Can you review request to see if you think we should submit to scheduling. Thanks
Barbara
62155

Schedule Proposal Farm Commiss Date: June 4, 1998

__________ACCEPT __________REGRET __________PENDING

Draft

TO: Stephanie Street
Deputy Assistant to the President
And Director of Scheduling

FROM: Maria Echaveste
Assistant to the President
And Director of Public Liaison

Bruce Reed?
Thurgood Marshall

REQUEST: For the President to meet with the Commission on 21st Century Production Agriculture.

PURPOSE: To provide a forum for a commission of farmers to express their concerns about their livelihoods and communities at a Presidential level and to hear from you on the future of rural America as we approach the year 2000.

BACKGROUND: The President's Commission of 21st Century Production Agriculture monitors current farming legislation. Created about a year ago, this Commission keeps a careful watch on both long and short term affects of farming legislation in light of the Farm Bill past in 1996 which limited government's role in agricultural decisions. The three White House appointees to the Commission are Lee Swenson, Jim Dupree, and Ralph Paige.

The constant focus of the Commission addresses the overarching agricultural dilemma of what type of production agriculture could best serve the nation as we approach the year 2000. Determining what system of farm production best serves the nation and its farmers is crucial to understanding what role, and how robust of a role, government should play in establishing and aiding farming policy. This commission realizes that the president is quite cognizant of the complexities that shroud this issue, yet they are also aware that this may be the last chance to examine this issue of central importance to so many Americans on a Presidential level.

DATE AND TIME:	Either July 9th-10th or October 8th-9th, 1998, although the commission is willing to work around the President's own availability.
DURATION:	10-20 minutes.
LOCATION:	The White House.
PARTICIPANTS:	List Attached
OUTLINE OF EVENT:	TBD.
PRESS/MEDIA:	Closed.
CONTACT:	Barbara Woolley, Office of Public Liaison 456-2155.

Barry L. Flinchbaugh-Chair, Kansas State University
Charles E. Kruse-Jefferson City, Missourri
William Norhtey-Spirit Lake, Iowa
Ralph Paige-East Pointe, Georgia
Bob Stallman-Waco, Texas
Lee Swensen-President, National Farmers Union
Don Villwock-Ewardsport, Indiana

- Commissioners Flinchbaugh, Cambell, Cook and Stallman were **appointed by House Ag. Committee Chair Pat Roberts**.
- Commissioners Villwock, Brumfield, Kruse and Northey were **appointed by Senate AG Committee Chair Richard Lugar**.
- Commissioners DuPree, Paige, and Swensen were **appointed by President Bill Clinton**.

Add under section 3 "Scope, Purpose, Duties"

b) The Commission shall develop and recommend short and long term strategies with respect to the feasibility of :

i)the retention or modification of the current tobacco program

ii) the elimination of the current program and its replacement with a privatized program

iii) the elimination of the current program and its replacement with a free market system

Tob Comm'n / Commission

Tom – Interesting, but doesn't this kick it down the road too far? – BR

Recommendation for a Presidential Commission on Tobacco

We recommend that a Presidential Commission be established to study, evaluate, and make recommendations concerning the transition of traditional tobacco farming communities to communities with increasingly less dependence on tobacco income. The Commission should consist of tobacco farm and other locally based organizations with representation of minority and limited resource farmers, tobacco quota owners, tobacco producers, farm workers, businesses supplying services for farm families and community development leaders.

The Commission would be charged with identifying alternative and supplemental income sources for tobacco. Although not ruled out for a few individuals, studies and experiments during the last decade or so have shown that alternative crops are not the solution. Other U.S. farming regions have a competitive advantage in producing most high-value crops that might be substituted for tobacco. Consequently, the efforts of the Commission should be focused on supplemental crops or alternative uses for tobacco in the short-term (up to 10 years). For the long-term (more than 10 years), the Commission's emphasis should be on developing the infrastructure and sufficient manufacturing, technology, or service industries for younger local residents. This approach should maintain the viability of our local tobacco farming communities and enhance the continued existence of minority and limited resource farmers.

The Commission should have the authority to make recommendations based on currently available information or to request specific studies or experiments in relevant program areas. For example, studies of how well a specific farm population, such as limited resource farmers, adapts to more diversified agricultural production or an experiment in cooperative ventures to accomplish diversification might be in order. The Commission should ensure that any study is conducted in an unbiased manner by obtaining input from all Commission members together with reviews and recommendations from experts at appropriate Universities and other Institutions. Additionally, the Commission should seek review and input on recommendations from other stakeholders ranging from health organizations to tobacco product manufacturers. Ultimately, the Commission would be charged with recommending specific actions that might be taken by the President to ease the transition from communities heavily dependent on tobacco income to a more diversified income base.

For Fiscal Year (FY) 2000, \$3 to \$5 million should be provided for travel, fact finding, and for establishing some initial experiments or research studies. A somewhat larger amount might be needed in FY 2001.

TPO's copy

United States Department of Agriculture

Office of the General Counsel

Washington, D.C. 20250-1400

December 9, 1994

MEMORANDUM FOR RICHARD ROMINGER
ACTING ADMINISTRATOR
CONSOLIDATED FARM SERVICE AGENCY

FROM: Ralph A. Linden Ralph A. Linden
Assistant General Counsel
International Affairs and Commodity Programs Division

SUBJECT: Buy-Out of the 1990 Through 1993 Crop Tobacco Inventories of the Flue Cured and Burley Marketing Cooperatives

We have reviewed the attached agreements for the buy-out of the 1990 through 1993 tobacco inventories of the flue cured and burley marketing cooperatives (co-ops). We do not see any legal impediment to the Secretary approving the contracts. We would suggest that a cover letter be sent to the co-ops, if the contracts are approved, reflecting that the approval is based upon representations made by the co-ops below and reflecting the limited nature of the Secretary's function in these matters. We discuss these matters briefly below.

1. The Contracts are a Series of Identical Contracts. The contracts are actually a series of contracts between the co-ops and the major cigarette manufacturers. Thus, there are a number of identical flue-cured and burley contracts. One of the contracts for burley is exceptional -- the one for Philip Morris -- but that one in essence takes the basic burley contract and divides it into two contracts. There does not appear to be any material difference in the effect or meaning of the Philip Morris contract as compared to the others. We have read the RJR flue-cured and burley contracts, and the Philip Morris burley contract. As indicated above we understand from the tobacco division in the Consolidated Farm Service Agency (CSFA) that the other contracts are identical. If this is not the case we would be happy to review any exceptional provisions in the other contracts.

2. The Secretary's function in this exercise. These are not the Department of Agriculture (USDA) contracts. They were negotiated by the parties alone. The language in that of the parties alone. USDA makes no

commitments. Rather, the Commodity Credit Corporation (CCC) has a collateral interest in the inventory and must act to insure that the tobacco price support program is a no-net cost program. CFSA's position paper indicates that the agreed upon arrangement is good business and the package contains representations by the co-ops that the agreements are effective to accomplish their intended purpose. We have no reason to believe otherwise.

3. Controversial provisions. The following aspects of the tobacco buy-out arrangement are the most controversial:

(a) Termination. The contracts allow the manufacturers to back out if there are material changes in the administration of the program. However, nothing prohibits CCC from making such changes that are needed in the program. Again, CCC and USDA are not parties to the agreement. This escape clause does not seem particularly unreasonable given the commitment involved.

(b) The General Agreement on Tariffs and Trade (Gatt) Arguments. We recently had a GATT panel argument about tobacco and when certain parts of the "Ford Amendment" were overruled we have been, and are still engaged in, "Article 28" negotiations to resolve that issue. Some of the trading parties may argue that this agreement is a Government-sponsored agreement compelling the sale of domestic tobacco in frustration of the GATT. USDA did not negotiate the agreement; rather, the agreement is a privately-negotiated sale. It is not a "rebate" of no-net cost monies to anyone. It is a sale of the inventory at, we understand, the best price possible and because it reduces the likelihood of losses on the inventory it should reduce the no-net cost assessments for imported and domestic tobacco alike and equally.

4. Returning the contracts. In order to: (1) make clear the limited nature of the Secretary's involvement in this process; (2) make clear whose agreement this is; and (3) clarify who is responsible for the accuracy and sufficiency of the documents that memorialize the agreement, we would recommend if the agreements are approved that they be returned with a cover letter that states as follows:

> Attached are executed copies of the tobacco buy-out agreements which you negotiated and which you have submitted to us for our

JOE WRIGHT, PRESIDENT
RAY BRANSTETTER, VICE PRESIDENT

DANNY McKINNEY, CHIEF EXEC. OFFICER
ALLEN T. HARMAN, VP & ASST. SECY-TRE
SCOTT ALTHAUSER, LEAF PROCESSING

Burley Tobacco Growers Cooperative Association

P. O. BOX 860
PHONES: (606) 252-3561 - 252-3563
FAX: (606) 231-9804
Lexington, Kentucky 40587

October 13, 1994

Ms. Anne K. Bingaman
Assistant Attorney General
Antitrust Division
U. S. Department of Justice
Tenth and Constitution Avenue, N.W.
Room 3107
Washington, DC 20530

Dear Ms. Bingaman:

We are writing on behalf of the Burley Tobacco Growers Cooperative Association to request a business review letter pursuant to 28 C.F.R. § 50.6. The Association is proposing a course of action which will result in the sale of its inventories of tobacco to domestic cigarette manufacturers and merchants.

A similar course of action was followed in 1985. The Department issued a business review letter on January 23, 1985 which stated that it had no enforcement intentions with respect to the development of an agreement to offer the inventories which existed at that time to domestic purchasers. A subsequent series of negotiations led to an agreement which included legislative, administrative, and contractual actions.

The need for a similar solution exists today. It has been recommended to the Association that we seek a business review letter at this time as a means of facilitating such a solution. It is my understanding that the office of Senator Wendell Ford has initiated contact with Mr. John Filipini and Mr. Neil Roberts of the Antitrust Division with respect to the development of a similar agreement. It is expected that Members of Congress will directly participate in this process, which may involve the sale of the current inventories in a manner similar to that provided in 1985, and potential legislative changes in the federal tobacco program.

Burley Tobacco Growers Co-operative Association

INCORPORATED

Lexington, Kentucky

Ms. Anne K. Bingaman
October 13, 1994
Page two

We respectfully request a review of this proposed course of action and a business review letter relating to any enforcement intentions which the Department may have. Any correspondence may be directed to either of us - however Mr. McKinney is usually more accessible.

Sincerely,

Joe Wright

Joe Wright
President

Danny McKinney

Danny McKinney
Chief Executive Officer

JW/DMcK/ka

R=97%

DEPARTMENT OF JUSTICE
Antitrust Division

ANNE K. BINGAMAN
Assistant Attorney General

Main Justice Building
10th & Constitution Ave., NW
Washington, DC 20530
(202) 514-2401/(202) 616-2645 (f)

NOV 14 1994

Mr. Fred G. Bond
Chief Executive Officer
Flue-Cured Tobacco Cooperative
Stabilization Corporation
P.O. Box 12300
Raleigh, North Carolina 27605

Dear Mr. Bond:

This letter responds to your request dated October 18, 1994, for the issuance of a business review letter pursuant to the Department of Justice's business review procedure, 28 C.F.R. § 50.6. You have requested a statement of the Antitrust Division's present enforcement intentions with respect to a plan of the Flue-Cured Tobacco Cooperative Stabilization Corporation ("the cooperative") to offer for sale all or a substantial portion of its inventory stock of flue-cured tobacco to United States cigarette manufacturers.

We understand that all domestic growers of flue-cured tobacco are members of the cooperative. The cooperative, by contract with the Commodity Credit Corporation ("CCC"), administers the tobacco loan program of the United States Department of Agriculture ("USDA") for flue-cured tobacco. Under the program, tobacco not purchased on the open market at or above the government support price is automatically consigned to the cooperative, and the grower is paid the support price by the cooperative from funds loaned by the CCC. These loans plus interest are repaid to the CCC when the cooperative resells the tobacco that it has purchased from its members. Pursuant to the No Net Cost Tobacco Program Act of 1982, losses incurred on the sale of tobacco held by the cooperative are borne by the growers and tobacco purchasers, each of whom pays an assessment for each pound of tobacco sold, whether on the open market or to the cooperative. These assessed funds are held by the CCC as a reserve fund to cover losses and carrying charges for tobacco inventory of the cooperative.

You have told us that inventory stocks held by the cooperative have risen dramatically in the recent past. This is because the government support price is higher than the world price of tobacco. Thus, the cooperative is holding a great deal of surplus tobacco and paying very significant carrying charges. In addition, you have informed us that the failure of your cooperative to sell a substantial portion of its inventory within the next few weeks would have the effect under the current statutory framework of reducing the quota for flue-cured tobacco for next year, thereby imposing significant losses on growers. Sale of the surplus at a price lower than the support price, as contemplated by the cooperative, thus will eliminate both the high carrying charges presently borne by the tobacco growers and the risk of a reduced quota for next year.

We understand the cooperative's plan to be as follows. The cooperative will meet individually with each of the domestic cigarette manufacturers in an attempt to sell them a pro rata portion of the tobacco inventory, based on their respective shares of the domestic cigarette market. The cooperative will attempt to negotiate with the manufacturers separately to establish a price for the inventory. Its willingness to offer the tobacco at a price lower than the support price will be contingent on its ability to dispose of the entire stock. You believe that it will be necessary to sell the tobacco to the cigarette manufacturers at the same price to each, and we understand that the cooperative's decision to sell its inventory at a uniform price was reached unilaterally.

After discussing the proposal with you and consulting with USDA about the tobacco program, and absent any evidence that the program is a product of any agreement among cigarette manufacturers, we have concluded that the Department has no present intention of challenging your offer of the inventory to the cigarette manufacturers. This conclusion is based on your representations that you have decided that disposal of the inventory in its entirety is in the best interest of your members and that the cooperative is most likely to achieve its goal if it offers the inventory for sale at the same price to all of the manufacturers on a pro rata basis.

Pursuant to 28 C.F.R. § 50.6, this letter and your business review request will be made publicly available immediately and any supporting materials will be made publicly available within 30 days of the date of this letter, unless you request that any part of the material you submitted be withheld in accordance with paragraph 20(c) of the business review procedure.

Sincerely,

Anne K. Bingaman

Anne K. Bingaman
Assistant Attorney General

Tdy.
- Fairness
- Commission [illegible]
- [illegible]

Scott D. Ballin JD
Health Policy Consultant
6220 30th Street NW
Washington DC 20015
Tel:202 686-8898
Fax: 202 244-4320

FAX

DATE: June 2

TO: Tom Fr[illegible]

FROM: Scott D. Ballin

No. of pages 6

Tom- I drafted this last year. It can probably be modified to deal with renew of the program (in there already) minimization, and free market. Note that I originally drafted this as a "Presidential" / "Secretary" level commission. That's still something to [illegible]

FROM : SBALLIN PHONE NO. : 202 686 8898 Jun. 02 1998 05:09PM P1

DRAFT DRAFT DRAFT DRAFT

H.R.

In the House of Representatives

A Bill

A bill to establish a national Commission on the Future Growth and Production of Tobacco in America, to assess and make recommendations on the future alternatives to tobacco growing and production in the United States and for other purposes.

Short title: This Act may be cited as the, "The Tobacco Farmer Families and Communities Future Economic Viability and Stabilization Act of 1997"

Findings: The Congress finds that -

a) the use of tobacco products are a major cause of cancer, heart disease, emphysema, stroke, chronic obstructive lung disease and other conditions and that new efforts must take place to reduce the disease and death caused by tobacco use, including the use of such products in tobacco growing states.
b) the role of American-grown tobacco in the world markets has greatly diminished.
c) the amount that the US tobacco farmer earns per package of cigarettes was about 3 cents to the dollar in 1991 as opposed to 16 cents in 1957.
d) the tobacco companies have increasingly moved their growing and production operations overseas.
e) new economic alternatives are needed to be provided to tobacco growing regions and communities that will offer the opportunity for those farmers wanting to transition out of the tobacco growing business to do so
f) public attitude surveys of tobacco farmers, particularly farmers under the age of 45 have shown that approximately 67% of such farmers have expressed a strong interest in trying other on-farm ventures to supplement or replace tobacco.
g) public attitude surveys of tobacco farmers have also shown that while willing to look at supplementing or replacing tobacco they are concerned about lack

of processing facilities for other crops as well lack of capital and loan interest loans.

h) a 1994 Lexington Herald Leader poll showed that 75% of tobacco farmers polled would be interested in alternatives to growing tobacco.
i) emerging technologies offer new opportunities to diversify the nation's agricultural base and to seek other uses for tobacco,
j) New opportunities and options should be considered both in the short term as well as long term that will provide tobacco farmers and their families with stable economic alternatives to the production of tobacco.

Section 1. The Secretary of Agriculture shall establish a national Commission on the Future of Tobacco Production and Growth in the United States (hereinafter referred to as the "Commission").

Section 2. Members of the Commission

a) (1) The Secretary shall appoint twelve persons to serve as members of the Commission. Such members of the Commission shall include:

1) two members representing the interests of the flue-cured and burley growers
2) a member with expertise in agricultural economics
3) a member with expertise in small business
4) a member with expertise in issue related to sustainable agriculture
5) a member with expertise in venture capital
6) a member who has developed or implemented a diversification program
7) a member who represents the interests of the public health community
8) two members representing state and local governments where tobacco is produced.

9) two additional members deemed by the Secretary to be qualified to provide the necessary expertise in assisting the Commission in carrying out its responsibilities.

(2) Appointment of Chairman—The Secretary shall appoint the Chairman of the Commission

(3) No individual who is a full-time officer or employee of the United States may be appointed as a member of the Commission. The Secretary of Agriculture, the Secretary of Department of Health and Human Services shall appoint a designee to provide liaison with the Commission.

(4) Meetings - Seven members of the Commission shall constitute a quorum but a lesser number may conduct hearings. The Commission shall meet at the call of the Chairman or at the call of a majority of its members.

(b) (1) Compensation - Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses , including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

Section 3. Scope Purpose and Duties of the Commission

a) The Commission shall develop and recommend both short term and long term strategies that seek to reduce or eliminate the production of tobacco in tobacco growing states and communities while ensuring short term and long term economic stability and development. In carrying out its responsibilities the Commission shall at a minimum conduct:

b) The Commission shall review the

(A) A review of the tobacco program as authorized and administered by the Department of Agriculture

(B) A review of the role that tobacco and tobacco production has played in the tobacco producing states, focused primarily on the six major producers.

(C) A review of the production and marketing trends of tobacco and tobacco products in the United States.

(D) A review of the effects of international tobacco and tobacco production on the domestic production and marketing of tobacco and tobacco products, including a review of the operations of US and international tobacco companies and leaf dealers.

(E) A review of economic models, demonstration and or pilot projects that might be used for providing tobacco growing states alternatives to growing tobacco and or other uses of tobacco,

(F) A review of health and ethical issues surrounding the production and marketing of tobacco products both in the United States and in other international markets.

b) (1)In carrying out its duties the Commission shall conduct a minimum of two hearings in each of the six major tobacco producing states. Such hearings shall be held in communities that are involved in the growing and production of tobacco. The Commission shall provide the communities with an open forum to present testimony, ideas and recommendations about the future production of tobacco including ideas and recommendations for diversification, economic development needs, environmental impact concerns and any other issue related to the agricultural production of tobacco.

(2) The Commission may undertake an investigation or study of any other appropriate matter which relates to the Commission's duties or is consistent with the Commission carry out its responsibilities.

(3) Upon completion of its study, investigation, and hearings the Commission shall report its findings (including recommendations for legislative or administrative action) to the President, the Congress, each federal agency to which a recommendation in the report applies as well as to the Governors of each of the six major tobacco producing states.

c) The Commission shall complete its duties, responsibilities and report its recommendations as required under subsection b)(3) no later than 18 months after its appointment.

Section 4. Administrative Provisions

a) Staff — (1) The Commission may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service and shall be paid in accordance with the provisions of Chapter 51 and subchapter 53 of such title relating to classification and General Schedule pay rates.

(2) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the united States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basis pay in effect for grade GS-18 of the General Schedule.

(3) Upon the request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out its duties.

b) Contracts. — The Commission in performing its duties and functions may enter into contracts with appropriate public or nonprofit private entities.

c) Information.—(1) The Commission may secure directly from any federal agency information necessary to enable it to carry out it duties.

(2) The Commission shall not disclose any information reported to it or otherwise obtained which is exempt from disclosure under subsection(a) of section 552 of title 5, United States Code.

d) Support Services.— The Administrator of General Services shall provide the Commission on a reimbursable basis such administrative support services as the Commission may request for carrying out its duties and responsibilities.

Section 5. Termination

The Commission shall terminate after filing its report and recommendations as required under Section 3(c).