



**U.S. OFFICE OF SPECIAL COUNSEL**  
**1730 M Street, N.W., Suite 300**  
**Washington, D.C. 20036-4505**

**The Special Counsel**

August 20, 2020

The President  
The White House  
Washington, DC 20510

Re: OSC File No. DI-17-1096

Dear Mr. President:

In accordance with 5 U.S.C. § 1213(e), the U.S. Office of Special Counsel (OSC) is submitting to you a report of a U.S. Department of Agriculture (USDA) investigation of whistleblower allegations. The whistleblower, [REDACTED], who consented to the release of his name,<sup>1</sup> disclosed to OSC that the USDA's New Mexico Farm Service Agency (FSA) improperly denied cattle producers in three counties an estimated half-million dollars in crop loss compensation under the Noninsured Crop Disaster Assistance Program (NAP).

The investigation, conducted by the USDA's Office of Inspector General (OIG), substantiated the whistleblower's allegations. OIG identified several factors—including FSA's inconsistent acceptance of crop loss assessments from year to year among the New Mexico counties, vague NAP requirements, and "problematic unofficial practices" by FSA in the crop loss assessment process—that may have caused the agency to wrongly deny the producers compensation for their crop losses. OIG also found evidence that USDA retaliated against the whistleblower and one other employee by improperly disciplining them after they raised concerns about this wrongdoing.

In response to these findings, USDA has completed or will complete the following corrective actions:

- Paying \$534,800 to thirty-seven cattle producers who were wrongfully denied payment for crop losses under the NAP;
- Acknowledging that it improperly disciplined the two employees in retaliation for their whistleblowing on this matter and taking appropriate steps to correct those actions, including potential disciplinary action against the responsible manager.
- Conducting two trainings on crop loss compensation in 2019;
- Reviewing and revising, as needed, any policies or procedures for establishing crop losses under the NAP, including through the rulemaking process.

---

<sup>1</sup> We note that initially, the whistleblower wished to remain anonymous, so the USDA report does not identify the [REDACTED] by name.



**U.S. OFFICE OF SPECIAL COUNSEL**  
**1730 M Street, N.W., Suite 300**  
**Washington, D.C. 20036-4505**

**The Special Counsel**

The whistleblower's comments to this report are enclosed. The whistleblower was pleased with the process, commenting that through this outcome the agency has honored its motto to "Do Right and Feed Everyone." The whistleblower further praised those at the agency who continued to pursue this issue and stayed true to their oaths of office.

I commend the whistleblower for coming forward to identify this gross mismanagement and violation of NAP regulations. I have determined that the USDA's report contains the information required by statute and that its findings appear reasonable. I am also encouraged by USDA's swift and comprehensive response to this report and that the agency will continue to take steps to ensure these problems do not persist.

As required by 5 U.S.C. § 1213(e)(3), OSC has sent copies of the agency report, this letter, and the whistleblower's comments to the Chairmen and Ranking Members of the Senate Committee on Agriculture, Nutrition, & Forestry and the House Committee on Agriculture. OSC has also filed redacted copies of these documents and a copy of our original referral letter in our public file, which is available at [www.osc.gov](http://www.osc.gov). This matter is now closed.

Respectfully,

A handwritten signature in black ink, appearing to read "Henry J. Kerner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Henry J. Kerner  
*Special Counsel*

Enclosures