-1996). Other USDA programs assigned marketing quotas to holders of allotments. To use one crop and year as an example, USDA's regulations governing tobacco acreage allotments and marketing quotas can be found at 7 C.F.R. Parts 723-726 (1987).

²⁰ See Consent Decree, paragraph 9(b) for the requirements to prevail in a non-credit claim.

²¹ See Consent Decree, paragraph 9(b)(i)(B).

Table 4 provides statistics on the outcome of the Track A claims process as of the end of 2010.

Table 4: Statistical Report Regarding Track A Claims²²		
Statistical Report as of:	End of 2010	
	Number	Percent
A. Eligible Class Members (Track A and B)	22,721	100
B. Cases in Track A (Adjudications)	22,551	99
Adjudication Completion Figures		
C. Adjudications Complete	22,551	100
D. Adjudications Not Yet Complete	0	0
Adjudication Approval/Denial Rates²³		
E. Claims Approved by Adjudicator	15,645	69
F. Claims Denied by Adjudicator	6,906	31
Adjudication Approvals Paid/Not Paid		
G. Approved Adjudications Paid	15,608	99
H. Approved Adjudications Not Yet Paid	37	1

C. Track B

Approximately one percent of eligible claimants elected to pursue their claims under Track B. As of the end of 2010, a total of 143 of the 241 claimants who initially elected Track B (approximately fifty-nine percent) had received relief in the claims process or had settled their claims with the Government. Seventy-five claimants who elected Track B settled their claims with the Government prior to completion of the claims process; forty-one claimants prevailed in Track A after switching their claims from Track B to Track A with the consent of the

²² Table 4 statistics are provided by the Facilitator and are as of December 31, 2010. Statistics for prior reporting periods are summarized in Appendix 1. Statistics are also available at: <http://www.pigfordmonitor.org/stats/>.

²³ These numbers include both initial Adjudicator decisions and Adjudicator reexamination decisions as of the end of 2010. More information about the Track A petitions and reexamination results is provided in Section IV of this report.

Government;²⁴ and twenty-seven claimants prevailed in a final decision by the Arbitrator awarding them relief. As of the end of 2010, the Arbitrator had denied relief to fifty-nine claimants.

In determining whether a Track B claimant should prevail, the Arbitrator applied the preponderance of the evidence standard²⁵ and used the framework established by the United States Supreme Court in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), to determine whether claimants proved they were victims of discrimination.²⁶ The Arbitrator granted the Government's motion to dismiss some claims prior to a hearing on the merits.²⁷ In cases in which a hearing took place, the Arbitrator issued decisions containing a detailed analysis of the evidence presented through documents and through witness testimony from claimants, USDA officials, and others, such as farm advocates and extension service employees, who had first-hand knowledge of the claimants' interactions with USDA officials.

²⁴ According to the Facilitator, as of the end of 2010, of the 68 claimants who switched to Track A with the consent of the Government, a total of 58 claimants filed completed claim packages, were found eligible by the Facilitator to participate in the claims process, and received a final decision on the merits of their Track A claim. Of the 58 claimants who filed a completed claim package and were found eligible to participate in the claims process, a total of 41 claimants prevailed in the claims process and 17 claimants were denied relief.

²⁵ To prevail in a Track B claim, a claimant must prove, by a preponderance of the evidence, that he or she was a victim of discrimination and suffered damages as a result. See Consent Decree, paragraph 10. The Consent Decree defines "preponderance of the evidence" as such relevant evidence as is necessary to prove that something is more likely true than not true. Consent Decree, paragraph 1(j). This is a higher standard of proof than the "substantial evidence" standard used in Track A.

²⁶ Track B provides the opportunity for the submission of documentary evidence and an eight-hour arbitration hearing conducted pursuant to the Federal Rules of Evidence. See Consent Decree, paragraph 10. For a more complete description of the Track B process, see Monitor's Report Regarding Implementation of the Consent Decree for the Period January 1, 2008, through December 31, 2008, at pages 8-9, available at: http://www.pigfordmonitor.org/reports/Rpt20090617_2008.pdf.

²⁷ In ruling on the Government's motions to dismiss, the Arbitrator stated that a claim should not be dismissed prior to a hearing unless there was no conceivable way for a claimant to prevail under the applicable standards of proof required for a Track B claim. In some cases, the Arbitrator ruled a claim should be dismissed because the claimant failed to submit any exhibits or written direct testimony prior to the deadline established for the submission of evidence in the claim. In other cases, the Arbitrator ruled that the admissible evidence failed to establish a *prima facie* case of discrimination.

Table 5 contains statistics for those claimants who elected Track B.

Table 5: Statistical Report Regarding Track B Claims²⁸	
Statistical Report as of:	End of 2010
A. Eligible Track B Claimants	241
B. Track B Cases Settled	75
C. Track B Cases Converted to Track A	68
D. Track B Cases Withdrawn	9
Arbitrations Complete/Not Complete	
E. Contested Track B Cases in Claims Process	89
F. Final Arbitration Decisions Issued ²⁹	86
G. Final Arbitration Decisions Not Yet Issued	3
Arbitration Results	
H. Claimant Prevailed Before Arbitrator	27
I. Government Prevailed Before Arbitrator	59
Posture of Decisions in Which Government Prevailed:	
1. Cases Dismissed Before Hearing	40
2. Full Hearing, Finding of No Liability	19
Arbitration Settlements and Damage Awards Paid/Not Paid	
J. Arbitration Settlements Paid	74
K. Arbitration Settlements Not Yet Paid	1
L. Arbitration Damage Awards Paid	27
M. Arbitration Damage Awards Not Yet Paid	0

²⁸ Table 5 statistics are provided by the Facilitator. Statistics from prior reports by the Arbitrator and the Facilitator are provided in Appendix 2. Table 5 includes data for 241 claimants who initially elected Track B. As of the end of 2010, some of these claims were switched to Track A with the consent of the Government. Other claims were deemed ineligible after further review in the Track B process. As of the end of 2010, the Facilitator reported a total of 170 eligible Track B claims.

²⁹ These statistics include claims in which both final decisions and reexamination decisions have been issued by the Arbitrator. More information about Track B petitions and final claim results after Arbitrator reexamination is provided in Section IV of this report.

II. RELIEF STATISTICS

The Consent Decree provides different relief for claimants depending on whether their claim is Track A or Track B. Relief for claimants who prevail in Track A includes: (1) a cash relief payment of \$50,000 per claimant for a prevailing Track A credit claim; (2) a cash relief payment of \$3,000 per claimant for a prevailing non-credit claim; (3) debt relief for claimants who prevail in Track A credit claims and who had outstanding debt that qualifies for debt relief; (4) tax relief, consisting of certain payments to the Internal Revenue Service (IRS) on behalf of claimants who prevailed in Track A credit claims; and (5) injunctive relief.

Relief for claimants who prevail in Track B includes: (1) actual damages as awarded by the Arbitrator; (2) debt relief for claimants who had outstanding debt that qualifies for debt relief; and (3) injunctive relief. More information about the relief received by prevailing claimants in Track A and Track B, as of the end of 2010, is set forth below.

A. Cash Relief

Claimants who prevail in a Track A credit claim, such as the denial or delay in processing a farm program loan, are entitled to a payment of \$50,000 in cash relief.³⁰ Claimants who prevail in a Track A non-credit claim, such as the denial or underfunding of disaster relief, are entitled to a payment of \$3,000 in cash relief.³¹ Claimants who prevail on both a credit claim and a non-credit claim are entitled to a payment of \$50,000 for their credit claim and \$3,000 for their non-credit claim. Table 6 provides statistics from the Facilitator on the cash relief awarded in final decisions for prevailing Track A claims, as of the end of 2010.

³⁰ See Consent Decree, paragraph 9(a)(iii)(B).

³¹ See Consent Decree, paragraph 9(b)(iii)(A); Stipulation and Order, ¶ 1 (D.D.C. February 7, 2001), available on the Monitor's web site at <http://www.pigfordmonitor.org/orders/20010207order.pdf>.

Table 6: Statistical Report Regarding Track A Cash Relief Awards³²		
Statistical Report as of: End of 2010	Number of Prevailing Claimants	Amount of Cash Relief Per Claimant
A. Track A Credit Claims	15,417	\$50,000
B. Track A Non-Credit Claims ³³	500	\$3,000

Claimants who prevail in a Track B claim may receive an award of actual damages.³⁴

Claimants who elected Track B often provided expert testimony regarding their lost farm income or other similar economic damages. In some cases, claimants also provided evidence of non-economic damages. The amount of damages awarded in individual cases has varied. Table 7 provides information about the amounts that have been paid to Track B claimants, as of the end of 2010.

Table 7: Statistical Report Regarding Track B Settlements and Damage Awards³⁵							
Statistical Report as of:						End of 2010	
	Under \$100,000	\$100,00 - \$250,000	\$250,000 - \$500,000	\$500,000 - \$1,000,000	Over \$1,000,000	Average	Median
A. Track B Settlements	29	39	6	0	0	\$125,950	\$140,000
B. Track B Damage Awards	2	4	5	13	3	\$972,909	\$557,800
C. Total Track B Settlements and Damage Awards	31	43	11	13	3	\$352,365	\$140,000

³² Table 6 statistics are provided by the Facilitator and are as of December 31, 2010. Some Track A claimants prevailed on both a credit claim and a non-credit claim. The numbers in Table 6 include both paid and unpaid awards.

³³ The number of non-credit awards reported in Table 6 is based on the number of Track A decisions classified in the Facilitator's database as claims receiving non-credit awards.

³⁴ See Consent Decree, paragraph 10(g).

³⁵ Table 7 statistics are based on information provided by the Facilitator and are as of December 31, 2010. Table 7 does not include the 59 claimants who received no relief because their claims were denied by the Arbitrator. The amount of damages awarded by the Arbitrator in individual cases as of the end of 2010 is set forth in Appendix 3. Claimant names and geographic locations are not disclosed.

Prevailing Track A and Track B claimants resided in a number of different states at the time they received their cash relief, settlement payment, or damage award.³⁶ Table 8 reports the number of claimants and the amount of cash relief paid by the Government to prevailing claimants by state. The table reports data for those states with 500 or more prevailing claimants.

Table 8: Statistical Report Regarding States With 500 or More Prevailing Claimants³⁷

Claimants' Residence	Total Number of Prevailing Paid Claimants (Track A and Track B)	Total Cash Relief Paid as of December 31, 2010 (Track A and Track B)
Alabama	3,407	\$167,461,500
Mississippi	3,153	\$159,619,352
Georgia	2,003	\$111,362,904
Arkansas	1,489	\$76,129,804
North Carolina	1,373	\$73,642,486
South Carolina	890	\$45,152,500
Oklahoma	588	\$29,116,000
Louisiana	587	\$29,271,000

B. Debt Relief

Claimants who prevail under Track A and Track B are entitled to *Pigford* debt relief. This debt relief is explained in paragraphs 9(a)(iii)(A) and 10(g)(ii) of the Consent Decree, a Stipulation and Order filed on February 7, 2001,³⁸ a Court Opinion and Order filed on

³⁶ The Facilitator's database does not report the state or county in which claimants alleged they suffered discrimination by USDA. The database reports the address provided by the claimant on the Claim Sheet or reported to the Facilitator as the claimant's current address.

³⁷ Table 8 statistics are provided by the Facilitator and are as of December 31, 2010. For purposes of this table, prevailing Track B claimants include those who received payments in settlement of their Track B claims and those who received payments of Arbitrator damage awards. Numbers are rounded to the nearest dollar. Appendix 5 contains statistics for all prevailing claimants by residence at the time of payment.

³⁸ Stipulation and Order, ¶ 2 (D.D.C. February 7, 2001), available at: <http://www.pigfordmonitor.org/orders/20010207order.pdf>.

February 21, 2008,³⁹ and Monitor Update No. 10, revised on July 11, 2008.⁴⁰ In general, claimants are entitled to debt relief for any outstanding farm program loans that are:

(1) identified by the Adjudicator or Arbitrator as affected by discrimination; and (2) incurred in the same loan program as the “affected by” loans, from the initial date of discrimination through December 31, 1996.

USDA reports that the Government provided *Pigford* debt relief to a total of 394 prevailing claimants as of the end of 2010 (370 Track A claimants and twenty-four Track B claimants), forgiving a cumulative total of \$48,290,848 in outstanding principal and interest. As USDA implements debt relief, USDA may also refund certain payments or offsets applied to the loans that qualify for *Pigford* debt forgiveness.⁴¹ During 2010, the parties continued to review USDA’s implementation of debt relief to ensure that all prevailing claimants received the appropriate *Pigford* debt relief.⁴² More information about the substantive debt relief review process is provided in Section V of this report.

³⁹ The Court’s Opinion is available at: http://www.pigfordmonitor.org/orders/20080221_op.pdf.

⁴⁰ Monitor Update No. 10 is available at: <http://www.pigfordmonitor.org/updates/update10.pdf>.

⁴¹ In general, USDA has agreed to refund any payments made after the date the claimant initially prevailed in the claims process on loans subject to *Pigford* debt relief. USDA has also agreed to refund administrative offsets of government payments that were taken on or after January 1, 1999, and applied to loans subject to *Pigford* debt relief. In some cases, USDA may re-apply the payments and offsets to outstanding loans that do not qualify for *Pigford* debt relief. For more information about the substantive rules of *Pigford* debt relief, including debt cancellation and refunds of payments or offsets, see Monitor Update No. 10, Debt Relief for Prevailing Class Members (rev. July 11, 2008), available at: <http://www.pigfordmonitor.org/updates/update10.pdf>.

⁴² There are many reasons why prevailing claimants may not receive any *Pigford* debt relief for farm program loans they received. Some claimants received qualifying loans that were fully repaid or resolved through debt settlement prior to the prevailing Adjudicator or Arbitrator decision, and no offsets were taken by USDA that qualify for refund. Other claimants have outstanding debt on farm program loans that do not qualify for *Pigford* debt relief. For example, loans generally do not qualify for relief if they originated prior to the earliest prevailing claim year or were incurred in a different loan program than the loan program that was the subject of the prevailing claim.

Table 9 provides statistics regarding the amount of *Pigford* loan forgiveness USDA implemented for prevailing Track A and Track B claimants as of the end of 2010.

Statistical Report as of:	End of 2010
A. Total Amount of Debt Forgiven (Principal and Interest)	\$48,290,848
B. Total Number of Claimants Who Received Debt Forgiveness	394
C. Debt Forgiven for Track A Claimants	\$40,761,125
D. Number of Track A Claimants Who Received Debt Forgiveness	370
E. Debt Forgiven for Track B Claimants	\$7,529,723
F. Number of Track B Claimants Who Received Debt Forgiveness	24
G. Average Amount of Debt Forgiven Per Track A Claimant Who Received Debt Forgiveness	\$110,165
H. Average Amount of Debt Forgiven Per Track B Claimant Who Received Debt Forgiveness	\$313,738

Table 10 reports the state of residence for prevailing claimants who received *Pigford* debt relief for those states in which USDA provided \$2,000,000 or more in loan forgiveness.

Claimants' Residence	Number of Claimants Who Received Debt Forgiveness (Track A and Track B)	Total Debt Forgiveness Provided as of December 31, 2010 (Principal and Interest)
Mississippi	114	\$12,861,827
Arkansas	66	\$8,563,849
Georgia	36	\$6,389,129
Louisiana	33	\$3,880,415
North Carolina	27	\$3,475,604
Virginia	15	\$2,412,697

⁴³ Table 9 statistics are based on information provided by USDA for debt relief implemented by USDA through December 31, 2010. Appendix 4 provides information from prior reporting periods regarding debt relief.

⁴⁴ Table 10 statistics are provided by USDA and are as of December 31, 2010. Appendix 4 contains statistics for all states in which prevailing claimants have received *Pigford* debt relief.

C. Tax Relief

Claimants who prevail on a Track A credit claim are entitled to have the Government transfer funds directly into an Internal Revenue Service (IRS) tax account for partial payment of federal income taxes. Those who receive \$50,000 in cash relief are entitled to a tax payment of \$12,500 to their IRS tax account. Those who receive debt relief are entitled to a tax payment of twenty-five percent of the principal amount of loan forgiveness provided by USDA.

Table 11 sets forth the estimated payments the Government was required to provide to the IRS for prevailing Track A credit claims, as of the end of 2010.

Table 11: Statistical Report Regarding Estimated Tax Relief for Track A Credit Claims⁴⁵	
Statistical Report as of:	End of 2010
A. Payments to the IRS of 25% of \$50,000 Cash Relief Award ⁴⁶	\$192,350,000
B. Payments to the IRS of 25% of Principal Amount of Debt Relief ⁴⁷	\$6,931,431
C. Total Estimated Payments to the IRS as Tax Relief	\$199,281,431

D. Total Monetary Relief

Table 12 reports, as of the end of 2010, the cumulative total cash relief, debt relief, and estimated tax relief for prevailing Track A claimants.

⁴⁵ Table 11 statistics are estimated tax payments based on information and calculations provided by the Facilitator.

⁴⁶ Paragraph 9(a)(iii)(C) of the Consent Decree requires the Government to make a payment to the IRS equal to 25 percent of the \$50,000 cash relief paid for prevailing Track A credit claims. The Facilitator reports that 15,388 prevailing Track A credit claimants had received payment of their \$50,000 cash award as of the end of 2010. The Facilitator calculated the payments due to the IRS as tax relief for these claimants as follows: 25 percent of the \$50,000 cash award (\$12,500), to be paid on behalf of the 15,388 successful Track A credit claimants who were paid cash relief as of the end of 2010 equals \$192,350,000.

⁴⁷ Paragraph 9(a)(iii)(C) of the Consent Decree requires the Government to make a payment to the IRS equal to 25 percent of principal amount of debt forgiven for prevailing Track A credit claimants (the amount of interest forgiven is not included in this calculation). Rounding to the nearest dollar, 25 percent of the total principal debt USDA reports as forgiven for successful Track A credit claimants through the end of 2010 (\$27,725,723) equals \$6,931,431.

Table 12: Statistical Report Regarding Total Track A Monetary Relief⁴⁸	
Statistical Report as of:	End of 2010
A. Cash Relief Paid to Prevailing Class Members for Track A Credit Claims (\$50,000 per claimant)	\$769,400,000
B. Cash Relief Paid to Prevailing Class Members for Track A Non-Credit Claims (\$3,000 per claimant) ⁴⁹	\$1,515,000
C. Payments Due to IRS as Tax Relief	\$199,281,431
D. Debt Relief (Principal and Interest)	\$40,761,125
E. Total Track A Monetary Relief	\$1,010,957,556

Table 13 reports, as of the end of 2010, the cumulative total in settlement payments, damage awards, and debt relief for prevailing Track B claimants.

⁴⁸ Table 12 statistics regarding cash awards and tax relief through December 31, 2010, are based on information provided by the Facilitator. Table 12 cash relief statistics include only paid Track A awards. Appendix 1 contains statistics on the number of paid and unpaid Track A adjudications as of the end of 2010. Debt relief statistics are based on information provided by USDA for debt relief implemented by USDA (principal and interest) through December 31, 2010.

⁴⁹ Table 12 includes the cumulative total of non-credit cash relief payments USDA made as of the end of 2010. The Facilitator reports that there were three unpaid non-credit cash relief awards as of the end of 2010. The number of prevailing non-credit claims reported in Table 6 (500) is less than the total number of paid and unpaid \$3,000 cash relief awards (508). The primary reason for this is that USDA made a \$3,000 payment in nine cases based on a decision that was later amended or was the subject of a reexamination decision that changed the relief from non-credit relief to credit relief. These nine cases are classified in the Facilitator's database as prevailing credit claims. In addition, in one case, a claimant received a \$50,000 payment for a prevailing credit claim based on a decision that was later changed on reexamination to award \$3,000 in non-credit relief. This case is classified in the Facilitator's database as a prevailing non-credit claim. The claimant was not paid a \$3,000 non-credit award because the claimant had already received \$50,000 in cash relief.

Table 13: Statistical Report Regarding Total Track B Monetary Relief⁵⁰	
Statistical Report as of:	End of 2010
A. Total Amount Paid to Class Members in Settlement of Track B Claims	\$9,320,293
B. Total Amount Paid to Class Members for Damages Awarded by the Arbitrator	\$26,268,537
C. Debt Relief (Principal and Interest)	\$7,529,723
D. Total Track B Monetary Relief	\$43,118,553

Table 14 reports the total monetary relief, as of the end of 2010, for Track A and Track B claimants. As of the end of 2010, prevailing claimants received an approximate cumulative total of \$1,054,076,109 in monetary relief under the terms of the Consent Decree.

Table 14: Statistical Report Regarding Total Track A and Track B Monetary Relief⁵¹	
Statistical Report as of:	End of 2010
A. Total Amount of Cash Relief Paid for Track A and Track B Claims (cash awards, payments in settlement, and damage awards)	\$806,503,830
B. Total Payments Due to IRS as Tax Relief for Track A Credit Claims	\$199,281,431
C. Total Debt Relief for Track A and Track B Claims (Principal and Interest)	\$48,290,848
D. Total Track A and Track B Monetary Relief	\$1,054,076,109

⁵⁰ Table 13 statistics are based on information provided by the Facilitator for payments made by the Government in settlement or for damage awards through December 31, 2010. Amounts are rounded to the nearest dollar. The debt relief statistics are based on information provided by USDA for debt relief implemented by USDA (principal and interest) through December 31, 2010. These statistics do not include the relief provided to claimants who initially elected Track B but who switched their claims from Track B to Track A with the consent of the Government. This relief is included as part of the Track A cash relief and debt relief statistics reported in Table 12.

⁵¹ Table 14 statistics for cash awards and estimated tax relief are through December 31, 2010, and are based on information provided by the Facilitator. Debt relief statistics are based on information provided by USDA for debt relief implemented by USDA (principal and interest) through December 31, 2010.

E. Injunctive Relief

Claimants who prevail in Track A and Track B claims are entitled to injunctive relief as described in paragraph 11 of the Consent Decree. Generally speaking, *Pigford* injunctive relief is available to farmers who seek to obtain farm program loans or who wish to obtain farm land from USDA inventory property after they prevail in the claims process. Injunctive relief includes:

- a. “Priority consideration” for one Farm Ownership Loan, one Farm Operating Loan, and one opportunity to acquire farmland from USDA inventory property;
- b. Technical assistance with loan applications; and
- c. The right to have future loan and loan servicing applications considered in the “most favorable light.”⁵²

Injunctive relief rights for most prevailing claimants expired on April 14, 2004, five years from the date of the Court Order approving the Consent Decree. A Stipulation and Order filed on April 21, 2005, extended the deadline for some claimants. Under the terms of the April 21, 2005 Stipulation and Order, farmers who prevailed in the claims process in 2008 or 2009 remained eligible for injunctive relief during 2010.⁵³ Prevailing class members who continue to farm can obtain farm program loans through the general procedures contained in the regulations without using their right to “priority consideration” or other forms of injunctive relief. USDA reports that no farmers exercised their right to priority consideration injunctive relief during 2010.

⁵² All of these types of injunctive relief are available to claimants who prevail on Track A or Track B credit claims; some of these types of relief are available to claimants who prevail on non-credit claims. See Consent Decree paragraphs 9(a)(iii)(D), 9(b)(iii)(B), 10(g)(iii), and 11. More information on injunctive relief is available in Monitor Update No. 4, Injunctive Relief in *Pigford v. Vilsack*, available at: <http://www.pigfordmonitor.org/updates/update04.htm>.

⁵³ The April 21, 2005 Stipulation and Order is available at: <http://www.pigfordmonitor.org/orders/20050421stip&order.pdf>.

Table 15 provides cumulative statistics reported by USDA concerning prevailing claimants who requested priority consideration for a Farm Ownership Loan, an Operating Loan, or the purchase of inventory property, as of the end of 2010.

Table 15: Statistical Report Regarding Priority Consideration Injunctive Relief⁵⁴	
Statistical Report as of:	End of 2010
A. Farm Ownership Loans	
1. Number of Requests for Priority Consideration With Complete Application	126
2. Number of Applications Approved	29
B. Farm Operating Loans	
1. Number of Requests for Priority Consideration With Complete Application	218
2. Number of Applications Approved	76
C. Inventory Property	
1. Number of Requests for Priority Consideration	10
2. Number of Applications Approved	1

III. COURT ORDERS

During the calendar year 2010, the Court issued orders: extending the Monitor’s appointment; authorizing the disclosure of certain documents to the National Archives and Records Administration (NARA) to permit the National Archivist to evaluate the historical value of the documents; and directing the Monitor to provide reports on USDA’s implementation of *Pigford* debt relief. These Court Orders are summarized in Table 16 below.

⁵⁴ Table 15 statistics are provided by USDA and are as of December 31, 2010. Appendix 6 contains statistics from prior reporting periods regarding injunctive relief.

Table 16: Court Orders⁵⁵

Court Docket Number	Date Filed	Title	Major Issues Addressed
1622	1/13/2010	Stipulation and Order	Extends the Monitor’s appointment until her duties under the Consent Decree are completed or June 15, 2011, whichever occurs first. ⁵⁶
1642	3/29/2010	Stipulation and Order	Authorizes the Monitor to disclose a representative sample of certain documents to the National Archivist to permit the Archivist to evaluate whether the documents have sufficient historical value to warrant their continued preservation by the United States Government and, if such continued preservation is warranted, to plan for the efficient processing and preservation of the documents.
1667	7/28/2010	Order	Directs the Monitor to report on or before September 15, 2010, regarding the implementation of <i>Pigford</i> debt relief and guidance from the Internal Revenue Service (IRS) for issuing Forms 1099-C to claimants who receive <i>Pigford</i> debt relief.
1680	9/30/2010	Order	Directs the Monitor to report on or before January 28, 2011, regarding the implementation of <i>Pigford</i> debt relief and the projected timeline for completion of all of the tasks necessary to ensure that <i>Pigford</i> debt relief has been appropriately implemented for claimants who are entitled to <i>Pigford</i> debt relief.

IV. MONITOR’S ACTIVITY AND OBSERVATIONS

A. Reporting — Paragraphs 12(a) and 12(b)(i) of the Consent Decree

Paragraph 12(a) of the Consent Decree states that the Monitor shall report directly to the Secretary of Agriculture. During 2010, the Monitor fulfilled the paragraph 12(a) Consent Decree

⁵⁵ Table 16 does not include procedural orders, orders concerning attorney’s fees, and orders relating to approval of the Monitor’s budgets and invoices.

⁵⁶ A subsequent Stipulation and Order filed February 17, 2011, approves the extension of the Monitor’s appointment to January 31, 2012, or such time as her duties are complete, whichever occurs first. See Stipulation and Order, available at: http://www.pigfordmonitor.org/orders/20110217_order_ext.pdf.

reporting requirement through work with USDA’s Office of the General Counsel.⁵⁷ The Monitor had meetings during 2010 with Inga Bumbary-Langston, Assistant General Counsel, Civil Rights Litigation Division, and several other lawyers from USDA’s Office of the General Counsel.

Paragraph 12(b)(i) of the Consent Decree, as modified by a Stipulation and Order filed March 24, 2003, requires the Monitor to report on the good faith implementation of the Consent Decree.⁵⁸ The Monitor submits this report on the good faith implementation of the Consent Decree for the period from January 1, 2010, through December 31, 2010, pursuant to paragraph 12(b)(i) of the Consent Decree and the March 24, 2003 Stipulation and Order. During 2010, the Monitor also filed reports on USDA’s implementation of *Pigford* debt relief and the parties’ review of the debt relief implemented by USDA for all prevailing claimants who are entitled to *Pigford* debt relief.⁵⁹

B. “Resolving Any Problems” — Paragraph 12(b)(ii) of the Consent Decree

Paragraph 12(b)(ii) of the Consent Decree states that the Monitor shall:

Attempt to resolve any problems that any class member may have with respect to any aspect of this Consent Decree

To fulfill the Monitor’s paragraph 12(b)(ii) problem-solving responsibility during calendar year 2010, the Monitor’s office worked directly with class members by phone, through correspondence, and by sending out and otherwise making available “Monitor Updates” on issues relevant to problems and concerns raised by class members.

⁵⁷ The Monitor did not meet in 2010 with Secretary of Agriculture Tom Vilsack. The Monitor met with Secretary Vilsack on May 4, 2009.

⁵⁸ See Consent Decree, paragraph 12(b)(i); Stipulation and Order dated March 23, 2003, available at: <http://www.pigfordmonitor.org/orders/20030324order.pdf>.

⁵⁹ The Monitor’s reports on debt relief are discussed more fully in Section V of this report.

During calendar year 2010, the most common concerns brought to the Monitor's attention by claimants who prevailed in the claims process included: (1) concerns about debt relief and whether class members received the appropriate debt relief; and (2) concerns about tax relief and the status of tax deposits. The Monitor addressed concerns about debt relief by working with USDA and Class Counsel to review individual claimants' loan records to determine whether the claimants had received the appropriate debt relief, including refunds of certain offsets or payments made on loans subject to *Pigford* debt relief. The Monitor addressed concerns about tax relief and tax deposits by working with the Facilitator, USDA, and Class Counsel to resolve issues regarding the establishment of tax accounts and the timely deposit of payments to those accounts.

The Monitor also provided information to the entire class through postings on the Monitor's web site.⁶⁰ The Monitor's web site has been regularly updated to include relevant Court Orders in the case, reports by the Monitor and the Arbitrator, statistics on the claims process provided by the Facilitator, relevant Farm Loan Program (FLP) notices issued by USDA, and links for class members seeking assistance with their farming operations. In 2010, there were 55,586 page views of this web site.

C. Reexamination of Claims — Paragraph 12(b)(iii) of the Consent Decree

Paragraph 12(b)(iii) of the Consent Decree gives the Monitor responsibility to direct reexamination of a claim where the Monitor finds that a clear and manifest error has occurred in the screening, adjudication, or arbitration of the claim that has resulted or is likely to result in a

⁶⁰ The Monitor's web site address is: <http://www.pigfordmonitor.org>.

fundamental miscarriage of justice. The Monitor considers whether reexamination is warranted in response to petitions for Monitor review filed by class members and by USDA.

Table 17 provides statistics regarding Monitor petition decisions as of the end of 2010.

Table 17: Statistical Report Regarding Petitions for Monitor Review⁶¹	
Statistical Report as of:	End of 2010
Petitions for Monitor Review	
A. Total Number of Petitions for Monitor Review	5,848
1. Claimant Petitions	4,981
2. Government Petitions	867
Monitor Decisions	
B. Total Number of Petition Decisions Issued by Monitor	5,847
1. Total Number of Petitions Granted	2,941
a. Claimant Petitions Granted	2,809
b. Government Petitions Granted	132
2. Total Number of Petitions Denied	2,906
a. Claimant Petitions Denied	2,171
b. Government Petitions Denied	735

1. Petitions for Review of Adjudicator Decisions

The Adjudicator issued decisions in a cumulative total of 22,551 Track A claims as of the end of 2010. In 5,788 of those claims (approximately twenty-six percent), the claimant and/or USDA petitioned for review.

Table 18 sets forth statistics about the petitions for review in Track A claims and the Adjudicator’s decisions on reexamination as of the end of 2010.

⁶¹ Table 17 statistics are provided by the Facilitator and are as of December 31, 2010. Appendix 7 contains statistics from previous reporting periods.

Table 18: Statistical Report Regarding Track A Petitions and Adjudicator Reexamination Decisions⁶²	
Statistical Report as of:	End of 2010
Petitions for Monitor Review	
A. Number of Petitions for Monitor Review of Track A Adjudicator Decisions ⁶³	5,788
1. Track A Claimant Petitions	4,940
2. Track A Government Petitions	848
Monitor Decisions	
B. Track A Petition Decisions Issued by Monitor	5,787
1. Total Number of Track A Petitions Granted	2,926
a. Claimant Track A Petitions Granted	2,798
b. Government Track A Petitions Granted	128
2. Total Number of Track A Petitions Denied	2,861
a. Claimant Track A Petitions Denied	2,141
b. Government Track A Petitions Denied	720
Adjudicator Reexamination Results	
C. Reexamination Decisions Issued by Adjudicator	2,904
1. Reexamination Decisions After Claimant Petition Granted by Monitor	2,776
a. Claimant Prevailed on Reexamination	2,464
b. Claimant Did Not Prevail on Reexamination	312
2. Reexamination Decisions After Government Petition Granted by Monitor	128
a. Government Prevailed on Reexamination	113
b. Government Did Not Prevail on Reexamination	15

One Track A petition for Monitor review that was filed in 2010 remained pending as of the end of 2010. No claims were pending a reexamination decision by the Adjudicator as of the end of 2010.

⁶² Table 18 statistics are provided by the Facilitator and are as of December 31, 2010. Appendix 8 contains information about Adjudicator reexamination decisions from prior reporting periods.

⁶³ In some Track A claims, both the claimant and USDA petitioned for Monitor review from the same Adjudicator decision. In these cases, the Facilitator’s database “merges” the two petitions and counts them as one petition, and the Monitor issues one decision in response to the two petitions.

2. *Petitions for Review of Arbitrator Decisions*

In approximately sixty-one Track B claims, either the claimant or USDA or both the claimant and USDA petitioned the Monitor for review. As of the end of 2010, the Monitor had issued decisions in response to all sixty-one of those petitions. Table 19 sets forth information about the petitions for Monitor review in Track B claims and the final result for claimants after a petition for reexamination was granted by the Monitor, as of the end of 2010.

Table 19: Statistical Report Regarding Track B Petitions and Arbitrator Reexamination Decisions⁶⁴	
Statistical Report as of:	End of 2010
Petitions for Monitor Review	
A. Number of Petitions for Monitor Review of Track B Arbitrator Decisions	61
1. Claimant Track B Petitions	42
2. Government Track B Petitions	19
Monitor Decisions	
B. Track B Petition Decisions Issued by Monitor	61
1. Total Number of Track B Petitions Granted	16
a. Claimant Track B Petitions Granted	12
b. Government Track B Petitions Granted	4
2. Total Number of Track B Petitions Denied	45
a. Claimant Track B Petitions Denied	30
b. Government Track B Petitions Denied	15
Arbitrator Reexamination Results	
C. Final Result After Petition For Reexamination Granted by Monitor	
1. Claimant Awarded Relief by Arbitrator	9
2. Track B Cases Settled or Converted to Track A	5
3. Claimant Denied Relief by Arbitrator	0
4. Final Result Pending	2

⁶⁴ Table 19 statistics are provided by the Facilitator and are valid as of December 31, 2010. In two Track B claims, petitions for Monitor review were filed from two separate decisions by the Arbitrator. In four Track B claims, both the claimant and USDA petitioned for review of the same Arbitrator decision.

No new Track B petitions for Monitor review were filed in 2010 and no petitions for review of an Arbitrator’s decision remained pending as of the end of 2010. Two claims remained pending before the Arbitrator as of the end of 2010, following a decision by the Monitor granting a claimant petition for reexamination.⁶⁵

D. Calls to Toll-Free Telephone Number — Paragraph 12(b)(iv) of the Consent Decree

Paragraph 12(b)(iv) of the Consent Decree gives the Monitor the responsibility to staff a toll-free telephone line that class members and the public can call to lodge Consent Decree complaints. The Monitor’s toll-free telephone number is: 1-877-924-7483. The Monitor’s toll-free operators staffed a total of 55,794 calls in 2010.

Some callers in 2010 were prevailing claimants who had questions or concerns about the status of their claim or about their relief. Callers with specific problems, such as questions about whether particular loans qualify for debt relief, were referred to attorneys in the Monitor’s office for assistance.

Many callers to the Monitor’s toll-free line in 2010 were not prevailing class members. Some of the callers had filed a request for permission to file a late claim. Other callers had not filed a timely claim or a timely request for permission to file a late claim and could not be located in the Facilitator’s database. These callers asked questions about whether they could still file a claim and whether there was a “*Pigford II*” case that had been reopened due to

⁶⁵ In addition to the petitions reported in Table 19, the Monitor granted one petition in a Track B case in which the claimant had petitioned for reexamination of a Facilitator eligibility screening decision. On reexamination, the Facilitator found the claimant eligible for the claims process.

congressional action in 2008.⁶⁶ The Monitor also received letters seeking information on how to sign up for the “new case.” The Monitor informed individuals who are not claimants in the *Pigford* case that the Monitor is authorized to work only on the *Pigford* case. The Monitor also referred individuals to the website and toll-free number established by a group of attorneys involved in the cases that have been brought under the legislation passed by Congress in 2008. These cases have been consolidated as *In re: Black Farmers Discrimination Litigation*, Misc. No. 08-0511 (PLF), in the United States District Court for the District of Columbia.⁶⁷

V. SIGNIFICANT CONSENT DECREE IMPLEMENTATION ISSUES

During 2010, the parties and the Monitor focused attention on ensuring that all prevailing claimants in the *Pigford* case received the relief they are entitled to receive under the Consent Decree and prevailing Court Orders. The parties and the Monitor also began to implement steps needed to wind down the Consent Decree claims process. Activity in each of these areas is described below.

⁶⁶ The Monitor is aware that in 2008 Congress passed and the President signed legislation authorizing a new cause of action for certain individuals. *See* Food, Conservation and Energy Act of 2008, Public Law No. 110-246, § 14012 (2008).

⁶⁷ The Monitor is aware that on May 13, 2011, the Court granted conditional certification of a class and preliminary approval of a settlement agreement in the litigation consolidated as *In re: Black Farmers Discrimination Litigation*. *See* Order Granting Preliminary Approval of Settlement Agreement, Certifying a Rule 23(b)(1)(B) Settlement Class and for Other Purposes, *In re: Black Farmers Discrimination Litigation*, Misc. No. 08-mc-0511 (PLF) (D.D.C. May 13, 2011). In Case Management Order No. 1, *In re: Black Farmers Discrimination Litigation*, Misc. No. 08-mc-0511 (PLF) (D.D.C. Dec. 15, 2008), the Court authorized plaintiffs’ counsel to create and operate a publicly available web site and a phone bank with a toll-free number established for the purpose of providing information regarding the *In re: Black Farmers Discrimination Litigation*. The Case Management Order states that plaintiffs’ counsel may make the web site address and phone numbers available to the *Pigford* Monitor so that she may, if she wishes, post them on the Monitor’s web site. Although the Monitor did not post a telephone number or web site link on the Monitor’s web site, through the Monitor’s toll-free line and through correspondence the Monitor has referred individuals to the website and toll-free number established by plaintiffs’ counsel.

A. Relief for Successful Class Members

As of the end of 2010, all but a very small number of eligible claimants had received a final decision on their claim or had otherwise settled their claim with the Government. The parties and the neutrals worked in 2010 to resolve issues concerning the payment of cash relief, the implementation of debt relief, and the establishment and funding of tax accounts for prevailing claimants.

1. Cash Relief

The Facilitator and the parties reviewed the payment status of all prevailing Track A claims in an effort to resolve pending payment issues. USDA is responsible for the payment of cash relief for prevailing non-credit claims. During 2010, the Facilitator and USDA took steps to reconcile their lists of claimants who are entitled to a \$3,000 non-credit relief payment. The Facilitator is responsible for issuing payments of cash relief for prevailing Track A credit claims. During 2010, the Facilitator reported on the number of Track A credit claims that remained unpaid. Generally, claims remained unpaid due to: (1) administrative delays in completing the necessary paperwork for estate claims;⁶⁸ or (2) claimants apparently were no longer living at the address on file with the Facilitator and were not yet located.

2. Debt Relief

Since 2008, the Monitor has worked with the parties, as directed by the Court, to review the *Pigford* debt relief implemented by USDA for all prevailing claimants who may be entitled to debt relief. As of the end of 2010, approximately 2,880 claims had been identified for debt

⁶⁸ There has been some change over time regarding the protocol for payment of relief in cases in which a class member is deceased. The Facilitator reported that, since 2002, checks in these cases have been issued with the payee formulation "Estate of." Before these checks can be issued, paperwork must be submitted establishing a personal representative, including the tax identification number of the estate and the Social Security number of the representative.

relief review. During 2010, the Monitor filed three reports with the Court summarizing the issues involved in the substantive review process.⁶⁹

For each claim in the universe of claims to be reviewed, USDA begins the process by determining, in USDA's view, whether any new initial or additional debt relief is appropriate. After USDA reviews and implements any debt relief that USDA identifies as appropriate, USDA forwards claim information to the Monitor and Class Counsel. The parties and the Monitor work together to resolve any questions regarding potential additional loan forgiveness, refunds of payments or offsets, or non-cash credits to equity recapture accounts. Upon the resolution of any outstanding issues and the implementation of any additional debt relief the parties agree is appropriate, the Monitor issues a summary of the debt relief, if any, that was implemented by USDA.

As of the end of 2010, the Monitor had completed summaries in 2,535 of the approximately 2,880 claims identified for review. In September 2010, the parties agreed to a process and certain timeframes for Class Counsel to raise any objections to the debt relief implemented by USDA after a Monitor summary is issued in an individual case. On December 31, 2010, the timeframe for objection expired for approximately 2,125 of the approximately 2,880 claims currently identified for review.⁷⁰

⁶⁹ See Monitor's Fourth Report on Debt Relief Implementation, filed January 15, 2010; Monitor's Fifth Report on Debt Relief Implementation, filed July 1, 2010; Monitor's Sixth Report on Debt Relief Implementation, filed September 15, 2010. All of the Monitor's reports are available at: <http://www.pigfordmonitor.org/reports/>.

⁷⁰ Completion of the debt relief review process and the expiration of the objection period concludes the Monitor's debt relief review process but does not preclude a claimant from taking other action the claimant may deem appropriate to enforce his or her rights under the Consent Decree. See Consent Decree, paragraph 13 (describing the process for bringing alleged violations of the Consent Decree to the attention of the Court).

As a result of the debt relief review process, claimants have received refunds of payments made on loans subject to *Pigford* debt relief, refunds of offsets taken by the government and applied to loans subject to *Pigford* debt relief, and forgiveness of principal and/or interest on loans subject to *Pigford* debt relief. In some cases, payments or offsets on *Pigford* loans are reversed and reapplied to other USDA loans that do not qualify for *Pigford* debt relief.

Table 20 sets forth the debt relief USDA had implemented as a result of the debt relief review process as of December 31, 2010.

Table 20: Results of Debt Relief Review Process⁷¹	
Statistical Report as of:	December 31, 2010
A. Number of Claimants Who Received Debt Relief as a Result of Debt Relief Review	88
B. Amount of Payments Refunded to Claimants as a Result of Debt Relief Review	\$1,196,522
C. Amount of Payments Reversed and Reapplied to Non- <i>Pigford</i> Loans as a Result of Debt Relief Review	\$30,304
D. Amount of Offsets Refunded to Claimants as a Result of Debt Relief Review	\$418,236
E. Amount of Offsets Reversed and Reapplied to Non- <i>Pigford</i> Loans as a Result of Debt Relief Review	\$17,642
F. Amount of Loan Forgiveness (Principal and Interest) as a Result of Debt Relief Review	\$3,446,907

During 2010, the parties addressed the tax implications of *Pigford* debt relief, including the federal income tax reporting requirements for debt relief. USDA received guidance in March 2009 from the Office of Chief Counsel of the Internal Revenue Service (IRS) regarding the income tax realization date and the amount of debt cancellation to report on IRS Forms

⁷¹ Figures are rounded to the nearest dollar.

1099-C.⁷² During 2010, USDA reprocessed the debt relief for nineteen claims the parties identified as claims in which corrected Forms 1099-C should be issued to comply with the IRS guidance. USDA also consulted with the Monitor and Class Counsel regarding the application of the IRS guidance as USDA implemented debt relief in 2010.

3. *Tax Relief*

Tax relief for claimants who prevail on a Track A credit claim requires the establishment of an IRS tax account into which the Government pays: (1) \$12,500 as a credit for taxes that may be owed on the \$50,000 in Track A cash relief; and (2) twenty-five percent of the principal amount of any loan forgiveness provided by USDA as a credit for taxes that may be owed on *Pigford* debt relief.

During 2010, the Facilitator and the parties reviewed the tax accounts established for Track A claimants and the reasons for the delay in establishing some tax accounts. The Facilitator requested information from the IRS to identify the reasons for delay. According to the Facilitator, tax accounts for some estate claims were delayed because the accounts required an EIN (Employer Identification number) rather than a Social Security number.⁷³ The IRS was contacting estate administrators to obtain the necessary information for these claimants.

The parties and neutrals also reviewed the status of tax deposits for *Pigford* debt relief and the problems some claimants had experienced as a result of a delay between the time USDA

⁷² The Monitor's Third Report on Debt Relief Implementation and Monitor Update No. 16, Federal Income Tax and Debt Relief (Aug. 27, 2009), describe the IRS guidance on reporting *Pigford* debt relief. For information on how USDA issues Forms 1099-C, see the Monitor's Sixth Report on Debt Relief Implementation, available at: http://www.pigfordmonitor.org/reports/rpt20100914_dr_impl.pdf.

⁷³ An EIN or Employer Identification Number is one of the Taxpayer Identification Numbers (TIN) used in the administration of federal tax laws. An EIN is used to identify a business entity. It is also used by estates and trusts that report income to the IRS.

implemented debt relief and the time a tax deposit was made.⁷⁴ The parties and neutrals discussed the steps that could be taken to reduce the time between USDA's implementation of debt relief and the deposit of twenty-five percent of the amount of principal debt relief in a claimant's IRS tax account. Class Counsel also worked with the National Taxpayer Advocate on behalf of individual claimants to address the tax implications of *Pigford* debt relief.

B. Estate Claims

Some class members passed away prior to the filing of a claim on their behalf. Other class members passed away during the time their claim was pending a final resolution. Class Counsel has raised the possibility that some relief may not have been appropriately provided to the heirs of deceased class members. Since January 2002, according to the Facilitator, when checks have been made out to pay prevailing claims in which the class member is deceased, the payee on those checks has only been "Estate of [Claimant]." Before January 2002, though, in that situation the payee was in some cases a person or entity other than "Estate of [Claimant]." For example, before January 2002, if the class member was deceased and the claim had been filed by the daughter of the class member, the daughter (not "Estate of [Claimant]") may have been listed as the payee on the check. Class Counsel is concerned that in several of these pre-2002 cases, the proceeds of the payment may not have been disbursed to the rightful beneficiaries. During 2010, the Facilitator, the Monitor, and the Government reviewed Class

⁷⁴ Tax deposits are made into a claimant's tax account from the Judgment Fund. The deposit is made after USDA reports the amount of *Pigford* debt cancellation to the Facilitator, the Facilitator informs the IRS of the amount of principal debt cancellation, the IRS requests a tax deposit of 25 percent of the principal amount, and the Department of Justice approves the transfer of the deposit from the Judgment Fund to the claimant's tax account. The IRS has requested the Facilitator report the amount of principal debt cancellation on an annual basis.

Counsel's concerns regarding the appropriate relief in individual cases and continued to work with Class Counsel regarding the appropriate relief in estate claims.

C. Wind-Down Process and Document Archives

During 2010, the parties continued to discuss the wind-down of the Consent Decree. The Monitor and the Arbitrator began working with the parties to assist them in reaching agreement on how various aspects of the wind-down could be resolved. The parties identified many items for potential resolution, including the following: (1) the development of a permanent or final claims database, with information about the outcome of the claims process in individual claims; (2) a plan for handling unclaimed funds and a date for final payments; (3) an expiration date for the posting requirements imposed on USDA for certain Court Orders associated with the Consent Decree;⁷⁵ and (4) a plan for handling any problems that may arise after the Monitor's appointment expires.

The Facilitator provided the parties with a suggested timeline for the final distribution of payments, IRS Forms 1099 reporting for payments, requests for IRS tax accounts and deposits, IRS Forms 1099 reporting for the tax deposits, and closure of the Consent Decree fund. The Facilitator timeline also includes suggested dates for the termination of the Facilitator's toll-free line and post office box and document retention and destruction schedules.

⁷⁵ USDA is required to post the following: July 14, 2000 Stipulation and Order regarding late claims requests; February 7, 2001 Stipulation and Order regarding non-credit cash relief and debt relief; October 29, 2002 Order regarding petitions for Monitor review of Facilitator screening decisions; and April 21, 2005 Stipulation and Order regarding the deadlines for requesting injunctive relief.

As part of the wind-down process, the parties discussed the requirements for transfer of certain *Pigford* records to the National Archives and Records Administration (NARA).⁷⁶ The parties began to consider how best to comply with NARA requirements. Documents that may need to be transferred to NARA include: (1) late claim requests; (2) Claim Sheets and attached proof of prior discrimination complaints; (3) decisions by the Adjudicator and Arbitrator; (4) petitions, petition responses, and Monitor decisions; (5) correspondence between claimants and the Monitor and Facilitator; and (6) debt relief summaries and farm program loan records. Class Counsel and the Government raised privacy concerns for claimants and third parties named in the documents that might be transferred. The parties also identified the potential need to seek modification of the Second Amended Privacy Act Protective Order. These and other wind-down issues remained under consideration at the end of 2010.

⁷⁶ The Federal Records Act establishes the framework for records management programs in federal agencies. The Federal Records Act gives the National Archivist and the National Archives and Records Administration (NARA) responsibility for maintaining and preserving federal records and for making determinations regarding records of enduring historical or other value. For a description of NARA authority and procedures for records, see 33 U.S.C. Chapters 21, 29, 33 and regulations at 36 C.F.R. Parts 1220 to 1239. For more information on NARA's role in document preservation and retention, see National Archives and Records Administration, *Strategic Directions: Appraisal Policy (2007)*, available at: <http://www.archives.gov/records-mgmt/initiatives/appraisal.html>.

VI. GOOD FAITH IMPLEMENTATION OF THE CONSENT DECREE

The parties and the neutrals worked in good faith to implement the Consent Decree in calendar year 2010. The Monitor will continue to work with the parties and report to the Court on the implementation of the Consent Decree and as requested.

Dated: May 27, 2011.

Respectfully submitted,

OFFICE OF THE MONITOR

s/Randi Ilyse Roth

Randi Ilyse Roth
Monitor

s/Cheryl W. Heilman

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Appendix 1

STATISTICAL REPORT REGARDING TRACK A CLAIMS¹

Statistical Report as of:	Aug. 28, 2000		End of 2001		End of 2002		End of 2003		End of 2004		End of 2005	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
A. Eligible Class Members	21,069	100	21,541	100	21,774	100	22,276	100	22,391	100	22,415	100
B. Cases in Track A (Adjudications)	20,878	99	21,364	99	21,595	99	22,098	99	22,218	99	22,243	99
C. Cases in Track B (Arbitrations) ²	191	1	177	1	179	1	178	1	173	1	172	1
Adjudication Completion Figures												
D. Adjudications Complete	18,347	88	21,324	~100	21,547	~100	21,678	98	22,168	~100	22,240	~100
E. Adjudications Not Yet Complete	2531	12	40	~0	48	~0	420	~2	50	~0	3	~0
Adjudication Approval/Denial Rates												
F. Claims Approved by Adjudicator	11,083	60	12,848	60	12,987	60	13,260	61	13,676	62	14,257	64
G. Claims Denied by Adjudicator ³	7,264	40	8,476	40	8,560	40	8,418	39	8,492	38	7,983	36
Adjudication Approvals Paid/Not Paid												
H. Approved Adjudications Paid	7,143	64	12,285	96	12,690	98	12,968	98	13,300	97	13,916	98
I. Approved Adjudications Not Yet Paid	3,940	36	563	4	297	2	292	2	376	3	341	2
J. Cash Relief Paid to Class Members for Track A Credit Claims ⁴	\$357,150,000 ⁵		\$614,250,000		\$624,750,000		\$638,350,000		\$654,550,000		\$685,300,000	
K. Cash Relief Paid to Class Members for Track A Non-Credit Claims	-		\$1,284,000		\$1,284,000		\$1,287,000		\$1,269,000 ⁶		\$1,326,000	

(See next page for years 2006 through 2010.)

¹ These statistics were provided by the Facilitator.

² The decrease in the number of Track B claims is a result of claimants converting their claims, with the consent of the Government, to Track A.

³ The decrease in denials is a result of decisions being overturned on reexamination.

⁴ This figure includes only the \$50,000 cash relief award in Track A credit cases. It does not include debt relief or tax payments for Track A credit claims.

⁵ This figure includes both credit and non-credit payments as of August 28, 2000, as reported in the Monitor's Report and Recommendations Regarding Implementation of the Consent Decree for the Period of March 1, 2000 through August 31, 2000.

⁶ The cumulative dollars reported by the Facilitator for non-credit payments (\$3,000 per successful claim) decreased from the amount reported as of the end of 2003 due to the Facilitator's reconciling of payment data from USDA for non-credit claims.

Appendix 1

STATISTICAL REPORT REGARDING TRACK A CLAIMS

(continued)

Statistical Report as of:	End of 2006		End of 2007		End of 2008		End of 2009		End of 2010	
	Number	%	Number	%	Number	%	Number	%	Number	%
A. Eligible Class Members	22,440	100	22,691	100	22,719	100	22,721	100	22,721	100
B. Cases in Track A (Adjudications)	22,269	99	22,519	99	22,547	99	22,549	99	22,551	99
C. Cases in Track B (Arbitrations) ⁷	171	1	172	1	172	1	172	1	170	1
Adjudication Completion Figures										
D. Adjudications Complete	22,268	~100	22,271	99	22,505	99	22,547	~100	22,551	100
E. Adjudications Not Yet Complete	1	~0	248	1	42	1	2	~0	0	0
Adjudication Approval/Denial Rates										
F. Claims Approved by Adjudicator	14,751	66	15,237	68	15,596	69	15,635	69	15,645	69
G. Claims Denied by Adjudicator ⁸	7,517	34	7,034	32	6,909	31	6,912	31	6,906	31
Adjudication Approvals Paid/Not Paid										
H. Approved Adjudications Paid	14,494	98	15,079	99	15,408	99	15,537	99	15,608	99
I. Approved Adjudications Not Yet Paid	257	2	158	1	188	1	98	1	37	1
J. Cash Relief Paid to Class Members for Track A Credit Claims ⁹	\$714,900,000		\$745,300,000		\$759,800,000		\$765,850,000		769,400,000	
K. Cash Relief Paid to Class Members for Track A Non-Credit Claims	\$1,254,000 ¹⁰		\$1,299,000		\$1,467,000		\$1,512,000		1,515,000	

⁷ The decrease in the number of Track B claims is a result of claimants converting their claims, with the consent of the Government, to Track A.

⁸ The decrease in denials is a result of decisions being overturned on reexamination.

⁹ This figure includes cash relief awards in Track A credit cases only. It does not include debt relief, tax relief, awards for non-credit claims, or awards or settlements in Track B cases.

¹⁰ The cumulative dollars reported by the Facilitator for non-credit payments decreased from the amount reported as of the end of 2005 due to the Facilitator's internal reconciliation of paid non-credit claims for certain claimants who prevailed on both credit and non-credit claims.

Appendix 2

STATISTICAL REPORT REGARDING TRACK B CLAIMS¹

Statistical Report as of:	Sept. 18, 2000	End of 2001	End of 2002	End of 2003	End of 2004	End of 2005	End of 2006	End of 2007	End of 2008	End of 2009	End of 2010
A. Eligible Track B Claimants	177	235	236	237	238	239	240	241	241	241	241
B. Track B Cases Settled	11	57	61	71	69 ²	71	71	71	71	72	75
C. Track B Cases Converted to Track A	27	50	54	55	62	64	65	65	65	65	68
D. Track B Cases Withdrawn	5	6	6	6	9	9	9	9	9	9	9
Arbitrations Complete/Not Complete											
E. Contested Track B Cases in Claims Process (Not Settled, Converted or Withdrawn)	134	122	115	105	98	95	95	96	96	95	89
F. Final Arbitration Decisions Issued	15	51	71	77	81	87	90	91	91	91	86
G. Final Arbitration Decisions Not Yet Issued	119	71	44	28	17	8	5	5	5	4	3 ³

(Continued on next page.)

¹ These statistics are provided by the Arbitrator for the columns for September 18, 2000, through the end of 2005; the Facilitator provided the statistics for the columns through the end of 2006, 2007, 2008, and 2010.

² This number is lower than the prior year's number because the Arbitrator learned that reports that some cases had settled were in error.

³ These statistics include claims in which the Arbitrator had not yet issued an initial final decision and claims in which a final decision remained pending after a petition for reexamination was granted.

Appendix 2

STATISTICAL REPORT REGARDING TRACK B CLAIMS

(continued)

Statistical Report as of:	Sept. 18, 2000	End of 2001	End of 2002	End of 2003	End of 2004	End of 2005	End of 2006	End of 2007	End of 2008	End of 2009	End of 2010
Arbitration Results											
H. Claimant Prevailed Before Arbitrator	2	8	15	17	18	19	22	23	23	25	27
I. Average Award to Prevailing Claimants	\$580,500	\$531,373	\$560,309	\$545,686	\$551,587	\$526,626	\$499,057	\$476,679	\$476,679	\$985,046	\$972,909
J. Government Prevailed Before Arbitrator	13	43	56	60	63	68	68	68	68	66	59
Posture of Decisions in Which Government Prevailed											
K. Cases Dismissed Before Hearing	10	28	34	38	40	44	44	44	44	44	40
L. Full Hearing, Finding of No Liability	3	15	22	22	23	24 ⁴	24	24	24	22	19

⁴ This number includes a claim in which the decision was signed by the Arbitrator on November 30, 2005, but the decision was not postmarked until January 4, 2006.

Appendix 3

STATISTICS FOR INDIVIDUAL TRACK B CLAIMANT AWARDS¹

Claimant	Sept. 18, 2000	End of 2001	End of 2002	End of 2003	End of 2004	End of 2005	End of 2006	End of 2007	End of 2008 ²	End of 2009	End of 2010
Claimant A	\$544,400.00										
Claimant B	\$616,600.00										
Claimant C	-	\$615,090.00									
Claimant D	-	\$100,000.00									
Claimant E	-	\$780,000.00									
Claimant F	-	\$625,566.00									
Claimant G	-	\$507,954.88									
Claimant H	-	[liability found but damages not awarded as of the end of 2001]	[damages award issued in 2002 reexamined in 2006]				\$411,248.91				
Claimant I	-	-	\$1,447,917.00								
Claimant J	-	-	\$879,920.58								
Claimant K	-	-	\$594,444.00								
Claimant L	-	-	\$557,800.00								
Claimant M	-	-	\$427,363.00								
Claimant N	-	-	\$172,000.00								
Claimant O	-	-	\$52,000.00								

¹ These awards were reported by the Arbitrator for the columns through the end of 2005. The Facilitator provided the statistics for the individual Track B awards reported as of the end of 2006 through 2010.

² There were no decisions issued by the Arbitrator awarding relief in a Track B claim in 2008.

Appendix 3

STATISTICS FOR INDIVIDUAL TRACK B CLAIMANT AWARDS

(continued)

Claimant	Sept. 18, 2000	End of 2001	End of 2002	End of 2003	End of 2004	End of 2005	End of 2006	End of 2007	End of 2008 ³	End of 2009	End of 2010
Claimant P	-	-	-	\$750,048.00							
Claimant Q	-	-	-	[damages award issued in 2003 reexamined in 2009]						\$116,533.31	
Claimant R	-	-	-	-	\$651,903.00						
Claimant S	-	-	-	-	-	\$77,321.00					
Claimant T	-	-	-	-	-	-	\$277,115.11				
Claimant U	-	-	-	-	-	-	\$269,524.90				
Claimant V	-	-	-	-	-	-	-	[damages award issued in 2007 reexamined in 2009]		\$164,465.00	
Claimant W	-	-	-	-	-	-	-	\$302,290.87			
Claimant X	-	-	-	-	-	-	-	-	-	\$595,323.02	
Claimant Y	-	-	-	-	-	-	-	-	-	\$12,789,162.00	
Claimant Z											\$1,093,500.00
Claimant AA											\$849,046.00

³ There were no decisions issued by the Arbitrator awarding relief in a Track B claim in 2008.

Appendix 4

STATISTICAL REPORT REGARDING DEBT RELIEF¹

Statistical Report as of:	End of 2003	End of 2004	End of 2005	End of 2006	End of 2007	End of 2008	End of 2009	End of 2010
A. Total Amount of Debt Forgiven (Principal and Interest)	\$21,930,937	\$22,657,917	\$26,093,911	\$30,291,397	\$33,313,408	\$41,529,287	\$42,936,326	\$48,290,848
B. Debt Forgiven for Track A Claimants	\$19,583,425	\$20,253,962	\$23,191,245	\$26,626,924	\$29,635,934	\$37,447,673	\$38,594,172	\$40,761,125
C. Debt Forgiven for Track B Claimants	\$2,347,512	\$2,403,955	\$2,902,666	\$3,664,473	3,677,474	\$4,081,614	\$4,342,154	\$7,529,723
D. Number of Track A Claimants Who Received Debt Forgiveness	228	239	268	307	319	344	351	370
E. Number of Track B Claimants Who Received Debt Forgiveness	25	25	17 ²	18	18	19	20	24
F. Average Amount of Debt Forgiven Per Track A Claimant Who Received Debt Forgiveness	\$85,892	\$84,745	\$86,535	\$86,733	\$92,903	\$108,860	\$109,955	\$110,165
G. Average Amount of Debt Forgiven Per Track B Claimant Who Received Debt Forgiveness	\$93,900	\$96,158 ³	\$170,745	\$203,582	\$204,304 ⁴	\$214,822	\$217,108	\$313,738

¹ These statistics are provided by USDA.

² USDA reported to the Monitor that the number of Track B claimants who received debt relief decreased in 2005 because USDA discovered that the number of Track B claimants reported for prior years had included claimants who did not actually receive debt relief.

³ The average amount of Track B debt relief increased in 2004 even though the number of Track B claimants who received debt relief remained the same as in 2003. This is because one Track B claimant who had been awarded debt relief prior to 2004 was awarded additional debt relief in calendar year 2004.

⁴ The average amount of Track B debt relief increased in 2007 even though the number of Track B claimants who received debt relief remained the same as in 2006. This is because one Track B claimant who had been awarded debt relief prior to 2007 was awarded additional debt relief in calendar year 2007.

Appendix 4

STATISTICAL REPORT REGARDING DEBT RELIEF

(continued)

Total Amount of Debt Forgiven (Principal and Interest) for Track A and Track B Claimants, by Residence of Claimants	
Alabama	\$1,031,573
Arkansas	\$8,563,849
California	\$8,016
Colorado	\$56
Florida	\$267,967
Georgia	\$6,389,129
Illinois	\$200,189
Indiana	\$1,977,860
Kansas	\$83,531
Kentucky	\$139,039
Louisiana	\$3,880,415
Minnesota	\$11,911
Missouri	\$1,208,658
Mississippi	\$12,861,827
North Carolina	\$3,475,604
Oklahoma	\$1,439,592
South Carolina	\$1,126,140
Tennessee	\$1,456,201
Texas	\$1,698,367
Virginia	\$2,412,697
Virgin Islands	\$58,224

Appendix 5

**STATISTICAL REPORT REGARDING
PREVAILING PAID CLAIMANTS BY RESIDENCE¹**

State, Province, or Territory of Claimants' Residence	Total Number of Paid Claimants (Track A and Track B)	Total Cash Relief Paid as of December 31, 2010 (Track A and Track B)
Alaska	2	\$100,000
Alabama	3,407	\$167,461,500
Arkansas	1,489	\$76,129,804
Arizona	5	\$250,000
California	155	\$8,284,600
Colorado	9	\$403,000
Connecticut	8	\$400,000
District of Columbia	13	\$680,000
Delaware	2	\$100,000
Florida	281	\$13,634,000
Georgia	2,003	\$111,362,904
Iowa	2	\$100,000
Illinois	178	\$8,906,000
Indiana	15	\$785,000
Kansas	30	\$1,500,000
Kentucky	63	\$3,115,500
Louisiana	587	\$29,271,000
Massachusetts	4	\$200,000
Maryland	44	\$2,159,000
Michigan	95	\$4,728,000
Minnesota	7	\$350,000
Missouri	92	\$4,621,000
Mississippi	3,153	\$159,619,352
North Carolina	1,373	\$73,642,486

¹ These statistics are provided by the Facilitator and are as of December 31, 2010. Cash relief for Track A claimants includes payment of credit relief (\$50,000) and non-credit relief (\$3,000) to class members who prevailed in the claims process as of the end of 2010. Cash relief for Track B claimants includes payment of damage awards to class members who prevailed in the Track B claims process and payments to class members who settled their claims. Numbers are rounded to the nearest dollar.

Appendix 5

**STATISTICAL REPORT REGARDING
PREVAILING PAID CLAIMANTS BY RESIDENCE**

(continued)

State, Province, or Territory of Claimants' Residence	Total Number of Paid Claimants (Track A and Track B)	Total Cash Relief Paid as of December 31, 2010 (Track A and Track B)
Nebraska	5	\$250,000
New Jersey	34	\$1,706,000
New Mexico	3	\$150,000
Nevada	4	\$153,000
New York	37	\$2,211,249
Ohio	33	\$1,693,000
Oklahoma	588	\$29,116,000
Ontario	1	\$50,000
Pennsylvania	20	\$1,000,000
South Carolina	890	\$45,152,500
Tennessee	487	\$25,326,755
Texas	349	\$18,907,400
Utah	2	\$100,000
Virginia	192	\$10,529,780
Virgin Islands	25	\$1,250,000
Washington	3	\$150,000
Wisconsin	17	\$905,000
West Virginia	1	\$50,000

Appendix 6

STATISTICAL REPORT REGARDING
PRIORITY CONSIDERATION INJUNCTIVE RELIEF¹

Cumulative Statistical Report as of:	End of 2003	End of 2004	End of 2005	End of 2006	End of 2007	End of 2008	End of 2009	End of 2010
A. Farm Ownership Loans								
1. Number of Requests for Priority Consideration with Complete Application								
2. Number of Applications Approved	56	75	124	125	125	125	126	126
	15	21	29	29	29	29	29	29
B. Farm Operating Loans								
1. Number of Requests for Priority Consideration with Complete Application								
2. Number of Applications Approved	112	138	210	215	217	218	218	218
	39	52	72	75	75	76	76	76
C. Inventory Property								
1. Number of Requests for Priority Consideration								
2. Number of Applications Approved	3	4	10	10	10	10	10	10
	1	1	1	1	1	1	1	1

¹ These statistics are provided by USDA.

Appendix 7

STATISTICAL REPORT REGARDING
PETITIONS FOR MONITOR REVIEW¹

Cumulative Statistical Report as of:	End of 2002	End of 2003	End of 2004	End of 2005	End of 2006	End of 2007	End of 2008	End of 2009	End of 2010
Timely Petitions for Monitor Review									
A. Number of Petitions for Monitor Review	5,160	5,401	5,617	5,668	5,701	5,707	5,768	5,848	5,848
1. Claimant Petitions	4,560	4,727	4,901	4,938	4,945	4,950	4,974	4,981	4,981
2. Government Petitions	600	674	716	730	756	757	794	867	867
Monitor Decisions									
B. Petition Decisions Issued by Monitor	1,743	2,725	3,310	4,189	5,243	5,688	5,701	5,794	5,847
1. Total Number of Petitions Granted	676	1,218	1,510	2,049	2,627	2,904	2,914	2,936	2,941
a. Claimant Petitions Granted	631	1,162	1,439	1,971	2,508	2,776	2,784	2805	2,809
b. Government Petitions Granted	45	56	71	78	119	128	130	131	132
2. Total Number of Petitions Denied	1,067	1,507	1,800	2,140	2,616	2,784	2,787	2,858	2,906
a. Claimant Petitions Denied	609	1,040	1,319	1,622	2,011	2,157	2,160	2,169	2,171
b. Government Petitions Denied	458	467	481	518	605	627	627	689	735

¹ These statistics are provided by the Facilitator.

Appendix 8

STATISTICAL REPORT REGARDING
ADJUDICATOR REEXAMINATION DECISIONS¹

Statistical Report as of:	End of 2002	End of 2003	End of 2004	End of 2005	End of 2006	End of 2007	End of 2008	End of 2009	End of 2010
Reexamination Decisions Issued by Adjudicator	39	301	664	1,355	1,957	2,606	2,868	2,893	2,904
1. Reexamination Decisions After Claimant Petition Granted by Monitor	39	291	631	1,295	1,880	2,494	2,743	2,766	2,776
a. Claimant Prevailed on Reexamination	39	279	571	1,189	1,704	2,229	2,437	2,456	2,464
b. Claimant Did Not Prevail on Reexamination	0	12	60	106	176	265	306	310	312
2. Reexamination Decisions After Government Petition Granted by Monitor	0	10	33	60	77	112	125	127	128
a. Government Prevailed on Reexamination	0	10	31	52	68	102	113	113	113
b. Government Did Not Prevail on Reexamination	0	0	2	8	9	10	12	14	15

¹ These statistics are provided by the Facilitator.