

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CALIFORNIA FARM BUREAU  
FEDERATION, a California non-profit  
corporation; TED SHEELY, an individual  
farmer,

Plaintiffs,

vs.

ANNE BADGLEY, in her official capacity as  
Regional Director of the United States Fish and  
Wildlife Service, Region 1; *et al.*,

Defendants,

and,

NATURAL RESOURCES DEFENSE  
COUNCIL, *et al.*,

Intervenor-Defendants.

Case No. 1:02CV02328 RCL ECF

**DECLARATION OF BRENDA JAHNS SOUTHWICK IN SUPPORT OF  
PLAINTIFFS' MOTION FOR LEAVE TO FILE  
FIRST SUPPLEMENTAL COMPLAINT**

I, Brenda Jahns Southwick, declare as follows:

1. I am Managing Counsel of the California Farm Bureau Federation (hereinafter "Farm Bureau") Natural Resources and Environmental Division. The Farm Bureau's purpose is to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable food and fiber supply through responsible stewardship of California's resources. Its members consist of 53 county farm bureaus and, through them, more than 89,000 farm families and individual members, including over 20,000 members within the Central Valley counties. The following facts are within my personal knowledge, and if called and sworn as a witness, I could and would testify competently thereto. I declare the following:

2. March 31, 2004 was the due date for the completion of the delta smelt five year status review ("Status Review") per the Court's March 19, 2004 order amending ¶ 1(b) of the Stipulation and Settlement Agreement into which Plaintiffs and Defendants entered on April 25, 2003.

3. On March 31, 2004, at approximately 11:00 a.m. PST, Farm Bureau Associate Counsel Ronda Azevedo Lucas forwarded to me a voicemail message that she had received from Mike Fris, Program Manager of Ecological Services, California/Nevada Operations Office, United States Fish and Wildlife Service ("Service"). Mr. Fris conveyed the message that Bill Pauli, President of the Farm Bureau, would receive a telephone call regarding the Status Review that afternoon between 3:00 p.m. and 5:00 p.m. from Steve Thompson, Manager of the Service's California/Nevada Operations Office.

4. On March 31, 2004, at approximately 1:00 p.m. PST, I received a telephone call from Julie A. MacDonald, Deputy Assistant Secretary of Fish, Wildlife and Parks, U.S. Department of

the Interior. Ms. MacDonald inquired whether Mr. Thompson had contacted Mr. Pauli or me regarding the Status Review. I informed Ms. MacDonald that Mr. Thompson had not yet contacted me or, to my knowledge, Mr. Pauli.

5. On March 31, 2004, at approximately 5:00 p.m. PST, I personally spoke by telephone with Mr. Thompson, Mr. Fris, and Mr. Daniel G. Nelson, Executive Director, San Luis and Delta-Mendota Water Authority, regarding the Status Review. During this telephone conversation, Mr. Thompson discussed the Status Review and told us the delta smelt would remain listed as threatened. After approximately 20 minutes of conversation, I informed the other participants in the call that I would reserve comment on the Status Review until I had received a written copy of it. Mr. Thompson said the Service would send a cover letter from him to Mr. Pauli and Mr. Nelson via facsimile, and then send the entire Status Review via overnight mail.

6. On April 1, 2004, at approximately 9:00 a.m. PST, I received a telephone call from Ms. MacDonald regarding problems with the Status Review and inconsistencies between representations that had been made by the Service in Department of the Interior meetings she had attended prior to March 31, 2004 and what had been published in the Status Review on that date. Ms. MacDonald read to me the contents of an e-mail that she told me she had sent to Mr. Thompson. This e-mail discussed the differences between representations made in the above meetings and the Status Review issued by Mr. Thompson's office.

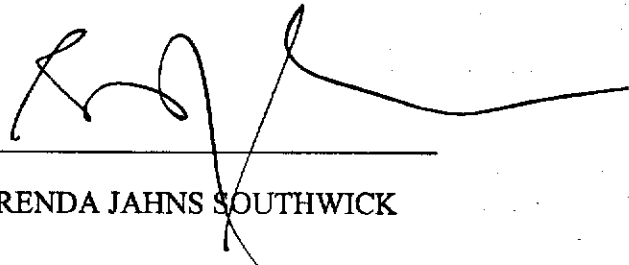
7. On April 1, 2004, at approximately 5:00 p.m. PST, I again spoke with Ms. MacDonald, and requested a copy of the e-mail she had read to me earlier in the day. I told her I would ask Mr. Joe Findaro, the Farm Bureau's Washington, D.C. representative on

administrative and legislative matters, to pick up a copy of the e-mail from her office and send it to me for review. I then called Mr. Findaro and left a message for him to return my call.

8. On April 2, 2004, at approximately 9:00 a.m. PST, Mr. Findaro returned my call to say that he would go to Ms. MacDonald's office to pick up a copy of the above e-mail from Ms. MacDonald, and that he would then send it to me via facsimile.

9. On April 2, 2004, at approximately 10:30 a.m. PST, I received a copy of the above e-mail via facsimile from Mr. Findaro. A true and correct copy of that document, dated April 1, 2004, is attached hereto as Exhibit "A". I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 17, 2004



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BRENDA JAHNS SOUTHWICK