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The Honorable Glenn M. Anderson
House of Representatives

Dear Mr. Anderson:

On February 5, 1974, you requested that we investigate certain payments the Department of Agriculture made in connection with the 1973 wheat program. Of the \$474 million questioned, \$375.2 million represented advance payments to wheat producers under the Federal Government's wheat marketing certificate program and \$98.8 million was paid to wheat producers who voluntarily set aside cropland for approved conservation uses.

According to a December 4, 1973, Department news release, the preliminary payments, which were made shortly after July 1, 1973, were made in compliance with the authorizing legislation and, even though the circumstances assumed in making these payments did not materialize, no refund could be requested from the wheat producers. You asked whether there were any means by which the Government could recover the payments.

We discussed these payments with Department officials and reviewed applicable legislation, Department procedures for determining the payments, related Department records, and other pertinent information. We found that the payments were made in accordance with the law and that there were no means by which the Government could require repayment.

WHEAT MARKETING CERTIFICATE PROGRAM

The wheat marketing certificate program was authorized by section 379b of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1379b), which stated:

"The Secretary shall provide for the issuance of wheat marketing certificates for the purpose of enabling producers on any farm for which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the face value of such certificates."

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The program, which was first authorized for the 1964 wheat crop, was added to the 1938 act by the Food and Agriculture Act of 1962 (Public Law 87-703, 76 Stat. 626). The 1962 act stated that (1) the conditions affecting the production of wheat were such that, without Federal assistance, producers could not effectively prevent disastrously low prices for wheat and (2) the unreasonably low prices the producers received for wheat impaired their purchasing power for non-agricultural products and placed the producers in a position of serious disparity with other industrial groups.

The authorizing legislation was subsequently amended to set forth program terms and conditions for specific crop years. Section 402 of the Agricultural Act of 1970 (Public Law 91-524, 84 Stat. 1362) set forth the terms and conditions for the 1971, 1972, and 1973 programs. Section 402 amended section 379b to provide that the face value per bushel of the certificates for each of the 1971, 1972, and 1973 wheat crops was to be in an amount which, together with the national average market price the producers received during the first 5 months of each crop's marketing year, the Secretary determined would be equal to the parity price¹ for wheat as of the beginning of the marketing year.

Section 402 also amended section 379b to require the Secretary to advance to producers, as soon as practicable after July 1 of the year in which the crop was harvested, an amount equal to 75 percent of the Secretary's estimate of the face value of the certificates to be issued. Such advance payments had not been authorized for previous crop years. Section 402 further amended section 379b to provide that, "If the face value of the certificates as finally determined is less than the advance, the difference shall not be required to be repaid."

The Agriculture and Consumer Protection Act of 1973 (Public Law 93-86, 87 Stat. 226) suspended the wheat marketing certificate program for the 1974-77 wheat crops.

PROGRAM PARTICIPATION AND ADVANCE PAYMENTS
FOR 1971, 1972, AND 1973

About 1.3 million farms were eligible for participation in the wheat marketing certificate program during each of crop years 1971, 1972, and 1973. Participation and payment data follows.

¹A price designed to keep the purchasing power of the farmer at the level of the period January 1910 to December 1914, inclusive.

<u>Crop year</u>	<u>Number of eligible farms</u>	<u>Number of participating farms</u>	<u>Amount of advance payments</u>	<u>Amount of total payments</u>
1971	1,306,000	1,012,000	\$645,950,000	\$878,078,000
1972	1,295,000	976,000	690,937,000	723,312,000
1973	1,300,000	1,053,000	375,226,000	375,226,000

The advance payments for crop years 1971 and 1972 did not provide producers with amounts equal to the parity prices for wheat in those years and, as indicated in the table, additional payments were made to them when the face values of their wheat certificates were finally determined. For crop year 1973, however, wheat prices rose above the parity price after the advance payments had been made and, as finally determined, the certificates did not have any value. Consequently, no additional payments were required and, as provided by section 379b, repayment of the advance payments was not required.

PROCEDURES FOR ESTIMATING WHEAT PRICES AND MAKING ADVANCE PAYMENTS

To determine the advance payments for 1973, the Department analyzed prices from May 17 through 29, 1973, on the Kansas City wheat futures market for July, September, and December 1973 contracts. The analysis showed the prices averaged \$2.58 a bushel.

To obtain the estimate of the average price to be received by producers from July 1 to December 1--the first 5 months of crop year 1973--the Department then adjusted the average futures price to account for the differences between futures prices and cash and farm prices. These adjustments resulted in the estimated average price being set at \$2.40 a bushel. Comparing that price with a projected July 1 parity price of \$3.30 a bushel,¹ the Department estimated that the value of wheat marketing certificates for 1973 would be 90 cents a bushel.

In accordance with section 379b, the Department advanced 68 cents a bushel, or about 75 percent of the estimated value of the certificates, to participating farmers. About 97 percent of the total advance payments was disbursed by July 6, 1973. In December 1973 the Department determined that the national average market price the producers actually received for wheat during the first 5 months of the marketing year was \$3.99 a bushel. Therefore the wheat marketing certificates, as finally

¹As finally determined, the actual parity price on July 1, 1973, was \$3.39 a bushel--9 cents more than the projected price.

determined, did not have any value. No additional payments were required, and, as provided by law, no refund could be requested.

To evaluate the Department's 1973 actions, we reviewed the procedures followed in the 2 previous years and analyzed wheat futures market prices for the period May 17 through July 31, 1973. Our review showed that the Department's procedures for determining the amount of the 1973 advance payments were the same as those followed for crop years 1971 and 1972 and that the Department had attempted in each of the 3 years to make the advance payments as soon as practicable after July 1, as provided by law. In 1971 and 1972 about 78 percent and 65 percent, respectively, of the advance payments had been made by the middle of July.

Our analysis of the wheat futures market showed that a steady upward trend in prices began on July 18, 1973, about 2 weeks after most of the 1973 payments had been disbursed. For example, the following table shows the September contract prices per bushel for three time periods.

<u>Price Per Bushel For September Contracts</u>			
<u>Time period</u>	<u>Low</u>	<u>High</u>	<u>Average</u>
May 17 through July 6	\$2.33	\$2.81	\$2.59
July 9 through 17	2.42	2.65	2.56
July 18 through 31	2.67	3.40	3.01

Department officials told us that the primary reason for the increase in wheat prices was the unprecedented foreign demand for U.S. wheat due to the poor foreign crop in the 1972-73 crop year and that the start of the upward trend in mid-July could be associated with the unusually heavy early-season purchases by both domestic users and exporters. The officials said that domestic users began to increase their stock positions following the lifting of the ceiling on food product prices on July 18, 1973.

SET-ASIDE PAYMENTS

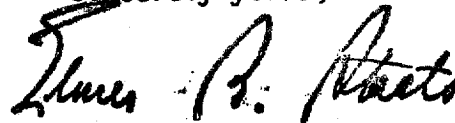
Section 402 of the Agricultural Act of 1970, which amended section 379b of the Agricultural Adjustment Act of 1938, as amended, authorized the Secretary of Agriculture to make payments to producers who voluntarily divert, or set aside, cropland for approved conservation uses. The law provided that the set-aside payments be at a rate determined by the Secretary to be fair and reasonable taking into consideration the diversion undertaken by the producers and the productivity of the acreage set aside.

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For 1973 the Secretary set the payment rate at 88 cents a bushel. About 3.9 million acres on about 141,600 farms were set aside, resulting in set-aside payments of \$98,821,000. According to section 385 of the 1938 act, as amended (7 U.S.C. 1385), set-aside payments are final and conclusive.

As agreed with your office, we have not obtained the Department's formal comments on this report. Although we have provided some of the same information to other Members of Congress who have inquired about these matters, we do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "James B. Axtell". The signature is written in a cursive style with a large, stylized initial "J".

Comptroller General
of the United States