

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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TIMOTHY C. PIGFORD, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.
)	97-1978 (PLF)
TOM VILSACK, Secretary,)	
United States Department of)	
Agriculture,)	
)	
Defendant.)	
_____)	
CECIL BREWINGTON, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.
)	98-1693 (PLF)
TOM VILSACK, Secretary,)	
United States Department)	
of Agriculture,)	
)	
Defendant.)	
_____)	

MONITOR’S TWELFTH REPORT ON DEBT RELIEF IMPLEMENTATION

On January 12, 2012, the Monitor filed the Monitor’s eleventh report regarding the review, implementation, and verification of *Pigford* debt relief for all prevailing claimants who may be eligible for debt relief. On January 31, 2012, the Court ordered the Monitor to report on February 3, 2012, regarding: (1) the progress that has been made in resolving questions regarding the appropriate debt relief and in implementing debt relief; and (2) any additional steps that should be taken to complete the debt relief review,

implementation, and verification process prior to March 31, 2012, when the Monitor's duties under paragraph 12 of the Consent Decree will end. The Monitor submits this report to comply with the Court's January 31, 2012 Order.

I. PROGRESS ON DEBT RELIEF

The Monitor reports below on: (a) the parties' efforts to resolve pending questions regarding the appropriate debt relief; and (b) USDA's implementation of debt relief.

A. Resolution of Appropriate Debt Relief

As of January 31, 2012, the parties and the Monitor had resolved questions regarding the appropriate *Pigford* debt relief in all but seven of the 2,896 cases currently identified for debt relief review. The parties are actively negotiating to attempt to resolve the seven unresolved cases.

B. Implementing Debt Relief

As of January 31, 2012, USDA had completed the implementation of *Pigford* debt relief in all but three of the cases that are currently identified for implementation. USDA has indicated that implementation of these three cases will be completed on or before March 1, 2012. USDA has indicated that additional time may be needed if debt relief implementation is required in any additional cases.¹

¹ In addition to the seven cases identified above in which questions regarding debt relief remain pending, there are two claims currently pending in the claims process which may also require debt relief implementation if the claimants prevail in a final Adjudicator or Arbitrator decision.

II. STEPS THAT SHOULD BE TAKEN TO COMPLETE DEBT RELIEF REVIEW

The Monitor sets forth below the steps that should be taken on or before March 31, 2012, to complete the review and verification process. The steps to be taken are described for three different groups of claims. The three groups are based on the current status of debt relief review for: (a) claims currently pending debt relief implementation; (b) claims currently pending resolution of the appropriate debt relief; and (c) claims currently pending a final Adjudicator or Arbitrator decision.

A. Claims Pending Debt Relief Implementation

USDA should complete implementation of debt relief by March 1, 2012, for the three claims currently pending implementation. If USDA provides all of the information that is necessary to verify the implementation of debt relief by March 1, 2012, the Monitor should be able to complete the review process and prepare a debt relief summary for each of the three claims by March 31, 2012.²

B. Claims Pending Resolution of Appropriate Debt Relief

The parties are actively negotiating regarding seven cases in which questions remain regarding the appropriate debt relief. The parties should make every effort to resolve those cases as soon as possible. If agreements are reached that provide for debt relief to be implemented, the Monitor will work with the parties to identify the steps that could be taken prior to March 31, 2012, to implement and verify that relief. If steps will

² Under the process established by the parties, the Monitor prepares a draft summary, which is sent to Class Counsel and USDA for review. Class Counsel and USDA have agreed to expedite their review of any summaries the Monitor issues in March, so that final summaries can be issued prior to March 31, 2012.

remain after March 31, 2012, the Monitor will work with the parties to identify a process for completing those steps.³

C. Claims That May Require Debt Relief Review

There are two claims currently pending a final decision in the claims process.⁴ The parties and neutrals have agreed to expedite resolution of these two claims. If a final decision in the claims process is issued that entitles one or both of the claimants to *Pigford* debt relief, the Monitor will work with the parties to identify the steps that could be taken prior to March 31, 2012, to implement and verify that relief. If steps will remain after March 31, 2012, regarding either of these two claims, the Monitor will work with the parties to identify a process for completing those steps.

III. RECOMMENDATIONS

The Monitor recommends the Court order the Monitor to work with the parties and to take all steps that can be taken prior to March 31, 2012, to complete the debt relief review, implementation, and verification process for all claimants who are entitled to *Pigford* debt relief. The Monitor further recommends the Court order the Monitor to report to the Court on or before February 17, 2012, regarding the status of the debt relief review, implementation, and verification process, and, in particular, the status of any

³ The process should ensure that Class Counsel has an opportunity to review all relevant USDA records; discuss with USDA the appropriate debt relief, if any, that should be implemented; and, if debt relief is appropriate, verify that USDA has fully implemented the appropriate debt relief the claimants are entitled to receive under the Consent Decree.

⁴ In one case, a claimant prevailed in a Track B claim, and the Government filed a petition for Monitor review, which remains pending. In the other case, a claimant who initially elected Track B was granted permission by the Government to switch to Track A, and the claimant's Track A claim remains pending due to Facilitator error.

unresolved questions regarding the appropriate debt relief that individual claimants are entitled to receive.

Dated: February 3, 2012.

Respectfully submitted,

s/Randi Ilyse Roth

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Monitor

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