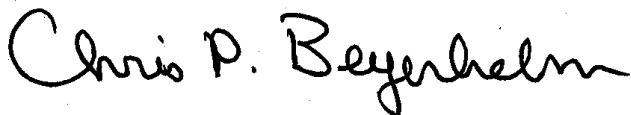


For: State and County Offices

**Prevailing Claimants 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 *Keepseagle v. Vilsack* class action lawsuit, and approval was provided by the court on April 11, 2011. The claims process period began on June 29, 2011, and ended on December 27, 2011.

The claims administrator has provided the names of all *Keepseagle v. Vilsack* prevailing and denied claimants to DAFLP. DAFLP has provided a spreadsheet to all SED's that includes a list of all prevailing claimants with debt relief.

Under the settlement agreement there are 2 tracks of potential relief available, as follows.

- Track A consists of claimants who met the class definition and provided evidence of discrimination. Track A prevailing claimants received an award of \$50,000 per individual with an additional payment of \$12,500 to offset potential tax liability during the week of August 27-31, 2012.
- Track B consists of claimants who met the class definition and had a stronger evidence of discrimination and severe wrongdoing. Track B prevailing claimants awards were capped at a maximum of \$250,000 per individual.

Additionally, prevailing Track A and B claimants who claimed outstanding USDA FLP debt will receive debt forgiveness for eligible program debts and a payment made to IRS to offset potential tax liability on the debt forgiveness amount.

**B Purpose**

This notice provides:

- debt relief processing instructions for prevailing *Keepseagle v. Vilsack* claimant loans
- guidance on servicing prevailing *Keepseagle v. Vilsack* claimants.

Disposal Date	Distribution
May 1, 2013	State Offices; State Offices relay to County Offices

## Notice FLP-628

### 2 Servicing Actions

#### A Debt Relief

If a prevailing *Keepseagle* claimant with debt relief is a primary borrower, co-borrower, cosigner, or entity member, full debt relief will be provided for all eligible loans to the primary borrowers or entity and all liable parties will be released of liability for the loans whether or not they were prevailing or nonprevailing claimants.

- FSA will forgive all eligible debt held by a prevailing claimant who submitted a signed “Authorization to Disclose Debt Information” form and the loan was closed on or before December 27, 2011. The Finance Office:
  - shall process the debt relief with an effective date of October 30, 2012
  - intends to complete the “3K ADPS” transaction on or before December 31, 2012.

**Note:** FSA will not demand or accept new payments from prevailing claimants on these loans.

- FSA will provide debt forgiveness only for eligible loans. Eligible loans for debt relief are all direct operating loans, direct FO’s, EM’s, and economic emergency loans that were closed before December 28, 2011.
- Excluded from debt relief will be conservation loans, economic opportunity, special livestock, softwood timber, soil and water, nonprogram, RHF, individual recreation loans, irrigation and drainage, grazing association, youth loans, homestead protection, and criminal restitution debts pursuant to court order.

Prevailing claimants that receive debt relief or had prior debt forgiveness that occurred during the relevant period will be eligible for future loans.

## Notice FLP-628

### 2 Servicing Actions (Continued)

#### B State Office Action

State Offices shall:

- review the *Keepseagle* prevailing claimants and notify County Offices of the prevailing claimants for their service area
- notify DOJ of prevailing claimants who shall receive debt relief for the Assistant United States Attorney (AUSA) to file a satisfaction of deficiency judgment or modify the deficiency judgment
- notify DOJ of prevailing claimants who shall receive debt relief that have open bankruptcy cases for the AUSA to file a revised Proof of Claim
- notify DOJ of prevailing claimants who shall receive debt relief that have pending third party foreclosure actions pending for the AUSA to modify the Government's security interest.

#### C County Office Action

County Offices shall:

- discontinue processing primary loan servicing for prevailing claimants whose loans are all eligible for debt relief
- Note:** All other prevailing claimants will be serviced according to 1-FLP, Exhibit 13.5.
- discontinue accepting loan payments for prevailing claimants that shall receive debt relief
  - release supervised bank accounts for prevailing claimants on loans that shall receive debt relief
  - release security checks that require countersignatures and any assignments for prevailing claimants on loans that shall receive debt relief
  - return promissory notes for the loans that shall receive debt relief and record the lien instruments releases that are associated with the debt relief

**Note:** County Offices will mark the debt relief loans "Satisfied through *Keepseagle* Settlement Agreement". The lien instrument releases shall be vouchered as a "noncontractual and nonrecoverable" (F2N5) as outlined in 1-FLP, Part 7, under "Program Loan Cost Expense".

## Notice FLP-628

### 2 Servicing Actions (Continued)

#### C County Office Action (Continued)

- continue to process loan applications or subordination applications for prevailing claimants with or without debt relief.

**Note:** For prevailing claimants that receive debt relief, the financials and cash flow will **exclude** the FSA loans that received debt relief. The servicing official will make a note on the financials and cash flow of this action.

### 3 Contacts

#### A State and County Offices

If there are questions about this notice:

- County Offices shall contact the State Office
- State Offices shall contact either of the following:
  - Craig Nehls by e-mail at [craig.nehls@wdc.usda.gov](mailto:craig.nehls@wdc.usda.gov)
  - Jenny Breece by e-mail at [jenny.breece@wdc.usda.gov](mailto:jenny.breece@wdc.usda.gov).

#### B Individuals, Media, or Denied Claimants

Individuals or representatives of the media contacting USDA personnel for information about the settlement and the claims process should be advised using the following language.

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

It would be inappropriate for USDA to provide any assistance, advice, or counsel to persons about the settlement. If you have questions about the settlement or payment under the settlement, we recommend you contact the *Keepseagle* Class Counsel and Administrator by using the following:

- telephone 1-888-233-5506 (toll free phone number)
- web site at [www.indianfarmclass.com](http://www.indianfarmclass.com)
- send an e-mail to [questions@indianfarmclass.com](mailto:questions@indianfarmclass.com).

Copies of the settlement agreement may be obtained at <https://www.indianfarmclass.com/Documents.aspx>.