

August 12, 2010

Robert L. Nabors II
Acting Deputy Director
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Nabors:

We read with concern your Aug. 6, 2010 letter to Sen. Blanche Lincoln, in which you assure her “that the Administration is committed to providing [disaster] assistance consistent with your legislative proposal by the end of this month.”

EWG supports farm disaster aid that is proportionate to the losses that farmers actually incur; is rigorously managed by USDA to protect taxpayers while serving eligible farm beneficiaries in timely fashion; is designed and implemented so as to prevent public money from subsidizing unsustainable practices; and is approved by Congress.

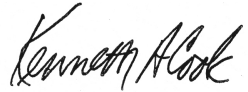
We believe that none of these principles align with the White House decision to administratively fund and implement a major, multi-billion-dollar ad hoc farm disaster program that Congress has been unwilling to approve. Many of the most wasteful abuses of taxpayer funds through ill-conceived and poorly administered farm disaster aid programs arose from the very sorts of circumstances that the White House now rushes to embrace, in which hasty electoral calculations trample sound policy en route to ransacking the Treasury.

It has been suggested that southern farming interests were poorly served in the development of the 2008 Farm Bill, as evidenced by their aggressive demand, just over a year after enactment, for precisely the kind of costly, scandal-prone, ad hoc disaster aid that was said to no longer be necessary under the law’s new “permanent disaster title.”

If indeed the needs of southern farmers were badly miscalculated in the development of the Farm Bill’s disaster title, we urge the Administration to lead efforts to examine and rectify those problems. In the meanwhile, we respectfully submit the attached questions in an effort to understand the Administration’s views and plans for funding and implementing disaster assistance “consistent with” Sen. Lincoln’s legislation.

Finally, we wish to raise a frustration we share with our long-time colleagues and collaborators at the National Black Farmers Association. We implore the Administration to demonstrate the same urgency it has shown in responding to the desires of Sen. Lincoln in order to secure the \$1.1 billion needed to settle black farmers' claims for past USDA discrimination.

Sincerely,

A handwritten signature in black ink, reading "Ken Cook". The signature is written in a cursive, flowing style with a large initial "K".

Ken Cook
President

Questions About The White House Farm Aid Plan Aug. 12, 2010

Did the White House or the USDA conduct any analysis or review of Sen. Lincoln's plan *before committing to implementing it through administrative means*? Our extensive inquiries have found no evidence that USDA or OMB performed any reviews prior to the White House decision to fund Sen. Lincoln's disaster program administratively. We request that the Administration immediately make public any such policy or budget reviews or analyses, since news accounts report that taxpayer funds may be expended for this program before the end of August.

Why does the Administration now support a meager 5 percent crop loss threshold for triggering farm disaster aid, when the traditional threshold for ad hoc assistance has been a loss of 30 percent or more? Have USDA or OMB conducted analyses to determine that this is the appropriate trigger for farm disaster aid in 2009 or going forward? Will the White House extend this 5 percent principle to non-agricultural workers, companies or sectors that experience a 5 percent drop in gross earnings due to bad weather — for example, construction workers or house painters? Will the Administration make additional payments under this policy to farmers who purchased crop insurance but have not been compensated under their policies and who claim a 5 percent loss for 2009? Will the Administration award direct payment-based compensation to farmers who claim a 5 percent loss for 2010? Will the USDA be directed to make countywide disaster declarations where a significant number of farmers declare a 5 percent loss?

If the direct payment mechanism is to be utilized, will it follow the formula in Sen. Lincoln's legislation? This is by far the costliest component of the senator's proposal. According to EWG projections, it will result in six-figure windfalls for hundreds of plantation-scale rice and cotton businesses in Arkansas and across the South. How did the Administration determine that a near-doubling (90 percent increase) of direct payments is the appropriate level of compensation for disaster assistance, when neither the direct payments nor the proposed additions bear any relationship to weather-related crop losses or production costs? What, if any, alternative compensation mechanisms were considered in OMB or USDA analyses?

What steps, if any, will the Administration take to assure taxpayers that the White House disaster aid plan will provide assistance that is commensurate with losses? The core of Sen. Lincoln's proposal is a compensation formula that is fraught with moral hazard. It will provide *automatic* compensation equivalent to 90 percent of an applicant's "direct payment" subsidy -- which is already an automatic award -- if the minimal threshold of a 5 percent crop loss is satisfied. Under this method, very large operations, in particular rice and cotton farms in the South, stand to collect \$100,000 or more apiece for *asserting* a mere 5 percent loss, while an average-size farm in a position to *prove* a much higher crop loss would receive only a few

thousand dollars. Will the Administration take any steps to prevent abuse of the program by agribusiness-scale operations while assuring meaningful assistance to small and medium-size farms?

What proof will applicants be required to provide in order to demonstrate a 2009 crop loss in excess of 5 percent, and what is the Administration's plan for protecting taxpayers by checking the accuracy of those applications? Will USDA conduct real-time compliance checks — and if so, how many — when aid is requested? If payments are forthcoming as soon as the end of August, can you provide us with the application form that the USDA will utilize for this program?

What authorities and funds will the Administration use to implement the program? What does the White House project this disaster aid will cost, and will expenditures for this purpose constrain resources for such other important priorities in USDA's child nutrition accounts? Media accounts indicate that the USDA will invoke a law, enacted in 1935, that authorizes permanent appropriations for agriculture purposes equivalent to 32 percent of U.S. customs receipts. While "Section 32" funds have been used in the past to pay for disaster aid, they have never been used on the scale contemplated by the White House-Lincoln plan. According to one tabulation, Section 32-funded disaster aid has totaled \$1.986 billion since 1999. The single largest disbursement (\$940 million) was for the scandal-wracked Livestock Compensation Program (I) of 2002. By comparison, the CBO estimates the cost of Sen. Lincoln's plan at \$1.5 billion. EWG's own estimate comes to \$1.6 billion for the direct payment component alone, which would bring the total cost, other things being equal, to \$2 billion. With either figure, the White House would be spending roughly as much of this discretionary money on a single year's disaster relief as has been spent altogether over the last 11 years.

Will spending for child nutrition priorities be constrained in any way if the White House draws upon Section 32 funds in order to implement Sen. Lincoln's disaster program? Domestic child nutrition programs traditionally have been the primary beneficiaries of Section 32 funds. As the Congressional Research Service notes:

"USDA's best-known use of Section 32 funds is direct purchases of non-price supported commodities, such as meat, poultry, fruits, vegetables, and fish. This activity began shortly after passage of the 1935 law and continues today. The department seeks outlets for these purchases that do not disrupt private markets. Early in the program, USDA began donating its purchases to low-income families and schools, on the premise that the donations would supplement, not displace, normal food purchases by these families.

"Distribution of Section 32 commodities is credited with stimulating growth of the national school lunch program.

"Today, school lunch and other domestic nutrition programs benefit in two ways from Section 32 funds. First, much of the Section 32 permanent appropriation now simply is transferred into USDA's Food and Nutrition Service (FNS) child nutrition account, where

it is supplemented by a separate direct appropriation under the annual USDA appropriation law. The commingled funds are then used to reimburse schools, childcare centers, and other eligible sites for meals served to children. These cash reimbursements are required by the separate Richard B. Russell National School Lunch Act.

“Second, a smaller — but still significant — amount of Section 32 money is set aside each year to purchase non-price-supported commodities directly and provide them to schools and other feeding sites. These purchases are made by USDA’s Agricultural Marketing Service (AMS). Some of these commodities (\$450 million worth in FY2006) are “mandated,” i.e., required to be bought and distributed to schools at rates specified by the school lunch act. Others are so-called “bonus” commodities, which schools and other domestic food programs receive after AMS makes emergency commodity purchases to relieve farm surpluses that occur throughout the fiscal year (such bonus purchases were valued at \$81 million in FY2006).”

Will the administration reject proposals to expand the geographic scope and increase the cost of the White House disaster aid plan? Based on an extensive history of fraud, abuse and bureaucratic malfeasance in past agriculture disaster assistance programs, taxpayers can plausibly expect that the White House plan will result in extensive abuse of federal funds and in costs far higher than the \$1.5 billion projected for Sen. Lincoln’s plan.

Farmers who choose to assert that they lost 5 percent of their 2009 crop but operate in counties that have not yet received a disaster declaration can be expected to request the same aid that other farmers will receive under the White House plan.

According to *The Washington Post*, taxpayers were literally fleeced in this manner by another major farm disaster aid program in 2002:ⁱⁱ

“At first, livestock owners were required to be in a county officially suffering a drought to collect the money [under the Livestock Compensation Program]. But ranchers who weren’t eligible complained to their representatives in Washington, and in 2003 Congress dropped that requirement. Ranchers could then get payments for any type of federally declared ‘disaster.’ In some cases, USDA administrators prodded employees in the agency’s county offices to find qualifying disasters, even if they were two years old or had nothing to do with ranching or farming.”

The *Post* went on to note:

“In one county in northern Texas, ranchers collected nearly \$1 million for an ice storm that took place a year and a half before the livestock program was even created. In Washington state, ranchers in one county received \$1.6 million for an earthquake that caused them no damage. In Wisconsin, a winter snowstorm triggered millions of dollars more. For hundreds of ranchers from East Texas to the Louisiana border, the shuttle explosion opened the door to about \$5 million, records show.

“John A. Johnson, deputy administrator for farm programs for the USDA, said that initially the program provided meaningful assistance to ranchers in areas suffering from drought. But after Congress loosened the rules, he acknowledged, ‘what was meant as disaster assistance ended up being given to people who didn't have a need or a loss’.”

Will the Administration release the names of all beneficiaries of the program, and the amounts they received, as soon as payments are made? The beneficiaries of most farm subsidy programs are individual family farmers whose names and subsidy payments are made public under current Administration policy. However, the names of individuals who have an ownership interest in large farming operations but do not run the farms themselves are no longer released. The Obama Administration, pleading lack of funds, has halted the policy initiated under President George W. Bush of releasing the names of everyone with an ownership interest to whom subsidy benefits are personally attributed under law. This policy effectively shields from disclosure subsidy benefits going to multiple, and often absentee, owners of large, agribusiness farming operations. Will the administration make public the names of *all* individuals who will benefit from the White House disaster aid program? When will that information be made available?

ⁱ Becker, Geoffrey S.. 2006. “Farm and Food Support Under USDA’s Section 32 Program.” Congressional Research Service. pp 1-2.

ⁱⁱ Gaul, Gilbert M., Dan Morgan and Sarah Cohen. 2006 (July 18). “No Drought Required For Federal Drought Aid: Livestock Program Grew To Cover Any 'Disaster'”. *The Washington Post*. A-1 <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/17/AR2006071701237.html>