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Testimony

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FARMERS HOME
ADMINISTRATION

Resolution of Loan Appeals

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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss information concerning the final resolution of farm loan decisions that, through the Farmers Home Administration's (FmHA) appeals process, were remanded to FmHA's lending officials for reconsideration. Additionally, as you requested, we will offer our views on S. 3119--the proposed USDA National Appeals Division Act of 1992.

The information we will be presenting is based primarily on an ongoing review examining (1) the extent to which appellants ultimately received their requested loan making or servicing action on cases appealed to and remanded by FmHA's National Appeals Staff (NAS) to FmHA's lending officials for reconsideration and (2) the timeliness of FmHA's actions to implement remanded appeals cases that were reconsidered in favor of the appellant. To obtain information on these matters, we selected a probability sample from all appeals cases that were remanded to FmHA's lending officials from July 1988 (the inception of the appeals program) through December 1990.¹ Using a questionnaire, we then obtained information on the status of the sampled remanded decisions from the appropriate FmHA county offices. In summary, our preliminary analysis, which of course is subject to change, indicates that:

- An estimated 49 percent of the 2,900 appellants whose appeals were remanded during this time period received at least part of their requested loan or loan servicing after FmHA's lending officials reconsidered their applications. Additionally, while FmHA reconsidered and denied the appeals of 19 percent of the appellants, another 14 percent did not receive their requested loan or loan-servicing action because they failed to follow through with their loan applications or because they rejected FmHA's offers. Actions for the remaining 18 percent of the appellants were still pending at the time of our review.
- FmHA's lending officials are generally slow to implement actions on remanded appeals cases that they favorably reconsider. For example, FmHA took 4 months or more to complete about half the remanded loan-making appeals that were reconsidered in the appellant's favor. In perspective, FmHA's standards allow far less time--2-1/2 months--for completing actions on initial loan applications, a process considered to be more time-consuming. FmHA attributes these delays in large part to appellants

¹Appendix I contains additional information on our sample estimates and associated sampling errors.

who are late in providing information to complete processing their loan or loan-servicing applications.

We have not completed a detailed review of S. 3119. However, while parts of the bill raise some concerns, we generally agree with its underlying intent, which would combine the appeals processes of several U.S. Department of Agriculture (USDA) agencies under one newly created organization and make that organization more independent of the programming agencies. We believe that this approach could result in better use of USDA's resources and foster greater trust in the process by appellants.

BACKGROUND

FmHA, an agency of the USDA, provides credit to farmers who cannot obtain credit elsewhere at reasonable rates and terms. It provides credit assistance through direct loans, which are funded by the government, and through guaranteed loans, which are made by commercial lenders to farmers and guaranteed up to 90 percent by the government.

The FmHA county office is the focal point for individuals to apply for and receive approval of farm program loans. The FmHA county office is also responsible for servicing loans, which includes visiting the borrowers and restructuring delinquent debts. FmHA's district directors provide guidance and supervision to county supervisors in making and servicing farm loans.

FmHA applicants or existing borrowers can appeal most adverse loan decisions made by FmHA's lending officials. Examples of appealable decisions include FmHA's denial of loan eligibility and denial of loan servicing to restructure delinquent debts. In July 1988 FmHA established NAS to hear and rule on appeals of loan decisions by FmHA's lending officials. When an NAS hearing officer rules in favor of an appellant and remands a loan decision, FmHA is required to withdraw its decision and reconsider the loan application. This does not necessarily mean that the appellant will receive the loan or loan-servicing action that was originally denied; it only requires that the application be reconsidered. After NAS remands an adverse action, it has no role in ensuring that FmHA implements its decision; rather, FmHA is responsible for ensuring that proper action will be taken. FmHA's national office in Washington, D.C., monitors actions regarding remanded decisions through its computerized Implementation of Reversed and Modified Appeals Decisions tracking system.

From July 1988 through December 1990, about 11,500 appeals of FmHA's farmer program loan decisions were filed with NAS. In ruling on these cases, NAS upheld FmHA's lending officials' decisions in about 4,600 cases and remanded about 3,100 cases for reconsideration. The remaining cases were either concluded or

withdrawn without hearing officers' decisions or were in process at the time of our review.

RESOLUTION OF REMANDED LOAN MAKING AND SERVICING APPEALS

Of the appeals that were remanded during the time period we reviewed,² about 680 involved appeals of loan-making decisions and about 2,220 involved appeals of loan-servicing decisions. Information on the final resolution of each of these types of appeals follows.

Remanded Loan-Making Appeals

On the basis of our preliminary analysis, we estimate that, of the approximate 680 remanded loan-making appeals, the following took place:

- 277, or 41 percent, resulted in appellants' receiving all or part of the loan they requested. Individuals appealing guaranteed loan decisions generally were more successful in obtaining loans than were individuals who appealed direct loan decisions.
- 175, or 26 percent, were denied again after reconsideration. FmHA denied loans for a variety of reasons, including an appellant's inability to demonstrate a capability to repay the loan or failure to reach agreement with FmHA on a proposed plan of farm operations or projected income or expenses.
- 180, or 26 percent, were closed because appellants rejected offers by FmHA or failed to follow through with their loan applications. For example, in some cases, appellants failed to pursue the loans because they no longer needed the loan funds--e.g., they did not need operating loans to buy seed and fertilizer because the planting season was over.
- 51, or 8 percent, were pending at the time of our review. Oftentimes this occurred because appellants filed additional appeals.

Remanded Loan-Servicing Appeals

On the basis of our preliminary analysis, we estimate that, of the approximate 2,220 remanded loan-servicing appeals, the following took place:

²Our surveys produced results that represent an estimated 2,900 of the approximate 3,100 remanded appeal cases.

- 1,158, or 52 percent, resulted in appellants' receiving loan servicing--either the servicing they had applied for or some other servicing.
- 370, or 17 percent, were again denied after reconsideration. FmHA denied loan servicing for a variety of reasons, such as the appellant's failure to demonstrate an ability to repay restructured debt or to reach agreement with FmHA on the accuracy of financial or farm operational information contained in the servicing application.
- 232, or 10 percent, were closed because appellants rejected FmHA's offer or failed to follow through with their loan-servicing applications. For example, in some cases, appellants could not obtain the funds they needed to make payments to FmHA that were a condition for finalizing the servicing offered. Other appellants who apparently wanted to end their FmHA debt obligations rejected offers to restructure their delinquent debts.
- 461, or 21 percent, were still pending at the time of our review. In many cases, this occurred because appellants filed other appeals or because they were late in providing information that FmHA needed to complete processing the loan-servicing applications.

TIMELINESS OF ACTIONS ON REMANDED APPEALS THAT WERE FAVORABLY RECONSIDERED

FmHA has not established time frames for completing loan making and servicing actions on appeals that are remanded to county offices. After conferring with FmHA's lending officials, we used a period of 60 days to gauge the timeliness of loan-making actions and a period of 90 days to gauge loan-servicing actions. Both time periods begin when an FmHA county office has been notified of a remanded appeal case and end when the loan making or servicing action has been completed. These time periods are 15 days less than the time periods called for in FmHA's standards for reaching initial loan making and servicing agreements; a recognition that some of the initial application data could be used with minimal update when FmHA's lending officials reconsider remanded decisions. On the basis of these standards, FmHA completed timely actions on less than 25 percent of the remanded loan-making appeals that were favorably reconsidered and on less than 40 percent of the remanded loan-servicing appeals. The following provides additional information on the timeliness of FmHA's actions as well as reasons for delays in the process.

Timeliness of Action on Remanded Loan-Making Appeals

We estimate that, of the 277 appellants who received loans, 79 percent waited more than 60 days after their applications were

remanded for reconsideration before they received the loans. Furthermore, we estimate that it took 4 months or more for 131 appellants, or about half of those who received loans, to receive their loans and that the loans for about 10 percent took longer than 1 year.

According to FmHA's officials, the primary reason for delays in completing actions on remanded appeals was that appellants were late in providing information needed to finish processing their loan applications. Another reason frequently cited was that loan funds were not available at the time of loan approval.

Conflicts in wording between FmHA's instructions and hearing officers' decision letters used to notify lending officials and appellants of remanded appeal decisions may have further contributed to delays in loan processing. We estimate that about three-quarters of the decision letters instructed appellants to contact the FmHA county offices to continue the loan-making process. Consequently, some county officials waited for contacts from appellants despite FmHA's regulations that require lending officials to notify appellants and to continue the loan-making process within certain time frames.

Timeliness of Action on Remanded Loan-Servicing Appeals

We estimate that, of the 1,158 appellants who received loan servicing, about 64 percent waited more than 90 days for the servicing to be completed. Furthermore, we estimate that it took 5 months or more for 576 appellants, or about half of those who received servicing, to receive their loan servicing and that the loan servicing for about 11 percent took longer than 1 year.

The reasons cited by FmHA's lending officials for delays in providing loan servicing included the following: (1) appellants were late in providing information that FmHA needed to process their servicing applications; (2) obtaining appraisals was time-consuming; (3) appellants requested extensions to obtain the financing from non-FmHA sources that they needed in order to make certain payments to FmHA; and (4) appellants filed other appeals that, in turn, delayed the completion of actions on the remanded servicing cases. Additionally, as with remanded loan-making appeals, confusion over the instructions in NAS notification letters may have further contributed to delays.

PROPOSED NATIONAL APPEALS DIVISION

S. 3119 would create a National Appeals Division (NAD) within USDA to form a consolidated appeals system covering five USDA agencies--FmHA, the Agricultural Stabilization and Conservation Service, the Commodity Credit Corporation, the Rural Development Administration, and the Soil Conservation Service... Under this bill, individuals who are dissatisfied with decisions by these

agencies would first be required to attempt to resolve their concerns with the agency informally. If these attempts fail, appellants could then appeal the decisions through a formal NAD appeal process. This process would consist of a hearing before a state hearing officer and an optional review by the NAD Director if requested by either the appellant or the agency head. From an organizational standpoint, NAD would be located in the Office of the Secretary of Agriculture.

We have not completed a detailed review of the proposed bill. However, we agree with two of its major components. First, we think that combining the various USDA appeals systems into one could result in efficiency gains and is consistent with the intent of our past recommendations that USDA approach cross-cutting issues in a more comprehensive manner.³ Second, we believe it crucial that the appeals process be perceived as independent of the decisions made by the program agency. We therefore endorse the proposed organizational location of NAD, which could help to reduce possible concerns that agency heads would bias appeal decisions.

We are concerned, however, with some of the provisions of S. 3119. For example, under the bill, an FmHA lending official would be required to implement a hearing officer's decision unless the FmHA Administrator requested the NAD Director to review the decision. However, only 10 working days are provided from the date that the lending official receives notice of the hearing officer's decision for such a request. This may be insufficient time for FmHA to consider and respond to hearing officers' decisions with which FmHA disagrees. Another provision ties the annual performance evaluations of FmHA's lending officials to the number of loan decisions that hearing officers reverse or modify. In our opinion, this could lead to initial loan decisions that are influenced, in part, by a desire to avoid possible reversals through the appeals process rather than to apply agency loan standards.

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Mr. Chairman, this completes my prepared statement. I would be happy to respond to any questions that you or Members of the Subcommittee may have. Also, if you desire, we are willing to work closely with you and the Subcommittee staff on the provisions of S. 3119.

³See U.S. Department of Agriculture: Improving Management of Cross-Cutting Agricultural Issues (GAO/RCED-91-41, Mar. 12, 1991).

SAMPLING ERRORS FOR SURVEY ESTIMATES

Since we used a sample (called a probability sample) of remanded farmer program appeal decisions to develop our estimates, each estimate has a measurable precision, or sampling error, which may be expressed as a plus/minus figure. A sampling error indicates how closely we can reproduce from a sample the results that we would obtain if we were to take a complete count of the universe, using the same measurement methods. By adding the sampling error to and subtracting it from the estimate, we can develop upper and lower bounds for each estimate. This range is called a confidence interval. Sampling errors and confidence intervals are stated at a certain confidence level--in this case, 95 percent. For example, a confidence interval at the 95-percent confidence level means that in 95 out of 100 instances, the sampling procedure we used would produce a confidence interval containing the universe value we are estimating. The sampling errors for our estimates are contained in tables I.1 through I.3.

Table I.1: Sampling Errors for Estimates on the Resolution of Remanded Appeals

<u>Number of appellants</u>	<u>Estimate</u>	<u>Sampling error^a</u>
Received ^b	1,435	115
Denied	545	85
Rejected or withdrawn ^c	413	72
Pending	<u>512</u>	91
Total	<u>2,905</u>	55
<u>Percentage of appellants</u>		
Received ^b	49	4
Denied	19	3
Rejected or withdrawn ^c	14	2
Pending	<u>18</u>	3
Total	<u>100</u>	

^aAt the 95-percent confidence level.

^bApproved and appellants received loans or loan servicing.

^cAppellants did not follow through with their loan applications after they were remanded for reconsideration or appellants did not accept FmHA's offers.

Table I.2: Sampling Errors for Estimates on Loans and Loan Servicing

<u>Number of appellants</u>	<u>Estimate</u>	<u>Sampling error^a</u>
Loan making		
Received ^b	277	34
Denied	175	27
Rejected or withdrawn ^c	180	30
Pending	<u>51</u>	17
Subtotal	<u>684^d</u>	42
Loan servicing		
Received ^b	1,158	113
Denied	370	81
Rejected or withdrawn ^c	232	66
Pending	<u>461</u>	89
Subtotal	<u>2,221</u>	66
Total	<u>2,905</u>	55
<u>Percentage of appellants</u>		
Loan making		
Received ^b	41	4
Denied	26	4
Rejected or withdrawn ^c	26	4
Pending	<u>8</u>	2
Total	<u>100^d</u>	
Loan servicing		
Received ^b	52	5
Denied	17	4
Rejected or withdrawn ^c	10	3
Pending	<u>21</u>	4
Total	<u>100</u>	

^aAt the 95-percent confidence level.

^bApproved and appellants received loans or loan servicing.

^cAppellants did not follow through with their loan applications after they were remanded for reconsideration or appellants did not accept FmHA's offers.

^dNumbers do not add because of rounding.

Table I.3: Sampling Errors for Timeliness Estimates for Appellants Who Received Loans and Loan-Servicing

<u>Number of appellants</u>	<u>Estimate</u>	<u>Sampling error^a</u>
Received loans ^b		
60 days or less	57	17
More than 60 days	220	30
4 months or more	131	25
Received loan servicing ^b		
90 days or less	414	85 ^c
More than 90 days	744	104 ^c
5 months or more	576	96
<u>Percentage of appellants</u>		
Received loans ^b		
60 days or less	21	6
More than 60 days	79	6
4 months or more	47	7
More than 1 year	10	3 ^c
Hearing officers' letters instructing appellants to contact FmHA county offices	79	5 ^c
Received loan servicing ^b		
90 days or less	36	6 ^c
More than 90 days	64	6 ^c
5 months or more	50	7
More than 1 year	11	4
Hearing officers' letters instructing appellants to contact FmHA county offices	75	6

^aAt the 95-percent confidence level.

^bApproved and appellants received loans or loan servicing.

^cThe precision of these sampling errors must be qualified because, for example, there was no variation in the sampled cases within some of our sampling categories.

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