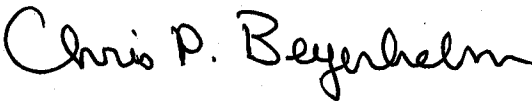


For: State and County Offices

**Servicing Native American Claimants in Conjunction
With the Settlement in *Keepseagle v. Vilsack* Class Action Lawsuit**

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A Background

A settlement agreement was signed on October 19, 2010, to resolve the class action lawsuit, *Keepseagle v. Vilsack*, and approval was provided by the Court on April 11, 2011. The claims process period began on June 29, 2011, and will end on December 27, 2011.

The temporary moratorium established by Notice FLP-591, for all direct FLP Native American Accounts, will remain in effect until the claims period closes and the Claims Administrator provides the names of all accepted claimants to DAFLP.

The temporary moratorium on offsets, accelerations, and foreclosure actions will continue as outlined in this notice until the National Office provides details and directions on the accepted claimants and lifts the moratorium for accounts held by persons identified as Native Americans in PLAS/DLS (SCIMS) who are not participating in the Claims Program.

B Purpose

This notice:

- continues guidance established in Notice FLP-591
- clarifies that Exhibit 1, subparagraphs A and C, were sent to Native American borrowers who received FSA-2510 or FSA-2514 before the issuance of Notice FLP-591.

Disposal Date	Distribution
June 1, 2012	State Offices; State Offices relay to County Offices

Notice FLP-599

2 Servicing Actions

A Settlement Agreement Moratorium

FSA is directed to **immediately** cease the following actions on all direct FLP borrowers who are identified as Native Americans in PLAS/DLS (SCIMS):

- efforts to seize personal property
- acceleration
- foreclosure
- collection and renewal of internal administrative offsets
- referrals or renewal of referrals to the Department of the Treasury (Treasury) for TOP or cross-servicing.

Under the moratorium, FSA may take any actions up to, but **not** including, acceleration, foreclosure, or offset that are necessary to protect the interest of the United States or service a loan under applicable law. FSA will continue to service the loans and provide other assistance to the borrowers as needed or requested, but will **not** take actions considered adverse, such as the actions stated in this subparagraph.

Note: A United States Attorney may proceed with a foreclosure already referred by the date of preliminary approval by USDA if the United States Attorney determines in his or her sole discretion **not** to suspend the foreclosure according to this moratorium. However, FSA will recommend to the United States Attorney **not** to proceed with any foreclosures on FSA loans during this moratorium.

B DD and County Office Action

DD's and County Offices shall:

- discontinue accelerations, foreclosures, and efforts to seize personal property on the direct FLP accounts of Native American borrowers
- immediately take the necessary steps to stop collecting payments from internal administrative offsets on the direct FLP accounts of Native American borrowers

Note: If an offset was taken on or after the date of the District Court Preliminary Settlement Agreement Order, FSA **must** refund the offset.

Notice FLP-599

2 Servicing Actions (Continued)

B DD and County Office Action (Continued)

- not refer or renew a referral to Treasury for TOP or cross-servicing on Native Americans

Notes: If an offset was taken on or after the date of the District Court Preliminary Settlement Agreement Order, FSA **must** refund the offset.

The County Office shall continue to review the TOP Offset online screens and provide to the State Office the accounts of Native American borrowers for deletion. If a primary borrower, co-borrower(s), or both is a Native American, all loans listed for the account shall be deleted for all obligors. **The County Office shall continue this process during each TOP Online Quarterly Review.**

- provide loan servicing assistance to Native Americans who are in default up to the point of acceleration, except offsets, according to 5-FLP

Note: 1951-C1 and/or 1951-C2 letters will not be sent for Native American borrowers that receive the 90 calendar days past due primary loan servicing notification.

Important: Exhibit 1, subparagraph A was used according to Notice FLP-591 to notify Native Americans who had received FSA-2510 before the issuance of Notice FLP-591. Since Notice FLP-591 has been issued for some time, using this notification is no longer necessary.

Exhibit 1, subparagraph B shall be included in the notification package mailed to all Native American borrowers sent FSA-2510 on or after the date of this notice.

Exhibit 1, subparagraph C was used according to Notice FLP-591 to notify Native Americans who had received FSA-2514 before the issuance of Notice FLP-591. Since Notice FLP-591 has been issued for some time, using this notification is no longer necessary.

Exhibit 1, subparagraph D shall be included in the notification package mailed to all Native American borrowers sent FSA-2514 on or after the date of this notice.

Exhibit 2, subparagraph A shall be included in the notification package mailed to all Native American borrowers sent FSA-2521. Exhibit 2, subparagraph B shall be included in the notification package mailed to all Native American borrowers sent FSA-2525.

FSA-2580 will be completed by the servicing and reviewing official to ensure that servicing has been completed properly.

Notice FLP-599

2 Servicing Actions (Continued)

B DD and County Office Action (Continued)

FSA-2581 will not be completed until we have determined that the borrower did not file a claim or the claims process is finalized for the borrower.

Place the DLS special servicing tracking on “Hold” using the reason “Keepseagle Lawsuit” at the point of acceleration, or if the account has been accelerated. This action will place the special servicing reminders under the postpone column until the claims process is finalized.

- continue routine servicing of direct FLP accounts of Native Americans
- comply with 2-INFO when processing third party requests for copies of the records of Native Americans (FOIA request) and 3-INFO when Native Americans request copies of their own records (Privacy Act request).

Notes: See 2-INFO and 3-INFO for additional information about fees for copying. However, when a request is made for FSA to copy a borrower’s file, the FSA official should offer the borrower or representative the alternative to review the files in the FSA office and mark any pages they wish to have copied.

For FOIA or Privacy Act questions, contact either of the following:

- John W. Underwood, FSA Privacy Act Officer by:
 - e-mail to john.underwood@kcc.usda.gov
 - telephone at 816-926-6992
- Kent Politsch, Chief, Public Affairs by:
 - e-mail to kent.politsch@wdc.usda.gov
 - telephone at 202-720-7163.

Notice FLP-599

2 Servicing Actions (Continued)

C SED and State Office Action

State Offices shall:

- discontinue referring Native American accounts to OGC or Government contractors for foreclosure action and inform contractors that all foreclosure actions should be stopped on Native Americans during the moratorium
- inform OGC to discontinue referring foreclosure cases to DOJ or third parties for foreclosure action on Native Americans
- inform DOJ of the settlement agreement on any Native American cases that DOJ has for foreclosure
- inform OIG of the settlement agreement on any Native American direct FLP loan cases OIG is investigating and obtain approval from DAFLP before referring any Native American account to OIG.

D Debt Settlement Applications

If a borrower covered by this notice voluntarily requests debt settlement, they will immediately be provided a copy of this notice. The debt settlement application must include a signed copy of Exhibit 3 and may be processed according to RD Instruction 1956-B.

CNC accounts that have all loans returned by Treasury as uncollectible will not be canceled until the claims process is completed and/or unless no claim was submitted.

E Exceptions to Servicing Actions

The following are exceptions to the servicing actions contained in this notice:

- Native American borrowers who have only youth loans are excluded from the settlement agreement and the requirements contained in this notice

Note: Continue to follow regulatory servicing requirements and submit for pre-acceleration, pre-foreclosure, and pre-CNC reviews, according to 1-FLP, subparagraph 41 H for these loans. The Department, Office of Tribal Relations is contacting youth borrowers when a State submits a discrimination clearance review. The National Office will notify States when cleared by the Department.

- any liable obligor listed on the promissory note for the farm operation that submitted a claim for benefits in the *Pigford* discrimination case is not eligible to submit a claim in this settlement; therefore, the farm operation loan account is excluded from the actions contained in this notice.

Notice FLP-599

3 Contact Information

A State and County Offices

If there are questions about this notices:

- County Offices shall contact the State Office
- State Offices shall contact LSPMD at 202-720-4572.

B Individuals

Individuals contacting FSA personnel for information about this settlement agreement and the process should be advised using the following language.

Thank you for your inquiry [*Mr./Mrs./Miss* _____]. It appears you inquiry pertains to the Native American Settlement Agreement for the *Keepeagle* litigation.

It would be inappropriate for USDA to provide any assistance, advice, or counsel to persons about the settlement. However, we can provide you with a list of questions and answers that should help you. These questions and answers have been provided and approved by the Class Council for the *Keepsagle v. Vilsack* lawsuit. (Exhibit 4 – Shall be provided at the time of inquiry for requests made in person or by mail for telephone or written requests.) If you have additional questions, we recommend the following:

- telephone 1-888-233-5506 (toll free phone number)
- access web site www.indianfarmclass.com
- send an e-mail to questions@indianfarmclass.com.

C Media

For additional information, members of the media should:

- be provided a copy of this notice, including Exhibit 4
- telephone 1-888-233-5506 (toll-free phone number)
- access the web site at www.indianfarmclass.com
- send an e-mail to questions@indianfarmclass.com.

Primary Loan Servicing Notification Package Letter

A Notification for Native Americans Previously Mailed FSA-2510

The following letter was sent by certified mail to Native Americans who received FSA-2510 before the issuance of Notice FLP-591 and had not:

- been restructured
- paid current
- received the notification included in Exhibit 2, subparagraph A or B.

Note: Since Notice FLP-591 has been issued, and relevant notice provided, using this notification is no longer required.

Letter to Potential <u>Keepseagle</u> Claimants	
Borrower's Name	Date
Borrower's Address	
Borrower's Town, State and Zip Code	
Dear Borrower's Name;	
<p>On <i>insert date of FSA-2510 sent to borrower</i>, Farm Service Agency (FSA) mailed you FSA-2510, "Notice of Availability of Loan Servicing to Borrowers who are 90 Days Past Due. Under Federal law, FSA is required to notify you of the availability of loan servicing if you are 90 days past due.</p> <p>The FSA-2510 provides an explanation of the available loan servicing programs and we encourage you to submit a timely complete application. The notice references the possibility of acceleration, foreclosure, and offset if:</p> <ul style="list-style-type: none"> • You do not timely submit a complete loan servicing or debt settlement application, • We make an adverse decision on your request for loan servicing or debt settlement, or • You do not bring your account current. <p>According to the <u>Keepseagle</u> Settlement Agreement, FSA will take no further action to accelerate or foreclose your account or collect through offset until all reconsideration, mediation and appeal options have been exhausted and all provisions of the <u>Keepseagle</u> Settlement Agreement have been met with regard to your account.</p> <p>If you fail to submit a completed application and then you do not file a claim under the <u>Keepseagle</u> Settlement Agreement or if you do file a claim and the claim is denied, then USDA will promptly resume collection efforts including acceleration and foreclosure.</p> <p>Also, please be aware that the FSA's debt settlement application process mentioned on page 6 of the FSA-2510 is different from submitting a claim under the <u>Keepseagle</u> Settlement Agreement. If your claim is approved under the <u>Keepseagle</u> Settlement Agreement, your FSA debt may be written down as provided in that agreement.</p> <p>If you have questions regarding the <u>Keepseagle</u> Settlement Agreement, we recommend that you contact 1-888-233-5506 (toll free phone number) and/or web site www.indianfarmclass.com and/or email questions@indianfarmclass.com for additional information.</p>	
Sincerely,	
 Name of Authorized Agency Official Title	

Primary Loan Servicing Notification Package Letter (Continued)

B Notification Mailed With FSA-2510

The following letter is to be included in the primary loan servicing notification package when FSA-2510 is mailed. Ensure that current letterhead is used.

Attachment to FSA-2510 for Potential <u>Keepseagle</u> Claimants	
Borrower's Name	Date
Borrower's Address	
Borrower's Town, State and Zip Code	
Dear Borrower's Name;	
Under Federal law, FSA is required to notify you of the availability of loan servicing if you are 90 days past due. Enclosed is FSA-2510, "Notice of Availability of Loan Servicing to Borrowers who are 90 Days Past Due."	
The FSA-2510 provides an explanation of the available loan servicing programs and we encourage you to submit a timely complete application. The notice references the possibility of acceleration, foreclosure, and offset if:	
<ul style="list-style-type: none"> • You do not timely submit a complete loan servicing or debt settlement application, • We make an adverse decision on your request for loan servicing or debt settlement, or • You do not bring your account current. 	
According to the <u>Keepseagle</u> Settlement Agreement, FSA will take no further action to accelerate or foreclose your account or collect through offset until all reconsideration, mediation and appeal options have been exhausted and all provisions of the <u>Keepseagle</u> Settlement Agreement have been met with regard to your account.	
If you fail to submit a completed application and then you do not file a claim under the <u>Keepseagle</u> Settlement Agreement or if you do file a claim and the claim is denied, then USDA will promptly resume collection efforts including acceleration and foreclosure.	
Also, please be aware that the FSA's debt settlement application process mentioned on page 6 of the enclosed FSA-2510 is different from submitting a claim under the <u>Keepseagle</u> Settlement Agreement. If your claim is approved under the <u>Keepseagle</u> Settlement Agreement, your FSA debt may be written down as provided in that agreement.	
If you have questions regarding the <u>Keepseagle</u> Settlement Agreement, we recommend that you contact 1-888-233-5506 (toll free phone number) and/or web site www.indianfarmclass.com and/or email questions@indianfarmclass.com for additional information.	
Sincerely,	
Name of Authorized Agency Official	
Title	
Attachment: FSA-2510	

Primary Loan Servicing Notification Package Letter (Continued)

C Notification for Native Americans Previously Mailed FSA-2514

The following letter was sent by certified mail to Native Americans who received FSA-2514 before the issuance of Notice FLP-591 and had not:

- been restructured
- resolved their default
- received the notification included in Exhibit 2, subparagraph A or B.

Note: Since Notice FLP-591 has been issued, and relevant notices provided, using this notification is no longer required.

Letter to Potential <u>Keepseagle</u> Claimants	
Borrower's Name	Date
Borrower's Address	
Borrower's Town, State and Zip Code	
Dear Borrower's Name;	
<p>On <i>insert date of FSA-2514 sent to borrower</i>, Farm Service Agency (FSA) mailed you FSA-2514, "Notice of Availability of Loan Servicing to Borrowers who are in Non-Monetary Default." Under Federal law, FSA is required to notify you of the availability of loan servicing if you are in non-monetary default.</p>	
<p>The FSA-2514 provides an explanation of the available loan servicing programs and we encourage you to submit a timely complete application. The notice references the possibility of acceleration, foreclosure, and offset if:</p>	
<ul style="list-style-type: none"> • You do not timely submit a complete loan servicing or debt settlement application, • We make an adverse decision on your request for loan servicing or debt settlement, or • You do not resolve the default. 	
<p>According to the <u>Keepseagle</u> Settlement Agreement, FSA will take no further action to accelerate or foreclose your account or collect through offset until all reconsideration, mediation and appeal options have been exhausted and all provisions of the <u>Keepseagle</u> Settlement Agreement have been met with regard to your account.</p>	
<p>If you fail to submit a completed application and then you do not file a claim under the <u>Keepseagle</u> Settlement Agreement or if you do file a claim and the claim is denied, then USDA will promptly resume collection efforts including acceleration and foreclosure.</p>	
<p>Also, please be aware that the FSA's debt settlement application process mentioned on page 6 of the FSA-2514 is different from submitting a claim under the <u>Keepseagle</u> Settlement Agreement. If your claim is approved under the <u>Keepseagle</u> Settlement Agreement, your FSA debt may be written down as provided in that agreement.</p>	
<p>If you have questions regarding the <u>Keepseagle</u> Settlement Agreement, we recommend that you contact 1-888-233-5506 (toll free phone number) and/or web site www.indianfarmclass.com and/or email questions@indianfarmclass.com for additional information.</p>	
Sincerely,	
Name of Authorized Agency Official Title	

Primary Loan Servicing Notification Package Letter (Continued)

D Notification Mailed With FSA-2514

The following letter is to be included in the primary loan servicing notification package when FSA-2514 is mailed. Ensure that current letterhead is used.

Attachment to FSA-2514 for Potential <u>Keepseagle</u> Claimants	
Borrower's Name	Date
Borrower's Address	
Borrower's Town, State and Zip Code	
Dear Borrower's Name;	
Under Federal law, FSA is required to notify you of the availability of loan servicing if you are in non-monetary default. Enclosed is FSA-2514, "Notice of Availability of Loan Servicing to Borrowers who are in Non-Monetary Default."	
The FSA-2514 provides an explanation of the available loan servicing programs and we encourage you to submit a timely complete application. The notice references the possibility of acceleration, foreclosure, and offset if:	
<ul style="list-style-type: none"> • You do not timely submit a complete loan servicing or debt settlement application, • We make an adverse decision on your request for loan servicing or debt settlement, or • You do not resolve the default. 	
According to the <u>Keepseagle</u> Settlement Agreement, FSA will take no further action to accelerate or foreclose your account or collect through offset until all reconsideration, mediation and appeal options have been exhausted and all provisions of the <u>Keepseagle</u> Settlement Agreement have been met with regard to your account.	
If you fail to submit a completed application and then you do not file a claim under the <u>Keepseagle</u> Settlement Agreement or if you do file a claim and the claim is denied, then USDA will promptly resume collection efforts including acceleration and foreclosure.	
Also, please be aware that the FSA's debt settlement application process mentioned on page 6 of the enclosed FSA-2514 is different from submitting a claim under the <u>Keepseagle</u> Settlement Agreement. If your claim is approved under the <u>Keepseagle</u> Settlement Agreement, your FSA debt may be written down as provided in that agreement.	
If you have questions regarding the <u>Keepseagle</u> Settlement Agreement, we recommend that you contact 1-888-233-5506 (toll free phone number) and/or web site www.indianfarmclass.com and/or email questions@indianfarmclass.com for additional information.	
Sincerely,	
Name of Authorized Agency Official	
Title	
Attachment: FSA-2514	

Subsequent Loan Servicing Notification Package Letter

A Letter Mailed With FSA-2521 and FSA-2522

The following is an example of the letter to be included in the primary loan servicing notification package when FSA-2521 and FSA-2522 is mailed. Ensure that current letterhead is used.

Attachment to FSA-2521 and FSA-2522 for Potential <u>Keepseagle</u> Claimants	
Borrower's Name	Date
Borrower's Address	
Borrower's Town, State and Zip Code	
Dear Borrower's Name;	
<p>Under Federal law, the Farm Service Agency (FSA) is required to notify you of its decision regarding your Primary Loan Servicing request within 60 days of receipt of a complete application. Enclosed is FSA-2521, "Denial of Primary Loan Servicing and Intent to Accelerate," and FSA-2522, "Borrower Response to Denial of Primary Loan Servicing and Intent to Accelerate," which inform you of FSA's adverse decision on your request and your right to request reconsideration, mediation and appeal. We encourage you to review this information closely and timely consider the options provided.</p>	
<p>Also, please be aware that the FSA's debt settlement application process mentioned in item 8 of the enclosed FSA-2521 is different from submitting a claim under the <u>Keepseagle</u> Settlement Agreement. If your claim is approved under the <u>Keepseagle</u> Settlement Agreement, your FSA debt may be written down as provided in that agreement.</p>	
<p>FSA-2521 does not accelerate your account. FSA will take no further action to accelerate or foreclose your account or collect through offset until all reconsideration, mediation and appeal options have been exhausted and all provisions of the <u>Keepseagle</u> Settlement Agreement have been met with regard to your account. If you have questions regarding the <u>Keepseagle</u> Settlement Agreement, we recommend that you contact 1-888-233-5506 (toll free phone number) and/or web site www.indianfarmclass.com and/or email questions@indianfarmclass.com for additional information.</p>	
Sincerely,	
Name of Authorized Agency Official	
Title	
Attachment: FSA-2521 and FSA-2522	

Subsequent Loan Servicing Notification Package Letter (Continued)

B Letter Mailed With FSA-2525 and FSA-2526

The following is an example of the letter to be included in the primary loan servicing notification package when FSA-2525 and FSA-2526 is mailed. Ensure that current letterhead is used.

Attachment to FSA-2525 and FSA-2526 for Potential <u>Keepseagle</u> Claimants	
Borrower's Name	Date
Borrower's Address	
Borrower's Town, State and Zip Code	
Dear Borrower's Name;	
<p>Under Federal law, the Farm Service Agency (FSA) is required to notify of your options since we did not receive a complete application from you within 60 days of your receipt of our notification of the availability of Primary Loan Servicing. Enclosed is FSA-2525, "Intent to Accelerate," and FSA-2526, "Borrower Response to Intent to Accelerate," which inform you of your right to request reconsideration, mediation and appeal. We encourage you to review this information closely and timely consider the options provided.</p>	
<p>Also, please be aware that the FSA's debt settlement application process mentioned in item 7 of the enclosed FSA-2525 is different from submitting a claim under the <u>Keepseagle</u> Settlement Agreement. If your claim is approved under the <u>Keepseagle</u> Settlement Agreement, your FSA debt may be written down as provided in that agreement.</p>	
<p>FSA-2525 does not accelerate your account. FSA will take no further action to accelerate or foreclose your account or collect through offset until all reconsideration, mediation and appeal options have been exhausted and all provisions of the <u>Keepseagle</u> Settlement Agreement have been met with regard to your account. If you have questions regarding the <u>Keepseagle</u> Settlement Agreement, we recommend that you contact 1-888-233-5506 (toll free phone number) and/or web site www.indianfarmclass.com and/or email questions@indianfarmclass.com for additional information.</p>	
Sincerely,	
Name of Authorized Agency Official	
Title	
Attachments: FSA-2525 and FSA-2526	

Addendum to Voluntary Liquidation or Debt Settlement Requests

**Waiver Acknowledging Rights Under the *Keepseagle v. Vilsack*
Class Action Lawsuit**

I/We understand that USDA has implemented a moratorium on certain accelerations and foreclosures under the *Keepseagle* Settlement Agreement.

I/We have received a copy of Notice FLP-599 explaining this moratorium and understand my rights. I understand that I may seek legal counsel concerning my rights.

I/We request to voluntarily liquidate security or debt settle the FSA account and knowingly and willingly waive any rights I/we may have under the moratorium.

Borrower

Co-borrower

Questions and Answers About *Keepseagle v. Vilsack*

The following are questions and answers about *Keepseagle v. Vilsack*.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

If You are a Native American Who Was Denied a Farm Loan or Loan Servicing by the USDA, You Could Receive Benefits from a Class Action Settlement.

A federal Court authorized this Notice. This is not a solicitation from a lawyer.

- A \$760 million Settlement with the United States Department of Agriculture (“USDA”) has been reached in the *Keepseagle v. Vilsack* class action lawsuit. The lawsuit claimed the USDA discriminated against Native Americans by denying them equal access to credit in the USDA Farm Loan Program.
- You may be eligible for a payment of up to \$50,000 or more and forgiveness of some or all of your outstanding USDA loans if you applied for or attempted to apply for a farm loan or loan servicing from the USDA between **January 1, 1981 and November 24, 1999** (see Question 4).
- The USDA has also agreed to make some changes to its farm loan programs to help make sure that these programs meet the needs of Native American farmers and ranchers.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENTS	
SUBMIT A CLAIM FORM	The only way to get money and any loan forgiveness from the Settlement.
EXCLUDE YOURSELF FROM THE SETTLEMENT	Get no benefit from this Settlement. If you want to pursue your claim on your own or want to file a claim of discrimination in another lawsuit charging the USDA with discrimination against African Americans, Women or Hispanics, you should choose this option.
OBJECT/COMMENT	Remain in the Settlement and write to the Court about any concerns you have about the Settlement.
GO TO A HEARING	Remain in the Settlement and ask to speak in Court about the fairness of the Settlement.
DO NOTHING	Get no money or loan forgiveness. Give up rights to sue the USDA about the claims in this lawsuit.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals have concluded and the claims process is completed. **Please be patient.**

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

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For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

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For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

BASIC INFORMATION

1. Why is there a notice?

You have a right to know about a proposed Settlement, and about your options, before the Court decides whether to approve the Settlement.

The Court in charge of the case is the United States District Court for the District of Columbia, and the case is called *Keepseagle v. Vilsack*, 1:99cv03119 (“Keepseagle”). The people who sued are called Plaintiffs and the person they sued, the Secretary of the USDA in his official role, is called the Defendant.

2. What is this lawsuit about?

The lawsuit claims that the USDA denied thousands of Native American farmers and ranchers the same opportunities to get farm loans or loan servicing that were given to white farmers and ranchers. Plaintiffs also claim that the USDA did not do outreach to Native American farmers and ranchers or provide them with the technical assistance they needed to prepare applications for loans and loan servicing.

The Settlement does not mean the USDA violated any laws. The USDA denies it did anything wrong.

3. Why is this a class action?

In a class action, one or more people, called class representatives (in this case, George Keepseagle, Marilyn Keepseagle, Gene Cadotte, Keith Mandan, Porter Holder, Claryca Mandan, Luke Crasco (deceased), John Fredericks, Jr. (deceased), and Basil Alkire (deceased)), sue on behalf of people who have similar claims. All these people may make their claims together in a “class” as “class members,” and one court resolves the issues for all class members except for those who exclude themselves from the class.

WHO IS IN THE SETTLEMENT

To see if you are entitled to benefits from the Settlement, you first have to determine if you are a Class Member.

4. How do I know if I am a Class Member?

The Class includes all Native American farmers and ranchers who:

- Farmed or ranched or attempted to farm or ranch between January 1, 1981 and November 24, 1999; and
- Sought, or attempted to seek, a farm loan from the USDA during that period; and
- Complained about discrimination to the USDA orally or in writing either on their own or through a representative, such as a tribal government, during the same time period.

Because of a law passed by Congress, excluded are claims of Class Members who either:

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

- Experienced discrimination only between January 1 and November 23, 1997; or
- Complained of discrimination only between July 1 and November 23, 1997.

5. Who is considered a Native American?

A Native American includes any citizen of the United States who meets one or more of the requirements listed below:

- Is a member of a tribe, band, nation, or community, including any Alaska Native village or regional or village corporation (as established in the Alaska Native Claims Settlement Act) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, also known as a “federally recognized tribe,” or
- Is a member of any Indian group that has been formally recognized as an Indian tribe by a State legislature or other similar organization vested with State tribal recognition authority, also known as a “state recognized tribe,” or
- Is a member of any Indian tribe or “Native group” (according to 43 U.S.C. § 1602.(c) and (d)) that asked the United States government for Federal recognition, or
- Represented himself or herself as a Native American before November 24, 1999. This can be confirmed by providing:
 - A credible written narrative, submitted under “penalty of perjury” (under oath), describing in detail the circumstances of his or her Native American ancestry that will convince the independent evaluators that it is genuine.

For the purposes of this Settlement, membership in an Indian tribe will be defined by the laws or rules of the Indian tribe in which you say you are a member. You will need to verify your tribal membership by providing a copy of an official tribal document that states that you are a member of the Indian tribe, such as:

- An identification card that states that you are currently a member of the Indian tribe, or
- A letter or statement from the tribal government that states that you are regarded as a member of the Indian tribe.

6. I’m still not sure if I’m included.

If you are still not sure whether you are included, you can call 1-888-233-5506, visit the website www.IndianFarmClass.com, or write to Keepseagle Settlement, PO Box 3560, Portland, OR 97208-3560.

7. What if I am eligible for more than one USDA farmer discrimination settlement?

In addition to this Settlement in *Keepseagle*, there are several other USDA farmer discrimination cases:

- *Pigford v. Vilsack* (“Pigford I” or the “Black Farmers Case”),
- *In re Black Farmers Discrimination Litigation* (“Pigford II”),
- *Love v. Vilsack* (“Women Farmers Case”), and
- *Garcia v. Vilsack* (“Hispanic Farmers Case”).

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

You can only submit a claim in one of these cases as they all address the same kind of discrimination and claims.

If you submit, or have submitted, a claim for benefits in the *Pigford I* case, then you are **not** eligible to submit a claim in this Settlement.

If you submitted a claim in the *Pigford II* case and believe that you are also eligible to submit a claim in this Settlement, you may withdraw your claim from the *Pigford II* case and submit a claim here. If you do not withdraw your claim, you will not be eligible for benefits in this Settlement.

If you are eligible to submit a claim in either the Women Farmers or the Hispanic Farmers case and also believe you are eligible to submit a claim in this Settlement, you can only submit a claim in one of these cases. You need to decide in which case you will submit a claim.

The USDA and the Claims Administrator(s) for each of these cases will be sharing information to make sure that claims will only be paid once.

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

The government will provide up to \$760 million to settle the lawsuit. After deducting certain amounts, including attorneys' fees and awards (*see* Question 27), two funds will be created. The first fund will pay Class Members who submit valid claims. The second fund will provide up to \$80 million for full or partial loan forgiveness to qualifying Class Members. In addition, the USDA will pay up to \$20 million (not included in \$760 million) for the costs of administering the settlement.

If any money remains in the Settlement Fund after all payments to class members and expenses have been paid, then it will be donated to one or more organizations that have provided agricultural, business assistance, or advocacy services to Native Americans.

More details are in the Settlement Agreement, available at www.IndianFarmClass.com.

9. What else does the Settlement provide?

The Settlement provides for improvements in the delivery of Farm Loan Program services to Native Americans. Those changes include:

- Creating a Council for Native American Farming and Ranching. The Council will include Native American, Alaska Native leaders, Farm Service Agency ("FSA") and USDA officials and will meet twice a year. This Council will be responsible for ensuring the farm loan program is fully responsive to the particular needs of the Native American and Alaska Native farmers and ranchers.
- Creating a position for a USDA Ombudsperson for Native and Other Socially Disadvantaged Farmers and Ranchers to serve as a point of contact for these farming and

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

ranching communities and to track civil rights complaints and address any related programmatic issues.

- Reviewing farm loan program guidelines, considering suggestions from Class Counsel and the Council for Native American Farming and Ranching to make them more responsive to the needs of Native Americans.
- Improving the oversight of farm loan program operations.
- Enhancing the ability of Native Americans to continue to farm and ranch by establishing 10-15 regional venues to provide technical training and support and developing a plain language guide to the application for farm loans and loan servicing. If funds are available, the USDA will also fund and staff consolidated sub-offices at Tribal Headquarters on Indian Reservations.

For Class Members who show evidence of discrimination in the claims process, for a certain period of time the USDA has also agreed to suspend foreclosures, debt acceleration payments, and referring to the Treasury requests to offset or withhold other federal benefits that are used to pay down outstanding loans.

10. How much money can I get?

Your actual payment cannot be determined yet. The amount of money you are eligible to receive will depend on whether you file a claim under Track A or Track B. It will also depend on the total number of Class Members who make successful claims.

In order to receive a share of the money in the Settlement, you must file a claim through either the Track A or Track B procedure.

Track A – If you file a claim on this track and your claim is successful, you may get a payment up to \$50,000 for your discrimination claim. You will also be eligible to get an additional 25% of that amount which will be paid directly to the IRS to reduce any income tax you may owe on the money awarded to you (*see* Question 17 below). The amount that will actually be paid to those who qualify will depend upon the number of Class Members who make successful claims through Track A.

Track B – If you file a claim on this track and your claim is successful, you may get a payment up to up to \$250,000 for your discrimination claim. Track B requires more proof of discrimination than Track A (*see* Question 18 below). The amount that will actually be paid to those who qualify will depend upon the number of Class Members who make successful claims through Track B.

USDA Loan Forgiveness – USDA will provide up to \$80 million to forgive outstanding loans of qualifying Class Members who file a successful claim through Track A or Track B. If you have certain USDA loans you may be eligible for loan forgiveness as well as an additional payment made to the IRS of 25% of the loan forgiven to reduce any income tax you may owe (*see* Questions 11 - 13, and 19 below).

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)**11. How will my payment be determined?**

An independent evaluator will review claims made through Track A and Track B and determine how much you should be paid. For Track B claims only, an experienced agricultural economist may assist the independent evaluator in assessing the financial value of your claims.

12. What USDA loans are eligible for forgiveness?

All outstanding federal farm program debt and any interest or penalties, including operating loans, farm ownership loans, emergency loans, economic emergency loans, and debts restructured through any Part 766 loan (formerly Part 1951-S loan) or other farm loan program servicing options are eligible for forgiveness.

13. How much USDA loan forgiveness can I get?

The amount of loan forgiveness (the “Debt Relief Award”) you will get will depend on the number of successful claims that are filed. If the total amount of loan forgiveness requested by eligible Class Members is *less than* \$80 million, then each qualifying Class Member with outstanding debt will get full loan forgiveness for eligible loans. If the total amount of loan forgiveness requested by eligible Class Members is *more than* \$80 million, then the Claims Administrator will determine how much loan forgiveness each Class Member with a successful claim will get based on when he or she got his/her loan from USDA. The process for calculating “Debt Relief” is described exactly in Part E of Section IX of the Settlement Agreement. The Settlement Agreement is available at www.IndianFarmClass.com.

The amount of loan forgiveness you will receive will be determined after all claims have been reviewed. Do not expect decisions on who receives loan forgiveness and those amounts before 2012. **Please be patient.**

There is additional money set aside to help reduce any income tax you may owe for the loan forgiveness you receive (“Debt Relief Tax Awards”). The money for these tax awards will be paid directly to the IRS.

Furthermore, if your claim is successful and you are delinquent in payment on a FSA loan that does not receive full loan forgiveness, the USDA will offer an additional round of Primary loan servicing after the amount is determined of any loan forgiveness you are eligible to receive.

14. Can I get another USDA farm loan if I get loan forgiveness?

Yes. Even if you have loans forgiven, you will be eligible to be considered for new farm loans from the USDA.

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

HOW TO GET BENEFITS – SUBMITTING A CLAIM

15. How do I submit a claim?

You will need to submit a complete Claims Package in order to get benefits from the Settlement. You can register to get a Claims Package at the website or by calling the toll-free number. After the Court grants final approval of this Settlement (*see* Question 30), everyone who registers will be mailed a Claims Package. The deadline to file a completed Claims Package will be 240 days from the date of final approval of this Settlement.

A completed Claims Package must include each of the items below:

- A completed Claim Form which is signed under oath that the information is true,
- A statement that you want loan forgiveness and a completed Authorization to Disclose Debt Information Form (this is only necessary if you are asking for loan forgiveness), **and**
- If you are a member of an Indian tribe, a copy of an official tribal document that states that you are a member. If you are not a member of an Indian tribe, a written narrative describing in detail the circumstances of your Native American ancestry (*see* Question 5).

In addition to the information above, if you are submitting a claim for someone who is deceased, you will also need to provide:

- A death certificate for that person, **and**
- Proof that you are that person's legal representative. If no one has been chosen to be the legal representative, then you need to state in the Claim Form, or submit a separate sworn statement explaining, why you think you will be appointed the legal representative of his or her estate.

In addition to the information above, if you are submitting a claim for someone who has a physical or mental limitation, you will also need to provide:

- Proof that you are that person's legal representative, **or**
- A statement in the Claim Form, or submit a separate sworn statement explaining, why that person is not able to submit his or her own claim and why you think you have the right to submit a claim for that person.

If more than one person submits a claim for someone who is deceased or someone who is unable to submit a claim due to a physical or mental limitation, then the neutral evaluator who will be looking at claims will decide which person can file that claim. More information on this process is available in section IX of the Settlement Agreement. The Settlement Agreement is available at www.IndianFarmClass.com.

16. Can I get help filing a Claims Package?

Yes. After the Settlement is granted final approval there will be many meetings held throughout the country to help you fill out a Claims Package. The dates and times for these meetings will be posted on the website or you can call the toll-free number 1-888-233-5506 to find a meeting near you. If you register you will be mailed information on any meetings that will be held in your area along with the Claims Package. You are encouraged to attend a meeting to get help filling out a claim.

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)**17. What documentation is required for a Track A claim?**

Other than proof of tribal membership (if applicable), no documentation is required for a Track A claim but the Claims Package will ask you a few questions about whether:

- You are a Native American who farmed or ranched, or attempted to farm or ranch, between January 1, 1981 and November 24, 1999; **and**
- You owned or leased, or attempted to own or lease, or had grazing rights on or authorization to use farm or ranch land; **and**
- You applied or attempted to apply for a specific farm credit transaction(s) at a USDA office between January 1, 1981 and November 24, 1999 (this means you made a good faith effort to apply for a loan or loan servicing); **and**
- Your farm loan(s) or servicing option was denied, provided late, approved for a lesser amount than requested, given a restrictive condition(s) or the USDA failed to provide an appropriate loan service(s); **and**
- The USDA's treatment of your loan or loan servicing application(s) caused you financial harm; **and**
- You complained of discrimination, orally or in writing, to the USDA directly or through a representative, such as a tribal government, regarding the way the USDA treated your loan or loan servicing application.

You will need to provide the following information:

- The year in which you attempted to apply and the general timeframe within that year (such as late fall, early spring, sometime in January, February, or March); **and**
- The type of loan or loan servicing for which you applied; **and**
- How you planned to use the funds (such as crops, equipment, acreage); **and**
- How your plans for a farm operation were consistent with farming operations in that county/area in that year; **and**
- Where you went to seek a loan or servicing; **and**
- If the USDA actively discouraged your application, information about what they did.

18. What documentation is required for a Track B claim?

The standard of proof for Track B claims is a higher standard than what will be applied to Track A claims. **You will need to provide documentation that meets the evidence requirements of a Federal court and proves that:**

- You are a Native American who farmed or ranched, or attempted to farm or ranch, between January 1, 1981 and November 24, 1999; **and**
- You owned or leased, or attempted to own or lease, or had grazing rights on farm or ranch land; **and**
- You actually applied for a specific farm credit transaction(s) at a USDA office between January 1, 1981 and November 24, 1999; **and**
- You were offered a farm loan(s) or servicing option that was denied, provided late, approved for a lesser amount than requested, given a restrictive condition(s) or the USDA failed to provide an appropriate loan service(s); **and**
- Your loan or loan servicing application(s) was treated less favorably than that given a specifically identified, similarly situated white farmer(s); **and**
- The USDA's treatment of your loan or loan servicing application(s) caused you financial harm; **and**

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

- You complained of discrimination to the USDA directly or through a representative, such as a tribal government regarding the way the USDA treated your loan or loan servicing application(s).

If you choose to submit a claim under Track B and are unsuccessful you will not be eligible to receive a Track A payment or loan forgiveness.

19. How do I ask for loan forgiveness?

You will need to request loan forgiveness on the Claim Form and sign and return an Authorization to Disclose Debt Information Form. Both forms will be included in your Claims Package. After the Court grants final approval to the Settlement, these forms will be mailed to anyone who registered for a Claims Package. They will also be available at the website or by calling the toll-free number.

20. When will I get my payment?

Payments will not be made until after the Court grants final approval to the Settlement and after all Claims Packages are reviewed. This cannot happen until after **April 28, 2011**. Please be patient.

REMAINING IN THE SETTLEMENT**21. What happens if I do nothing at all?**

If you do nothing, you will not get any money or loan forgiveness from the Settlement. You will be bound by the Court's decisions. Unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the USDA about the legal issues in this case, ever again.

22. What am I giving up to stay in the Settlement?

Unless you exclude yourself from a Settlement, you can't sue the USDA, continue to sue, or be part of any other lawsuit against the USDA about the legal issues in this case. It also means that all of the decisions by the Court will bind you. The "Release of Claims" is described more fully in Section XVIII of the Settlement Agreement and describes exactly the legal claims that you give up if you remain in the Settlement. The Settlement Agreement is available at www.IndianFarmClass.com.

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want a payment from the Settlement, and you want to keep the right to sue or continue to sue the USDA on your own about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself – or “opting out” of the Class.

23. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter that includes the following:

- Your name, address, and telephone number,
- A statement in your own handwriting saying that you want to be excluded from *Keepseagle v. Vilsack*, 1:99cv03119, and
- Your signature.

You must mail your exclusion request, postmarked no later than February 28, 2011, to:

Keepseagle Settlement Exclusions
PO Box 3560
Portland, OR 97208-3560

24. If I don't exclude myself, can I sue the USDA for the same thing later?

No. Unless you exclude yourself, you give up the right to sue the USDA for the claims that the Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this Class to continue your own lawsuit.

25. If I exclude myself, can I still get benefits from the Settlement?

No. You will not get any money or loan forgiveness if you exclude yourself from the Settlement. However you may benefit from the changes in policy for the USDA farm loan program.

THE LAWYERS REPRESENTING YOU

26. Do I have a lawyer in this case?

The Court has appointed the law firms of Cohen Milstein Sellers & Toll PLLC (1100 New York Ave, NW, Suite 500, West Tower, Washington, DC 20005), Conlon, Frantz & Phelan (1818 N St, NW, Suite 400, Washington, DC 20036), Jenner & Block LLP (1099 New York Ave, NW, Suite 900, Washington, DC 20001), Patton Boggs LLP (2550 M St NW, Washington, DC 20037), Stinson Morrison Hecker (1150 18th St NW, Suite 800, Washington, DC 20036), and Sarah Vogel (222 N 4th St, Bismarck, ND 58501) to represent you as “Class Counsel.” You do not have to pay Class Counsel. If you want to be represented by your own lawyer, and have that lawyer appear in court for you in this case, you may hire one at your own expense.

27. How will the lawyers be paid?

Subject to approval of the Court, Class Counsel will ask for an award of attorneys' fees and expenses, in an amount of up to 8% of the \$760 million Settlement amount. These attorneys' fee pay for work the attorneys have performed on behalf of the Class for the past 11 years and for

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

work yet to be done in helping to administer the settlement. Class Counsel will also ask the Court to award up to \$950,000 to the class representatives, who helped the lawyers on behalf of the whole Class. Such awards are subject to approval of the Court.

If you would like to review the request submitted to the Court for an award of attorneys' fees and expenses, you may go to www.IndianFarmClass.com/CourtDocs any time after January 14, 2011. If you want to review the basis for the awards to the class representatives, you may go to www.IndianFarmClass.com/CourtDocs any time after January 21, 2011, to read the Motion for Service Awards.

If you choose to hire your own attorney to assist you with a Track A or Track B claim you need to know a few things:

- You will have to pay that attorney with your own money.
- Your attorney will have to agree to follow the Court's orders in this case.
- If you are awarded a Track A payment, your attorney will be eligible to receive only 2% of your award.
- If you are awarded a Track B payment, your attorney will be eligible to receive only 8% of your award.

COMMENTING ON THE SETTLEMENT

You can tell the Court that you don't agree with the Settlement or some part of it.

28. How do I tell the Court what I think about the Settlement?

If you have comments about, or disagree with, any aspect of the Settlement, including the requested attorneys' fees, you may express your views to the Court by writing to the address below. The written response should include your name, address, telephone number, the case name and number (*Keepseagle v. Vilsack*, 1:99cv03119), a brief explanation of your reasons for objecting, and your signature. The response must be postmarked no later than **February 28, 2011**, and mailed to:

Keepseagle Settlement Comments
PO Box 3560
Portland, OR 97208-3560

29. What's the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is telling the Court that you don't want to be part of the Settlement. If you exclude yourself from the Settlement, you have no basis to object to the Settlement because it no longer affects you.

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com

Questions and Answers About *Keepseagle v. Vilsack* (Continued)

THE COURT'S FAIRNESS HEARING

30. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at 10:00a.m. on April 28, 2011, at the United States District Court for the District of Columbia (333 Constitution Ave., NW, Washington, DC 20001). The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.IndianFarmClass.com for updated information. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider how much to pay Class Counsel. If there are objections or comments, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. **Please be patient.**

31. Do I have to come to the hearing?

Your attendance is not required, even if you properly mailed a written response. Class Counsel is prepared to answer the Court's questions on your behalf. If either you or your personal attorney want to attend the hearing, you may attend at your expense. As long as any objection or comment you filed was postmarked before the deadline, the Court will consider it.

32. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intent to Appear in *Keepseagle v. Vilsack*." It must include your name, address, telephone number, and signature as well as the name and address of your lawyer, if one is appearing for you. Your Notice of Intent to Appear must be postmarked no later than February 28, 2011, and be sent to the address listed in Question 28.

GETTING MORE INFORMATION

33. How do I get more information?

This Notice summarizes the Settlement. You can get more information about the Settlement at www.IndianFarmClass.com, by calling 1-888-233-5506, or writing to Keepseagle Settlement, PO Box 3560, Portland, OR 97208-5506. You can register for a Claims Package at the website or by calling the toll-free number.

For More Information: Call 1-888-233-5506 or Visit www.IndianFarmClass.com