

FOIA documents show farmers and government systematically defrauded

by Brian Lantz

Over the last six months, *EIR* has published extensive, first-hand accounts by farmers of instances of mishandling and outright fraud in the matter of farm debt in the heart of the farm belt (North Dakota, South Dakota, Nebraska, and Iowa) over the last 15 years. During the 1992 presidential campaign, Rev. James Bevel, the vice presidential running mate of Lyndon LaRouche, initiated a post-election campaign to take the results of citizens' hearings to state legislatures and Congress in order to right the wrongs as rapidly as possible. As Bevel put it, "to restore government, of, by, and for the people." An extensive dossier of fraud in the farm belt called "The Goodloe Report," named after retired Washington State Supreme Court Justice William Goodloe who presided over citizen hearings in the Dakotas in December 1992, is now in circulation.

Now, this writer has recently obtained documentation through Freedom of Information Act (FOIA) requests, showing that for the past few years, the pattern of malfeasance and fraud was clear to any U.S. Department of Agriculture official and any congressman who wanted to bother to look at the evidence. The FOIA material in hand makes clear how the USDA has known for years that financial institutions, and others, have been systematically defrauding the Farmers Home Administration (FmHA) loan programs.

Audit reports by the Office of Inspector General (OIG) and investigation reports of the USDA Farm Loan programs detail the hushed-up findings by the OIG of nationwide abuse and fraud. The document numbers of these audit and investigation reports are readily available—especially to Congress.

Organized crime involved

Such extensive documentation, even without the benefit of the recent state legislative hearings and our coverage of them, shows that the basis for a federal investigation of criminal conspiracy involving national officials of the USDA, FmHA, and private financial institutions and individuals was there all along. Moreover, what is alarming in the pattern of farm loan fraud is the prominence of such organized crime figures as Minneapolis-based Carl Pohlad and the involvement of such foreign interests as the Netherlands-based Rabobank. These outfits have systematically cashed in on federally guaranteed farm loans, while farmers went bankrupt.

To top it off, in late 1992, congressional hearings on farm credit also compiled relevant testimony. Witnesses came forward from the FmHA with reports of instances of fraud all the way from Virginia to the Southwest.

The following is a summary of our FOIA information. The picture emerges of a U.S. Department of Agriculture operating outside the law, willfully committed top-down to liquidating the American family farmer through aiding private financial institutions and others. Not only has the Office of Inspector General had much of the picture, but, apparently, so did the U.S. Congress.

The FmHA is the largest direct lending institution in the federal government, almost entirely concentrated in the farm areas of the nation. The FmHA makes farm, housing, community program, and rural development loans to individuals and entities who cannot obtain credit elsewhere. As of June 30, 1992, some 1 million borrowers owed FmHA over \$46 billion. In addition, FmHA had guaranteed \$1.3 billion in loans made by private lenders to 13,000 borrowers. Despite the antiseptic, regulators' phraseology which sounds like the bank regulator reports from the early 1980s on the already out-of-control Texas savings and loan fiasco, the Office of Inspector General's reports show that the FmHA is being raided. And the USDA has let it happen.

In the S&L disaster, it was government action which openly exacerbated the problem, with the 1982 congressional deregulation of the banking system. Then it was the government, including the regulatory agencies, that let the S&L bubble grow until the taxpayer was dragged in to take the hit. Later it was found that the raiders included organized crime-connected "developers," Wall Street junk bond operators, the CIA, and mega-financial institutions.

OIG reports fraud

Each department of the federal government has an Office of Inspector General with responsibility to audit the activities of the department. The semiannual reports of the Office of Inspector General of the USDA to the U.S. Congress have oh-so-quietly recorded for over two years a growing national scandal:

- The OIG-USDA "Semiannual Report to Congress for Fiscal Year 1991—Second Half," released in October 1991,

includes a subsection entitled "Debt-Restructuring Procedures Do Not Control Losses From Farmer Program Guaranteed Loans." A pattern of fraud is presented thus:

"For example, in one state the borrower's repayment ability was determined using a 15-year repayment term even though the lender could offer only a six-year term. Thus, the borrower appeared able to afford the payments when in fact he could not."

Desperate farm families were drawn into taking these loans; they defaulted, and were then forced from their farms. The bank, or "third party noteholder," was repaid by the FmHA, and someone walked away with the farm as well.

- The executive summary of the "Semiannual Report to Congress for Fiscal Year 1992—First Half," released April 30, 1992, reports:

"Losses from FmHA-guaranteed loans are increasing partly because lenders are passing on to FmHA the risk of loss from older, unstable loans. About 79% of the \$10 million in loans we reviewed were used by lenders to *refinance debts held by their own customers* who were already in financial jeopardy" (emphasis in original).

- A "nationwide" pattern of fraud was admitted in the same OIG report of April 30, 1992:

"We performed a nationwide review to analyze the causes of losses on Farmer Program guaranteed loans. In FY 1990, FmHA paid about 600 claims totaling \$26 million to lenders. . . .

"Lenders used FmHA guaranteed loans to refinance farm loans previously made to customers who were already in financial jeopardy. By doing this, the lenders avoided losses on their existing loans and passed the risk on to FmHA. . . .

"Lenders inflated appraised values of real estate security, which led to significant losses. FmHA did not require lenders to obtain independent appraisals of security at loan origination."

- The OIG "Semiannual Report to Congress for Fiscal Year 1992—Second Half," released Oct. 27, 1992, reports that the FmHA loan guarantee program took up to *three years* to repurchase guarantee notes from third-party noteholders (banks), subsidizing these financial institutions with interest payments for years after the farmer had defaulted on his FmHA guaranteed loan. The OIG reports that the FmHA could have saved millions by "placing demands on third-party noteholders," i.e., repurchased the FmHA guaranteed notes in a timely manner.

- The OIG had, in 1989, designated the Farmers Home Loan Programs a "high-risk area" that had a "high risk of vulnerability to fraud, waste, abuse or mismanagement."

Who benefits?

The OIG-USDA documents reviewed report additional patterns of fraud carried out by FmHA borrowers and guaranteed lenders, including housing developers.

In Virginia, an FmHA county supervisor and a county



Former Washington State Supreme Court Justice William Goodloe, whose hearings in North Dakota and South Dakota documented widespread fraud and abuse against farmers in government farm programs.

office assistant pled guilty to conspiring to make a rural housing loan to a fictitious borrower and converting the loan to their own use. The OIG reports evidence of corruption in multiple state and county organizations of FmHA. This latter pattern is heavily corroborated by the documentation in the "Goodloe Report" showing fraud in North Dakota and South Dakota.

What the cited OIG reports summarize, based on their own audits and investigations, is that the FmHA loan and "restructuring" programs, and the FmHA loan guarantee program, have been helping someone besides farmers. As farmers reported subsequent to Judge Goodloe's hearings, Carl Pohlada is one such beneficiary.

Fraud reported to Senate hearing

The Senate Subcommittee on Agricultural Credit held hearings on Aug. 10 and Sept. 30, 1992 on Senate Bill 3119, proposed legislation to reorganize the appeals systems of the various USDA programs. Testimony was taken on cases of abuse. On the House side, Rep. Mike Espy (D-Miss.), since appointed head of the USDA by President Clinton, introduced parallel legislation to improve the appeal process.

While S. 3119 was at best another poor attempt to "fix" what congressmen admitted was a "broke" farm program, the hearings themselves revealed a great deal. First, that the FmHA and other USDA programs have been documented in congressional hearings to be engaged in massive violations of the civil rights of farmers nationwide. Second, that these USDA policies have been carried out top down, as deliberate policy, which was corroborated by the FOIA documents of the FmHA's own policy directives.

Among the witnesses was Karen Sorlie Russo, a California attorney with an extensive legal practice representing farm families. Russo testified about how *non*-farmers flock to feed at the FmHA trough, regardless of the prospect of bureaucratic problems that federal agencies pose.

"If the 'real' farmers are deterred by these hazardous bureaucratic wars, 'investors' are not. 'Investors,' by which I mean people or companies whose primary income is from something other than farming, continue to flock to the programs relatively unimpeded by any new laws or rules you or USDA come up with. After all, they can afford attorneys to structure their farm correctly. They can impress a bank or a cotton gin, who are usually willing to extend financing—after all, the bulk of an investors assets are not in the crop to be produced, making investors a far better credit risk than farmers."

Many witnesses raised the point again and again, that the USDA's "railroad" of family farmers has been systematic USDA policy for years. The so-called 1985, 1987, and 1991 reforms changed nothing fundamental.

In 1987, there was legislation to set up the National Appeal Staff (NAS), which was an appeals structure much touted by various and sundry "radical" farm groups such as PrairieFire Rural Action. But as testimony shows, this structure was toothless.

Only the appearance of due process was provided. Never conceived as a court of equity, the NAS system could not hold FmHA officials in contempt or otherwise enforce its own rulings. By the end of 1988, the USDA and FmHA Office of Administration was simply back to imposing its own dictates, ignoring existing statutes and regulations. In most cases, those policies coincided with those of the food cartel companies, from which many of the USDA's top officials were chosen.

The 1992 Senate hearings were held by Kent Conrad (D-N.D.) and Charles Grassley (R-Iowa). Testimony came from the General Accounting Office; former officials of the FmHA and "whistleblowers" from the NAS; farm organizations including the National Farmers Union, American Agriculture Movement, National Farm Organization, and the Wheat Growers; attorneys with experience in representing family farmers; and others.

Damning testimony

What follows are summaries of some of the testimony taken during the 1992 hearings on S. 3911.

Pamela M. Dillion, former director of the NAS of the FmHA, testified that she was hounded from office within months of taking the newly created program. The NAS came into being in May 1988, to provide farmers with a means to appeal adverse actions by FmHA. Most farmers represent themselves in these hearings—the appeals process being set up to avoid attorney's fees which most farmers can't afford.

Dillion testified that systematic efforts by the administra-

tor of FmHA to erode the NAS, beginning no later than December 1988, included "active lack of support," "harassment and personal attacks" on NAS hearing officers, threatened termination, "intimidation," refusal to turn over official case documents, and administrator interventions to "set-aside" hearing officers' decisions and enforce foreclosures.

Dillion testified that the entire National Appeals Staff was removed from the "assessment review process after we uncovered numerous violations of regulations, including failure to give borrowers and applicants their appeal rights and failure to implement the appeal decisions." Dillion testified that these efforts, spearheaded by the FmHA's national administrator, were coordinated with county FmHA staff and state FmHA program directors to render the NAS impotent. As the OIG-USDA semiannual reports show, state and local FmHA officials have been implicated in lender fraud and abuse of FmHA loan programs, as the USDA and FmHA Office of Administration knew or should have known.

Wendell L. Fennel, a NAS hearing officer in Lubbock, Texas, testified to "outrageous" conduct of FmHA Office of Administration officials and state staff. Fennel reviewed selected cases. In one, a farmer is into his 16th or 17th appeal. The issues are denial of release of proceeds for essential farm operation expenses, or denial of a loan. Despite Fennel reversing the local FmHA officials and Fennel's decision being upheld by the NAS rehearing officer, the FmHA has continued to appeal the decision.

Fennel gave detailed testimony as to continued communications by the NAS director to override codified law and regulation. Such policy directives were presented as part of the testimony. Fennel testified that the NAS was now forcing hearing officers to "get on the bandwagon" or face dismissal. As Fennel testified, the real offense is to the "appellants [farmers] who have to be dragged through these appeals" again and again, otherwise known as keeping farmers "in the loop." At one point the FmHA stripped Fennel of his authority because he went to Congress with his evidence.

Fennel is an experienced NAS hearing officer serving the Southwest. NAS hearing officers do not deal with the request for FmHA guarantees on loans. That, and the matter of collecting on such loan guarantees, comes out after foreclosure, in court. The job of NAS hearing officers is to work to ensure that the farmer gets a fair shake and hopefully avoids bankruptcy. The problem is that the insanity of the farm system, expressed by the inability to get an honest, parity price return on investment, guarantees the farmer's bankruptcy.

Common types of abuse

Fennel and other NAS officers report the following common types of "fraud and abuse" carried out by FmHA county and state officials:

Stealing farmers' livelihood. The law prevents the release for sale of proceeds of crops for application to loans when the proceeds are required for operations or essential

living expenses. However, FmHA officials, as a matter of record, have refused again and again to obey the law, seizing the proceeds from crops and applying the proceeds to outstanding loans. The farmer then must go into debt in the local community or fail to put in his crop. The farmer gets branded as having "bad credit" and the FmHA then refuses additional loans. The farmer is bankrupted.

Bleeding the farmer to death. As a matter of record, FmHA agents have systematically engaged in delaying the processing of loan applications. By delaying the loan past prime planting season, including the use of the NAS appeal process to this end (normally 60-90 days), the farmer is denied his loan. Most farmers, of course, don't have sufficient capital to cover these basic expenses otherwise.

Stealing from the elderly. In attempting to collect on defaulted FMHA farm loans, the FmHA has carried out its own euthanasia program. Legally, agents of FmHA can go after "non-exempt assets," those defined as not necessary or non-essential for living expenses. In one case, FmHA officials illegally grabbed a widow's \$20,000 certificate of deposit, even though that was her only wealth, aside from a meager social security check.

The farmer—an unprotected species

Karen Sorlie Russo also testified at length to a similar pattern of abuse of farmers by the Agricultural Stabilization and Conservation Service (ASCS) as well as FmHA. Her testimony made the point that the heinous USDA policies dovetail with the environmentalist agenda of the USDA:

"How can a farmer be forced to appeal the same issue to FmHA's National Appeals Staff, over and over and over, win every appeal, and still be faced with the same FmHA program staff denial? . . .

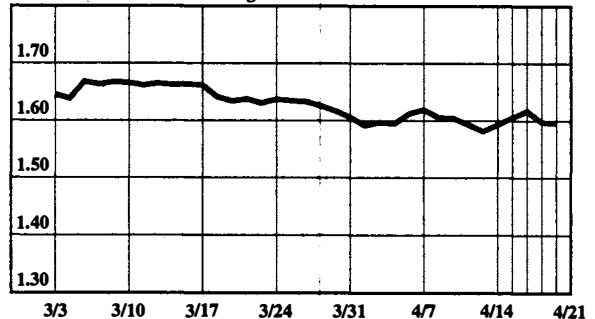
"By the time either of these agencies get through dealing with a farmer, he is likely to be bankrupt or close to it. If the only opportunity for redress is federal court, then participating farmers are the last unprotected species around. . . .

"As far as ASCS is concerned, by denying 'relief' to virtually every farmer who appeals to the Washington level, the agency is able to play interesting and self-serving games with their budget. In depriving the appellant of the government payment, the benefit of the bargain the farmer contracted for, and by simultaneously delaying the appeal so that the government still gets what it wanted—the land set aside, the production decreased—a very neat package of 'savings' results. Not honorable savings, of course, but extractions of capital from those least able to afford it. Like the crooked salesmen who sell 'retirement homes' on property that happens to be under water, or the financial sharks who sell worthless 'investment' packages to the elderly, the ASCS promises a payment. But once the government has what it wants, they cry, 'Gotcha!' to a specified number of farmers a year, and refuse to pay. This kind of fiscal conservatism we don't need."

Currency Rates

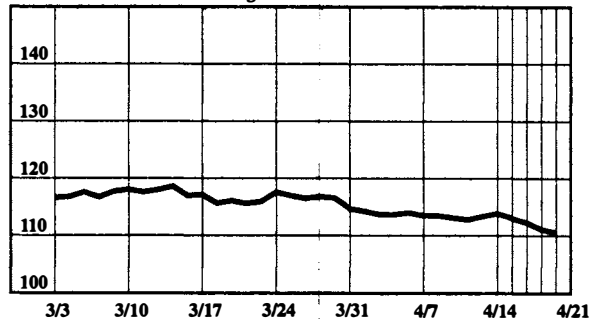
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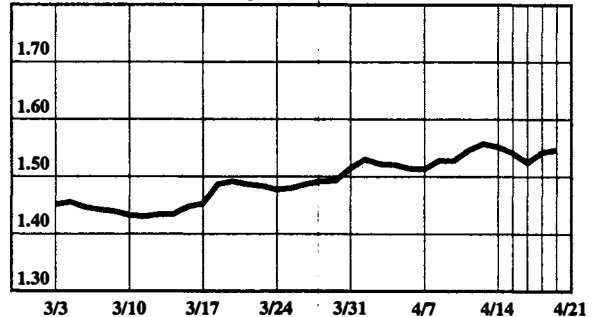
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New York late afternoon fixing



The British pound in dollars

New York late afternoon fixing



The dollar in Swiss francs

New York late afternoon fixing

