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CIVIL RIGHTS CHRONICLE

INSIDE THIS ISSUE...

| | |
|--|---|
| <i>USDA Offers Assistance</i> | 1 |
| <i>Success Stories</i> | 2 |
| <i>Success Stories</i> | 3 |
| <i>HOTLAW</i> | 3 |
| <i>What's New</i> | 5 |
| <i>Special Emphasis Program Observances</i> | 6 |
| <i>NRCS Civil Rights Division Directory</i> | 7 |
| <i>New USDA Non-Discrimination Statement</i> | 8 |

USDA Offers Assistance to Tornado Victims



During these troubling times USDA has again stepped forward to lend a helping hand following the devastating effects of the tornadoes in Oklahoma. Keeping with its mission, USDA offered assistance to landowners, farmers, ranchers, producers, and those in need during the disaster. According to the article [USDA Offers Assistance to Tornado Victims](#), “USDA has reached out to Oklahoma state partners to offer food assistance to those in need in areas affected by the tornadoes. USDA, through the Food and Nutrition Service (FNS) will continue to work closely with the state to provide support and technical assistance as needed”. Between 12,000 and 13,000 homes were destroyed or damaged, and 33,000 people were affected. There were more than 61,500 power outages related to the tornado. Among the hardest hit areas were two public schools: Briarwood Elementary School and Plaza Towers Elementary School. Oklahoma Governor Mary Fallin declared a state of emergency on May 20, 2013.



U.S. Department of Agriculture (USDA), Rural Development (RD), Oklahoma State Director, Ryan McMullen delivers refreshments to disaster relief workers. USDA photo by Kathleen James.

USDA announced that it was working to assist Oklahomans who were left homeless by providing FEMA with a list of vacant USDA-financed apartments in the area and information on vacant government-financed single family homes. USDA is also working to assist owners of USDA-financed homes in the disaster area that have direct or guaranteed mortgages. USDA reminds Agricultural producers that Federal crop insurance covers tornado damage, as well as, other natural causes of loss and to also remember to report loss to insurance agents or companies within 72 hours and in writing within 15 days. Insurance companies will send out a loss adjuster as soon as they are safely able to do so and will document insurance claims. Once the emergency is over, those wishing to buy or repair a home in an eligible rural area may qualify for a loan or loan guarantee through USDA.

In the article [USDA Continues to Provide Assistance to Oklahoma Tornado Survivors](#), it states that, “The Natural Resources Conservation Service (NRCS) identified four sites which timber and debris is impairing water channels and potentially affecting roadways, bridges, and culverts. NRCS has allocated almost \$500,000 in emergency funding to begin work on any sites which pose significant hazards. Several other sites have also been identified”. USDA also offers assistance to water system operators. For more information, contact your local USDA service center or state office”.

For full articles on [USDA Offers Assistance to Tornado Victims](#) and [USDA Continues to Provide Assistance to Oklahoma Tornado Survivors](#), please visit the USDA Blog. Reference from: Wayne Maloney, USDA Office of Communications, on May 21, 2013 at 3:15 PM and on May 24, 2013 at 1:00 PM and Plushnick-Masti, Ramit; Murphy, Sean (May 22, 2013). "[Oklahoma tornado damage could top \\$2 billion](#)". Associated Press. Retrieved May 23, 2013.



**NRCS Civil Rights Division
Civil Rights Compliance Review Success Stories**

High Tunnel Harvest (Wisconsin) Extending the Harvest

Cheu and Chia Vang moved to America in April 1976 from Laos. Cheu had been in the Laotian Army and worked for USA Aid during the war. They moved to Jefferson, Wisconsin, in 2005 and started growing vegetables for local farmers markets. Cheu heard about NRCS and the seasonal high tunnel pilot project from his brother in Rhode Island. He was interested in growing earlier produced vegetables for the farmers markets. Through the Environmental Quality Incentives Program (EQIP), Cheu's high tunnel is now complete.

Cheu's goals are:

- make sure everyone has healthy food to eat;
- learn how to keep soil healthy and productive for his children;
- to learn more about protecting the valuable natural resources on his farm.

Soil Health

Jefferson County District Conservationist Dennis Vollmer, and Soil Conservation Technician Brendon Blank have been talking with Cheu about soil erosion and ways to improve the health of his soil. The High Tunnel project served as an introduction to NRCS, opening the door to more conservation practices to address soil erosion and runoff on highly erodible acres. Cheu is anxious to learn as much as he can to protect the soil. Cheu has started growing cover crops after the vegetables. Next spring he plans to install contour grass buffer strips with technical assistance from NRCS. If that does not slow the erosion enough, he may work with NRCS to install a grassed waterway and diversion in the future.



Cheu Vang produces many kinds of vegetables in his seasonal high tunnel, including exotic varieties that flourish with the longer growing season.

Extending the Season, Expanding Variety and Growing Locally (Alaska)

Posted by Molly Voeller, NRCS Alaska, on June 28, 2012 at 2:16 PM

"I remember when I first moved to Alaska, the only vegetable I ate was potatoes". Fruits and veggies were expensive and weren't even fresh! Up here, produce is shipped or flown up from the lower 48, and by the time it gets to off-road communities it can be nearly rotten. Plus, the nutritional value of produce declines each day after picking. But now, the last frontier is seeing a paradigm shift in favor of flavor: high tunnels. High tunnels are similar to greenhouses but are polyethylene covered structures where plants grow in the ground, instead of on raised benches, and the air inside heats passively from the sun, instead of from a heater". USDA's [Natural Resources Conservation Service](#) is helping Alaskans invest in high tunnels through its [Environmental Quality Incentives Program](#). Landowners enrolled in this program must grow crops, food or fiber in the high tunnel for four years. NRCS pays the landowner a flat rate per square foot of the high tunnel.



View of high tunnel near Homer, Alaska.

High tunnels allow people to grow affordable, local, fresh and nutritious food. High tunnels extend the growing season in Alaska from the typical 105 days up to 145 days by increasing soil and air temperatures and protecting plants from frost. The off-road high tunnels are especially noteworthy. Moving a high tunnel frame to a place without road access means flying, barging or snow-machining it in, like the Eagle Song Peony Family Farm did.

After a high tunnel is erected, the fun begins. Typical Alaskan crops are cool-season, fast-growing plants like broccoli, kale, rhubarb and peas. With high tunnels, Alaskan farmers are now able to grow warm season plants like melons, cucumbers and tomatoes—tremendously expanding variety.

By the end of the summer, NRCS Alaska will have helped build more than 400 high tunnels. More than 100 of these are in off-road locations like Kodiak, Bethel, Sitka and Nome.

**NRCS Civil Rights Division
Civil Rights Compliance Review Success Stories**

High Tunnel Makes the Difference for Lee Farms (Georgia)

By Amelia Hines, Public Affairs Specialist, Watkinsville



Jay-Jay Lee is a 4th generation farmer who lives in Statesboro.

Jay-Jay and Victoria Lee grew familiar with the USDA-Natural Resources Conservation Service (NRCS) over the years as they worked to make a living on their Statesboro farm. NRCS personnel had helped the couple by providing technical assistance but that working relationship grew after the couple saw an article in a farming magazine.

The article in FarmTek discussed high tunnels and how the structures protect produce and extend the growing season for vegetables like tomatoes and squash. As they read more, the Lees learned that the NRCS offered a program that provided not only technical assistance in constructing high tunnels but that the agency also offered cost-share assistance to eligible farmers like them.



As far as the Lees were concerned, any opportunity to grow the family’s 500 acre farm was worth a try. They visited their local NRCS office in Statesboro where they talked with Soil Conservationist Jason Gatch about the agency’s conservation assistance programs.

“They’re very conscientious farmers; not just in money but in the way they manage the land. They hold themselves to a high standard,” Gatch said.

After they applied for an Environmental Quality Incentives Program (EQIP) contract and were approved, the Lees put their plan into action.

The 2011 EQIP contract provided financial assistance for the Lees to construct a high tunnel, technical assistance to help them treat critical areas around the structure to control rain water runoff, and plant cover crops to prevent soil erosion on a few acres of their fields where they grow row crops.

Lee said building the high tunnel was a good decision for them. “It’s been an asset.” He added that the growing season has also benefited, “It put me about 3 to 4 weeks earlier for harvest. The yield hasn’t seen a lot of difference pound wise but it’s in time; stretches it [the growing season] out.”

In addition to having an earlier harvest, Lee said that the high tunnel has helped some of his produce aesthetically. “The skins of my tomatoes are almost flawless.”

High tunnels also help keep foliage dry during rainy weather and this also helps fight disease.

The Lees acknowledge that a high tunnel wouldn’t have been feasible for them without the financial assistance provided by NRCS. “The cost-share is a bridge for me,” Lee said. A bridge that now helps the family take produce from the seedling stage in their greenhouses to full maturity in their high tunnel where they can be harvested sooner while the row crops in the field continue to grow.

Bulloch County is a designated Strike Force county in Georgia. The USDA Strike Force Initiative is designated to help relieve persistent poverty in high-poverty counties.



This high tunnel has helped the Lee family expand their produce operation by extending their growing season.

HOTLAW


Navy proves indefinite LWOP creates undue hardship — Federal EEO Advisor—April 2013

Case name: Calacsan v Department of Defense, Department of the Navy, 113 LRP 5488 (EEOC OFO 01/04/13).

Ruling: The Department of Defense did not subject a specialist to discrimination when it allegedly denied her a reasonable accommodation and terminated her.

What it means: An agency can justify a complainant's termination after taking extended leave by showing that her indefinite leave created an undue hardship.

Summary: A contract specialist for the Navy alleged that the agency subjected her to discrimination based on national origin (Filipino), disability (physical), and reprisal when it failed to accommodate her disability and terminated her.

The EEOC found that the agency did not subject her to discrimination. It determined that even if the specialist established a prima facie case of discrimination, the agency articulated legitimate, non-discriminatory reasons for its actions.

The agency explained that the specialist's prolonged absence created an undue hardship. It had to use additional personnel to complete her workload during her absence. Also, agency policy prohibited leave without pay to be extended for more than one year.

The EEOC found that the specialist failed to demonstrate that any similarly situated employee not of her protected

bases was treated more favorably by having leave extended. The EEOC assumed that the specialist was an individual with a disability. The evidence supported her need for leave due to her condition. The EEOC noted that she was on approved LWOP at the time of her termination. The agency was accommodating her request for leave until the time of her termination. The EEOC found that the specialist failed to show that she needed any accommodation other than extending her leave. Even after she was notified that her continued leave created an undue hardship, she submitted a physician's note requesting additional leave. She did not request any other type of accommodation. The evidence showed that she was unable to do any type of work due to her medical issues. Therefore, the EEOC could not find that she was "qualified" at the time of her termination. The EEOC also found that she failed to show that the agency's reasons were pretext for discrimination or that she was denied a reasonable accommodation.

The EEOC also ruled that the specialist failed to show that she was subjected to discrimination with regard to her termination. She did not present evidence supporting her argument that the agency had no intention of rehiring her or that she was not considered for a position she applied for because she filed a complaint. The EEOC pointed out that she should contact an EEO counselor if she believed that her non-selection was due to discrimination.

Clerk's non-specific evidence justifies \$1,000 award — Federal EEO Advisor April 2013


Case name: Burns v. Department of Homeland Security, Immigration and Customs Enforcement, 113 LRP 4962 (EEOC OFO 12/27/12).

Ruling: The Department of Homeland Security subjected a

clerk to discrimination when it failed to provide a reasonable accommodation for his disability, entitling him to \$1,000 in non-pecuniary damages.

What it mean: If a complainant provides only non-specific evidence about his emotional pain, his award of non-pecuniary damages will be limited.

Summary: A personnel actions clerk for the Department of Homeland Security alleged that the agency subjected him to discrimination based on race (African-American) and disability. The EEOC found that the agency subjected him to discrimination when it failed to provide him with a reasonable accommodation. The agency was ordered to conduct a supplemental investigation into the clerk's entitlement to com-

pensatory damages. After an investigation into the agency found that the clerk was entitled to \$1,000 in non-pecuniary damages. The clerk appealed.

The EEOC found the agency's award was consistent with precedent. The clerk provided non-specific evidence that his repetitive stress injury caused him depression, anxiety, a chronic mental health impairment, and inability to function in his daily life and participate in social and leisure activities. The clerk did not provide evidence or testimony from friends or family about the effect his condition had on him.

The EEOC pointed out that where a discriminatory practice involves the provision of a reasonable accommodation, damages can be awarded if the agency fails to demonstrate that it made a good-faith effort to provide the employee with a reasonable accommodation for his disability. Here, the EEOC previously determined that the agency did not make a good faith effort to provide a reasonable accommodation.

What's New

Pilot Alternative Dispute Resolution for Program Complaints

The Department has announced a pilot Alternative Dispute Resolution (ADR) Implementation for Civil Rights Program Complaints. Program ADR is an effort to mediate, conciliate, and settle program discrimination complaints before they proceed to the investigation phase. This new process only applies to cases accepted for investigation after March 1, 2013, and is not retroactive. This process does not apply to programmatic referrals.

Overview and Changes from the Current Process:

1. Program discrimination complaints will be initially processed in the usual manner (no substantive changes).
2. All complaints *accepted* for investigation will be offered Program ADR (excludes Food and Nutrition Service and Rural Development/Memorandum of Understanding cases).
3. Initial acceptance letters and memos requesting Agency Position Statements (APS) will be modified to include language indicating that the APS is not required unless settlement discussions have failed or the case is deemed inappropriate for settlement at that time.
4. All *accepted* cases will be immediately transferred to OASCR's Early Resolution and Conciliation Division (ERCD), led by Sheila Walcott, Acting Director, ERCD, for ADR evaluation.
5. ERCD staff will have 15 days to evaluate the case. Both the Complainant and the Agency will receive letters indicating that ERCD has received the complaint and will be in contact with them.
6. ERCD staff will contact both the Complainant and the Agency to discuss settlement potential/options. Within 15 days, the ERCD staff will make a determination regarding whether further substantive settlement discussions are warranted. After the ADR evaluation, ERCD will notify the Complainant and the Agency in writing regarding its decision.
7. If further substantive settlement discussions appear warranted ERCD staff will "accept" the complaint for Program ADR in ERCD, notify the Complainant and the Agency in writing, and attempt to settle the complaint within 60 days. As long as the parties appear amenable to settlement discussions and those discussions appear to be fruitful, no substantive investigation will be conducted on the complaint. During this time, the Agency will not need to produce an APS or be asked to engage in other investigation activities.
8. If further substantive settlement discussions do not appear warranted, ERCD staff will not accept the complaint for Program ADR, notify the Complainant and the Agency in writing, and the complaint will be routed back into the standard investigatory process. The Agency will be notified in writing that the 24 day clock to produce the APS has begun.
9. If the complaint is accepted for Program ADR, and subsequent settlement discussions do not appear likely to result in a settlement, ERCD will notify the Complainant and the Agency of the impasse and the complaint will be routed back through the standard investigations process. The Complainant and the Agency will be notified in writing, and the 24 day clock to produce the APS will be identified in the notifications.
10. As is the practice now, a case can be referred to ERCD at any time during the complaint/investigations process, if warranted.





| EEO and Diversity Special Emphasis Program | |
|---|---|
| January | Martin Luther King National Service Day Observance |
| February | Black History Month |
| March | Women's History & Observance Month |
| April | Take Your Child To Work Day |
| May | Asian/Pacific Islander Heritage Month |
| June | Lesbian, Gay, Bisexual and Transgender Pride Month Observance |
| October | Hispanic Heritage Month |
| October | Disability Employment Awareness Month |
| November | American Indian/Alaska Native Heritage Month |

United States Department of Agriculture

Thursday, May 23, 2013
10:00 a.m. (EDT)
Jefferson Auditorium - South Bldg.
Washington, DC
11:30 a.m. Cultural Exchange at Whitten Bldg. - Falls

2013 Asian Pacific American Heritage Month

"Building Leadership: Embrace the Cultural Values and Inclusion"

Keynote Speaker
The Honorable Judy Chu
U.S. Congresswoman

Supported by: Director's Office of Management, Office of Human Resources Management, Diversity Program Office, Food Safety and Inspection Service, & Grain Inspection, Packers and Stockyards Administration

For accessibility accommodations and assistive phone contact: usda@usda.gov or 1-800-877-8339

Thursday, June 6, 2013 10:00am EDT
Jefferson Auditorium
South Building
Washington, D.C.

United States Department of Agriculture

USDA Lesbian/Gay/Bisexual/Transgender (LGBT) Pride

2013 USDA LGBT Pride Observance

Featuring The Fabulous Beekman Boys!

Josh Kilmer-Purcell and Dr. Brent Ridge left their home in New York City to start the Beekman Farm in upstate NY five years ago. Now, they have a hit TV show on the Cooking Channel, bestselling books, product lines in leading retailers, a massive social following, and a James Beard nominated lifestyle website. Earlier this year, they won \$1 Million dollars on CBS' The Amazing Race, in which they beat ten other teams on a race around the world. Come hear Josh and Brent talk about their life on the farm as USDA celebrates LGBT Pride!

DID YOU KNOW?

CRD is on the Web!

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/about/civilrights>



Civil Rights Division

VISION:

To be an inclusive diverse and equitable Agency that delivers programs in a manner based on and consistent with fairness availability and accountability.

MISSION:

To be an inclusive, diverse and equitable Agency that delivers programs in a manner based on and consistent with fairness, equality, availability and accountability while ensuring that applicants and employees are treated with respect, dignity and free from discrimination.

NRCS Civil Rights Division

| Name | Position | Phone |
|-------------------------------------|--------------------------|----------------------|
| DIRECTOR'S OFFICE | | |
| Jon F. Hall | Acting Director | 301-504-2180 |
| Taledia Washington | Administrative Assistant | 301-504-2181 |
| Employment Compliance Branch | | |
| Sandra M. McWhirter | Branch Chief | 301-504-2198 |
| Anita Holland-Spears | Management Analyst | 301-504-0026 |
| Barbara Taylor | EEO Specialist | 301-504-2185 |
| Mike Griffin | EEO Specialist | 817-509-3406 |
| Julio Cortez | EEO Specialist | 951-684-3722 ext 110 |
| Andy Cao-Pham | Student Intern | 301-504-0105 |
| Program Compliance Branch | | |
| Samora Bennerman-Johnson | Branch Chief | 301-504-2286 |
| Elton Loud | EO Specialist | 301-504-2332 |
| Elvin Gant | EO Specialist | 301-504-2173 |
| Wytonya Jackson | EO Specialist | 301-504-2166 |
| Sheila Shepperd | EO Specialist | 301-504-2457 |
| Kimberly Rodgers | EO Assistant | 301-504-0304 |



The USDA Office of the Assistant Secretary for Civil Rights updated the required nondiscrimination statement as follows:

Non-Discrimination Statement

Non-Discrimination Policy

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases apply to all programs and/or employment activities.)

To File an Employment Complaint

If you wish to file an employment complaint, you must contact your agency's EEO Counselor within 45 days of the date of the alleged discriminatory act, event, or in the case of a personnel action. Additional information can be found online at http://www.ascr.usda.gov/complaint_filing_file.html.

To File a Program Complaint

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9419, by fax (202) 690-7442 or email at program.intake@usda.gov.

Persons with Disabilities

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Supplemental Nutrition Assistance Program

For any other information dealing with Supplemental Nutrition Assistance Program (SNAP) issues, persons should either contact the USDA SNAP Hotline Number at (800) 221-5689, which is also in Spanish or call the State Information/Hotline Numbers.

All Other Inquires

Shorten version

USDA is an equal opportunity provider and employer.