FmHA Documents Revea

By Pete Hardin

The Milkweed has requested and obtained documents detailing the decision making process by the Farmers Home Administration (FmHA) as that federal lending agency tried to guarantee Eastern Milk Producers' $20 million loan to buy two mozzarella cheese plants from Leprino Foods Co. The FmHA documents reveal much information not previously available.

A three-inch stack of federal documents arrived on May 21.

Through the Freedom of Information Act, this publication had requested all documents held by the USDA's Farmers Home Administration (FmHA) concerning that agency's deliberations on the $20 million loan guarantee requested by Eastern Milk Producers.

The documents detail the inner workings of the FmHA. Questionable behavior on the part of some federal employees who handled the loan is reflected in the documents. Here are some of the major findings:

- That Eastern Milk Producers was so financially destitute the FmHA ordered an escrow fund be set up in order to protect the agency in the event the dairy co-op could not meet interest payments on the $20 million loan.
- That the FmHA documents projected Eastern Milk Producers will lose more than $10 million in operating deficits for the three year period starting April 1, 1980.
- That USDA Secretary Bob Bergland, in approving the $20 million Eastern loan guarantee, went along with the advice of his executive assistant and overrode the serious concerns voiced in a report to the Secretary by the Department's Office of the Inspector general (OIG).
- That an internal USDA eport to Bergland on the $20 million loan request failed to address allegations of connections between Leprino Foods and organized crime.
- That an ongoing criminal investigation concerning parties involved in the loan guarantee caused the FmHA to suspend the loan guarantee process within a few days after approval on January 14, 1981.

Complex, confusing

This story is perhaps the most difficult I have ever written. Hundreds of pages of documents gleaned through the Freedom of Information Act request tell part of the story . . . an unfortunate episode of how 3,000 dairy farm families belonging to a financially bereft dairy co-op nearly got saddled with $20 million in debt because of . . . well, the readers will have to come to their own judgement on that question. Please understand that stories have both style and substance . . . and the substance of this story sometimes makes style ponderous.

The FmHA's Business and Industry Committee approved the loan guarantee request by Eastern Milk Producers on January 14, 1981 . . . the same day that Bergland received the OIG report. A long, rambling and sometimes logically-convoluted, unsigned memo remains in the FmHA files, dated January 15, 1981. That memo offers FmHA's responses to the negative OIG report on the Eastern loan guarantee.

While the OIG would not comment on a final decision resolving the drawn-out attempts by Eastern Milk Producers to get the loan, Robert E. Miller, acting director for the FmHA's rural Development and Farms Programs Division, concluded ". . . there are still major questions about the eligibility and advisability of this loan proposal." Miller detailed several pages of shortcomings in the $20 million loan guarantee.

In a cover letter attached to the OIG report to Bergland, the USDA Inspector General, Thomas F. McBride, concluded with this recommendation to the outgoing Agriculture Secretary, "I would suggest that you get responses from the FmHA regarding our concerns prior to its decision."

At the advice of an aide, Bergland gave the go-ahead for the loan . . . overlooking the admonitions of the OIG report.

On to Syracuse

FmHA Associate Administrator James E. Thornton prepared a memo on January 15, 1981 (one day after Bergland okayed the loan) for the NYS FmHA Director. Thornton announced that the national office had approved the $20 million loan guarantee.

That same day, James E. Flickinger of the FmHA bought an airplane ticket and headed to Syracuse to hand deliver the memorandum from his boss, Thornton. Flickinger was the senior loan specialist for the FmHA connected with the Eastern loan application.

Mr. Flickinger overnighted on January 15 in room 1711 of the Downtown Holiday Inn in Syracuse. He spent $42 for the room. Dinner, including tips, totaled $12.60. On January 16, Flickinger breakfasted to the tune of $6.20 and lunched away $7.50. By 2:40 p.m. on the 16th, Flickinger's plane was heading back to Washington.

According to newspaper accounts by James Flateau of the Ottaway News Service, the Washington, D.C. official had so pressured the acting NYS FmHA director, Bernard Hanley, to sign the $20 million loan guarantee . . . that Hanley went directly to the U.S. Attorney's Office in protest.

Within a few days, the U.S. Attorney's office in Syracuse announced it was proceeding into an investigation concerning criminal conspiracy charges in the Eastern/Leprino affair.

The "Inhouse File" memo on January 15, 1981 argues that Leprino's investment in the two cheese plants was "based on the fact that Eastern would get the loan . . ." "Based on this fact, these plants would not have been built if it were not for the guarantee being issued when they were completed . . ."

Implicit approval?

The mistaken concept of implicit FmHA approval for the cheese plants' construction project dates back to the spring of 1979 when then Eastern Milk Producers president Arden Tewksbury wrote several northeastern U.S. Senators and Congressmen complaining about the FmHA dragging its heels in loan commitments to Eastern for the cheese plants.

Tewksbury's numerous letters (such as an April 26, 1979 letter to New Jersey Senator Harrison A. Williams) noted that, "After one year of working with the FmHA in New York State and receiving assurances that the FmHA would guarantee this financing," suddenly the FmHA had backed away its assurances.

Tewksbury noted to Williams that, "We are already committed for $6 million of construction with no financing alternative," Eastern's board of directors had approved a $10 to $12 million, 20-year contract with Leprino . . . with no guarantee of outside financing in advance.

On April 13, 1979, Karen Noble Hanson, the NYS FmHA director, rebuked Tewksbury in a letter, noting that Eastern's application for a loan guarantee could not be processed until a lead lender for the project was obtained.

Eastern didn't complete its loan application until August 1980.

Mrs. Hanson emerges from the Eastern/Leprino affair relatively well, for a FmHA official. Her negative memos to Washington, D.C. superiors in December 1979 and January 1980 reflected an unwillingness on the state office's part to be pressured into approving the $20 million Eastern loan.

Responding to a request by Bergland in late June, 1980, Mrs. Hanson wrote a memo to Bergland on July 29, 1980 in which she listed nine negative factors concerning the loan application.

Hanson wrote:

"The LePrino's (sic) were already investors. Therefore, it would be inappropriate for the Government to take them out."

"Financial status and history of Eastern is such that they are not strong enough to manage this business.

"Equity appears insufficient to make a legal loan and as a minimum should require the personal guarantees of the LePrinos.

"An FBI check should be made of LePrino."

Neither Mrs. Hanson, the former NYS FmHA director nor Joseph Bonnanno, to whom readers will be introduced in a few paragraphs, seemed to be able to spell Leprino's name correctly.

The Hanson memo to Bergland was written on July 29, 1980.

Errors, losses, etc.

To move ahead chronologically, Flickinger prepared a loan review application at FmHA's national office on September 4, 1980. On that loan application, the FmHA national loan officer grossly overestimated both the co-op's membership and the amount of milk marketed annually by Eastern Milk Producers.

Rather than the 6,200 members Flickinger reported, Eastern had barely 3,000 members. The $20 million debt from the cheese plants would have placed a burden of over $6,000 on each Eastern Milk Producer member.

Flickinger estimated the co-op marketed 3.5 billion pounds of milk per year. That volume of milk was unrealistically high . . . more than one billion pounds above actual sales by the co-op during recent years.

Included with the loan review application was a forward projection of Eastern Milk Producers' next few business years. Those projections expected the co-op would suffer net operating profits (losses) of this nature:

1980-81 — ($2.9 million)
1981-82 — ($3.7 million)
1982-83 — ($3.9 million)

The whole loan consideration process by the FmHA hit the skids on September 11, 1980 when reporter Flateau announced that a multi-state organized crime task force was convening in a western state to study evidence possibly linking the Leprino firm to now imprisoned mobster Joseph G. Bonanno, Sr., alias, "Joe Bananas."

Government agents had found a note in Bonanno's garbage on which the mobster had written, "Tell in Denver about Lapparino Cheese Co. Trouble with union, could be adjust." "Lapparino" is an apparent phonetic spelling of Leprino in a Sicilian dialect. Bonanno never mastered the English language in his escapades with Al Capone.

Cast of Characters . . .

Who's who in this soap opera?

Eastern Milk Producers is a 3,000 or so member co-op based in Syracuse, NY. Eastern has experienced a decade of financial losses and marketing problems.

In June 1978, Eastern's delegates voted (with virtually no advance notice and without outside financial consulting) approval of a 20-year deal to build two mozzarella cheese plants and lease them to Leprino Foods Co. of Denver, Colorado. The co-op agreed to supply Leprino with 660 million pounds of raw milk annually.

Leprino Foods is the world's largest mozzarella cheese producer, privately held by members of the Leprino family.

The co-op's financial condition made it difficult to get a lead lender for the $20 million project. FmHA rules require a lead lender before the government agency will guarantee a loan.

Impatient with Eastern's inability to get financing, Leprino went ahead in the fall of 1979 and spent $20 million to build mozzarella plants at Horseheads and Waverly, NY.

Efforts to secure the $20 million loan guarantee for Eastern Milk Producers were directed towards the transfer of ownership of the cheese plants to the cooperative from Leprino. The Leprino firm did not wish to invest $20 million in the fixed facilities.

Eastern Loan Shenanigans

FmHA spokesperson Janet Keyser announced that the FmHA had suspended deliberations on the loan guarantee until Leprino's name was cleared of alleged mob ties.

Legal arm twisting

Leprino swung into action to clear its name and expedite the loan guarantee process.

On September 25, James G. Leprino, chairman of Leprino Foods Co. of Denver, Colorado visited the Denver office of the FBI and took a "lie detector" test, answering questions relating to Leprino's alleged ties to organized crime. He allegedly passed the test.

On September 26, the deputy director for the Colorado Bureau of Investigation wrote Mr. Charles H. Wilson, an attorney for Leprino's law firm, concerning Leprino and Bonanno. That deputy, Carl W. Whiteside, wrote in part:

"Let me assure you there is absolutely nothing in our files regarding documents taken from Bonanno's home or trash which make reference to Leprino Foods, nor are we aware of the existence of any such documents which may be in the possession of another law enforcement agency." That's what he wrote.

Leprino's law firm, Williams and Connolly, later used that letter from the Colorado Bureau of Investigation as proof of Leprino's freedom from organized crime ties in a letter to FmHA Business & Industry Chief James Thornton on October 10, 1980. Williams and Connolly is one of the country's most prestigious law firms. Edward Bennett Williams is a principal in the firm. Williams owns both the Washington Redskins and the Baltimore Orioles . . . and was both highly placed in the Democratic Party as well as a member of Reagan's transition team.

(Williams and Connolly first appeared on the scene in 1980 when the law firm launched a $20 million dollar libel suit against the Pennsylvania Farmer and that magazine's parent corporation. In November 1979, Pennsylvania Farmer had erroneously reported that Leprino had been named as a front for organized crime elements.)

On October 10, attorney David N. Brewster of Williams and Connolly wrote FmHA B & I Chief Thornton a strong letter urging the FmHA to move along more quickly with the loan guarantee consideration. Brewster wrote:

"But I sincerely hope that you are now satisfied of the falsity of any such insinuations and that you will announce you are satisfied and that the application will be restored to a regular processing track. We would be particularly pleased, needless to say, if Janet Keyser were the one to announce this."

FmHA abuses

In late October, Ms. Keyser announced that an internal investigative unit of the USDA, and then the Denver office of the FBI, had probed Leprino's alleged ties to organized crime and found Leprino "clean." Both times, reporter Jim Flateau followed up Ms. Keyser's claims that government agencies had cleared Leprino and found her statements inaccurate.

Perhaps pressures such as reflected in Leprino's attorney's letter to the FmHA were partially responsible for Ms. Keyser's inaccurate statements about federal agencies clearning Leprino's name.

In late October, reporter Bruce Ingersoll of the Chicago Sun-Times came out with an extensive investigation into the FmHA's lending practices. Ingersoll showed how the FmHA's James Thornton, in the election year heat, had removed the upper limits for FmHA loan guarantees and had distributed $341 million for 15 fuel clcohol projects. One such project was a $66 million whopper called "Tiger Tail Distillery" in Tennessee headed by a wealthy agribusinessman who had also been involved with a political group called "Farmers for Carter/Mondale."

Ingersoll showed how Thornton fabricated minutes of meetings which never took place in order to ram through the fuel alcohol projects. Thornton overspent the 1979 - 80 FmHA budget by $72 million. Ingersoll's article in the Chicago Sun-Times blasted the Carter administration's politicization of FmHA lending policies. Ingersoll named Thornton as part of the USDA's "Minnesota Mafia" which included Bergland and Bergland's executive assistant, Lee C. Corcoran.

The USDA hired an outside consulting firm, E. A. Jaenke & Associates, to the loan guarantee request by Eastern Milk Producers. The Jaenke firm (based in Washington, D.C.) finished its draft on October 31, 1980. Jaenke found management weaknesses and poor overall structure in the co-op, according to FmHA documents.

Jaenke also suggested that handling allowances paid by Leprino for raw milk be renegotiated with Eastern, since there was an imbalance in Leprino's favor.

Eastern has lost money on just about every drop of milk it has sold to Leprino. Originally, the co-op signed a 20-year supply contract with a fixed handling allowance of about 8 cents per cwt. That included both handling fees and quality control costs.

On December 15, USDA auditors began studying the Eastern loan request at the direction of Agriculture Secretary Bob Bergland. Eight days later, top FmHA officials reported to the USDA's Office of the Inspector General that the FmHA had not yet drawn up closing conditions for the loan request.

The OIG instructed the FmHA to submit the closing conditions for review before the $20 million loan to Eastern was approved.

How well was the OIG able to investigate the FmHA project? In the January 14 report to Secretary Bergland, Robert E. Miller wrote: "The closing conditions, along with additional documents not previously available, were provided on January 9, 1981. . . . We did not review back-up records or other documents which supported the financial data provided due to the time constraints and the fact that such data was not at the National Office."

FmHA could not, or did not, provide internal USDA investigators, operating at the direction of Secretary Bergland, with key financial data on the $20 million loan guarantee. FmHA officials didn't provide much material to OIG until Friday, January 9. That was one business week before the Carter administration departed from Washington.

The internal report by the USDA to Bergland reported these negative aspects to the $20 million project:

- No new jobs would result from the loan guarantee, since the Leprino plants were already in operation.
- Many recommendations by the NYS FmHA office had not been followed thru by the Washington, D.C. national office of FmHA.
- Leprino should be a full guarantor of the loan.
- There was not an outside appraisal of the two mozzarella cheese plants value.
- Eastern's equity was insufficient. OIG proposed to Bergland that Eastern invest $2 million more in equity.
- ASOMA Funding Corporation, the financial firm which appeared on the scene in mid-1980 to offer the $20 million loan to Eastern, was a newly organized loan company. The Eastern Milk Producers loan was its first.

(Other FmHA documents refer to ASOMA as a "family held" investment form. No specifics as to whose "family.")

- Serious questions abounded about Eastern's long-term ability to meet milk commitments to Leprino.
- Eastern had a history of poor management.

Miller's final admonition to Bergland was "there are still major questions about the eligibility and advisability of this loan."

The FmHA projected operating deficits for Eastern Milk Producers totaling over $10 million for the three fiscal years beginning on April 1, 1980 and ending on March 31, 1983.

Pencilled in the upper right-hand corner of the Inspector General's letter to Bergland is the notation:

"Sec BB You will recall there was concern about underworld connection via rumor. OIG finds no such connection. I believe the professionals in FmHA should be capable of deciding this loan matter. L.C.C."

L.C.C. is Lee C. Corcoran, Bergand's executive assistant.

"Lee C. I agree- Bob"

That was Bergland's answer to the Inspector General's report. The loan was approved.

Experiences with shady FmHA dealings involving the Carter administration and FmHA officials such as James Thornton question how valid the "professionals" at the FmHA were in handling multi-million dollar loans.

Bergland's response was to "agree" with his executive assistant, Lee C. Corcoran, to trust the judgement of the FmHA officials. The IOG report made no mention of any investigation into alleged organized crime connections with Leprino.

On January 15, a day after the OIG report to Bergland, the FmHA approved the $20 million loan guarantee to Eastern Milk Producers. An unsigned "Inhouse File" memorandum remains as the FmHA's answer to the USDA's investigator's criticisms of the loan project.

The OIG did not see much relevant financial data, according to the internal report.

Flickinger flew to Syracuse, NY on January 15 . . . perhaps to hand deliver from the national office the memorandum he had written earlier that day instructing the NYS FmHA acting director that the national office had approved the Eastern loan. The next day, the NYS FmHA acting director, Bernard Hanley, went to the U.S. Attorney's office in Syracuse to voice concerns about the whole loan project and pressures brought to bear on him to sign the loan guarantee.

The "Inhouse File" memo noted that the equity position of the loan at closing will be 8.7% with the additional "$1,400,000 cash colateral equity injection by Leprino." Total equity in the project was about $2.29 million . . . half of which belonged to Leprino. FmHA guidelines require 10 percent equity by the borrower in order to legally quality for a loan.

Due to insufficient equity, the FmHA's $20 million loan guarantee to Eastern Milk Producers approved on January 15, 1981 was illegal.

On Monday, January 19 (the first business day since Flickinger flew back to Washington, D.C. from Syracuse;, James A. Flickinger wrote an unaddressed memo which reported:

"Charles Valshing, Regional attorney, advised that there is a criminal investigation being conducted by the U.S. Attorney's office out of Syracuse, NY. Advised not to issue conditional commitment until the matter had been settled. Refer any additional inquiries to Asst. U.S. Attorney. This information was obtained thru Mr. Thornton."

Conclusion???

A March 9, 1981 memo to the Acting Administrator of the FmHA offers a summary of what transpired in Syracuse in mid-January when Flickinger flew there to press NYS FmHA acting director Bernard Hanley to sign the hastily-approved $20 million loan guarantee. The memo, written by Kenneth E. Latcholia, Deputy Administrator for Rural Development in the FmHA, concludes:

". . . The conditions of the approval were taken to the New York State Office on January 15, 1981, so that the conditional commitment could be issued to the lender because the commitment of the lender to fund the loan was expiring. The Acting State Director of New York advised that he could not issue the conditional commitment. Although he was satisfied with the loan as it has been structured, he was concerned about a new criminal investigation being conducted by the Assistant U.S. Attorney's Office in New York.

"On January 16, 1981, it was verified through our Harrisburg, Pennsylvania Regional Attorney that there was in fact an ongoing criminal investigation and the decision to hold up any further action on the request was made at that time pending the outcome of the investigation.

"We do not know what the investigation is about; however, we do not plan to proceed any further with the request until the investigation is completed."

An ongoing federal criminal investigation killed the FmHA's $20 million loan guarantee to Eastern Milk Producers. The criminal probe . . . which for some reason was not noted in the January 14, 1981 OIG report to Secretary Bergland . . . killed the loan despite the best efforts of some FmHA officials to circumvent agency rules and approve the loan before the Carter administration left office.

James E. Flickinger, the national loan specialist who handled the Eastern loan guarantee request, refuses to accept phone calls on the subject.

James E. Thorton, Associate FmHA Administrator until early 1981 . . . has left that position. Thornton got into hot water with USDA auditors by illegally approving consulting contracts to the E.A. Jaenke firm for further work on the Eastern Milk Producers matter.

There are many compelling reasons why the $20 million loan guarantee to Eastern Milk producers should have never been approved by the FmHA. Those reasons are documented by numerous memos to Washington from former NYS FmHA State Director Karen Noble Hanson as well as the Office of Inspector General's report to Secretary Bergland on January 14, 1981. FmHA officials were unable or unwilling to provide key financial information to the OIG, a fact noted in the report to the Secretary.

Eastern Milk Producers never had sufficient equity, milk supplies or management skills to enter such a complex fiscal agreement.