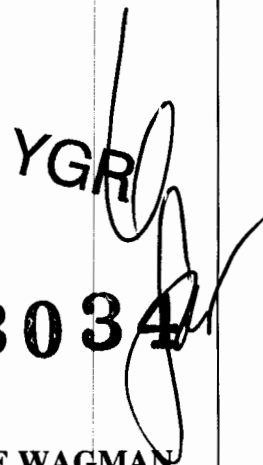


ORIGINAL

1 SCHIFF HARDIN LLP
 2 BRUCE A. WAGMAN, ESQ. (CSB #159987)
 3 bwagman@schiffhardin.com
 4 One Market, Spear Street Tower
 5 Thirty-Second Floor
 6 San Francisco, CA 94105
 7 Telephone: (415) 901-8700
 8 Facsimile: (415) 901-8701
 9
 10 Attorneys for Plaintiffs

FILED
 2013 JUL -2 A 9:32
 RICHARD W. WICKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

YGR


12 FRONT RANGE EQUINE RESCUE, THE
 13 HUMANE SOCIETY OF THE UNITED
 14 STATES, MARIN HUMANE SOCIETY,
 15 HORSES FOR LIFE FOUNDATION,
 16 RETURN TO FREEDOM, RAMONA
 17 CORDOVA, KRYSTLE SMITH, CASSIE
 18 GROSS, DEBORAH TRAHAN, and
 19 BARBARA SINK,

Case No. **CV 13 3034**

**DECLARATION OF BRUCE WAGMAN
 IN SUPPORT OF MOTION FOR
 TEMPORARY RESTRAINING ORDER
 AND PRELIMINARY INJUNCTION**

Plaintiffs,

(Administrative Procedure Act Case)

v.

18 TOM VILSACK, Secretary U.S. Department
 19 of Agriculture; ELIZABETH A. HAGEN,
 20 Under Secretary for Food Safety, U.S.
 21 Department of Agriculture; and ALFRED A.
 22 ALMANZA, Administrator, Food Safety and
 23 Inspection Service, U.S. Department of
 24 Agriculture,

Defendants.

26 I, Bruce A. Wagman, Esq., do hereby declare and testify as follows:

27 1. I am the attorney of record for plaintiffs Front Range Equine Rescue, The Humane
 28 Society of the United States, Marin Humane Society, Horses for Life Foundation, Return to

1 Freedom, Ramona Cordova, Krystle Smith, Cassie Gross, Deborah Trahan, and Barbara Sink
2 (collectively "Plaintiffs").

3 2. I submit this declaration in support of Plaintiffs' Motion for a Temporary
4 Restraining Order and Preliminary Injunction ("Motion"), to authenticate for the Court certain
5 documents submitted as evidence in support of Plaintiffs' Motion.

6 3. I personally prepared and submitted to the USDA the Rulemaking Petition, a true
7 and correct copy of which is attached as Exhibit 1.

8 4. Exhibit 2 (Declaration of Robert Eldridge) is a true and correct copy of a
9 document submitted to the U.S. District Court for the District of Columbia in *The Humane*
10 *Society v. Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's
11 online docket report.

12 5. Exhibit 3 (Declaration of Tonja Runnels) is a true and correct copy of a document
13 submitted to the U.S. District Court for the District of Columbia in *The Humane Society v.*
14 *Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's online docket
15 report.

16 6. Exhibit 4 (Declaration of Juanita Smith) is a true and correct copy of a document
17 submitted to the U.S. District Court for the District of Columbia in *The Humane Society v.*
18 *Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's online docket
19 report.

20 7. Exhibit 5 (Declaration of Yolanda Salazar) is a true and correct copy of a
21 document submitted to the U.S. District Court for the District of Columbia in *The Humane*
22 *Society v. Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's
23 online docket report.

24 8. Exhibit 6 (Declaration of Margarita Garcia) is a true and correct copy of a
25 document submitted to the U.S. District Court for the District of Columbia in *The Humane*
26 *Society v. Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's
27 online docket report.

28

1 9. Exhibit 7 (Declaration of Mary Farley) is a true and correct copy of a document
2 submitted to the U.S. District Court for the District of Columbia in *The Humane Society v.*
3 *Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's online docket
4 report.

5 10. Exhibit 8 (Declaration of Elizabeth Kershisnik) is a true and correct copy of a
6 document submitted to the U.S. District Court for the District of Columbia in *The Humane*
7 *Society v. Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's
8 online docket report.

9 11. Exhibit 9 (Declaration of James Kitchen) is a true and correct copy of a document
10 submitted to the U.S. District Court for the District of Columbia in Case No. *The Humane Society*
11 *v. Johanns*, 1:06-cv-00265-CKK, obtained from PACER through the case's online docket report.

12 12. Exhibit 10 (Administrative Order dated Mar. 17, 2005) is a true and correct copy
13 of the Administrative Order filed in *In Re the Matter of: Cavel Int'l, Inc.*, DeKalb Sanitary
14 District, and submitted to the U.S. District Court for the District of Columbia in *The Humane*
15 *Society v. Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's
16 online docket report.

17 13. Exhibit 11 (Administrative Order dated Jan. 30, 2006) is a true and correct copy of
18 the Administrative Order filed in *In Re the Matter of: Cavel Int'l, Inc.*, DeKalb Sanitary District,
19 and submitted to the U.S. District Court for the District of Columbia in *The Humane Society v.*
20 *Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's online docket
21 report.

22 14. Exhibit 12 (Administrative Order dated Oct. 18, 2006) is a true and correct copy of
23 the Administrative Order filed in *In Re the Matter of: Cavel Int'l, Inc.*, DeKalb Sanitary District,
24 and submitted to the U.S. District Court for the District of Columbia in *The Humane Society v.*
25 *Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's online docket
26 report.

27 15. Exhibit 13 (Declaration of Paula Bacon) is a true and correct copy of a document
28 submitted to the U.S. District Court for the District of Columbia in *The Humane Society v.*

1 *Johanns*, Case No. 1:06-cv-00265-CKK, obtained from PACER through the case's online docket
2 report.

3 16. I supervised the attorneys and support personnel who submitted New Mexico
4 Inspection of Public Records Act ("IPRA") requests to the New Mexico Environment Department
5 from my office, and I personally reviewed the documents that the New Mexico Environment
6 Department sent in response to the IPRA requests.

7 17. Exhibit 14 (Letter from William C. Olson, Chief, Ground Water Quality Bureau,
8 New Mexico Environment Department ("NMED"), to Richard De Los Santos, President, Pecos
9 Valley Meat Packing Co., Regarding Notice of Violation, Pecos Valley Meat Packing Company,
10 DP-236 (May 7, 2010)) is a true and correct copy of a document received in response to one of
11 my office's IPRA requests, contained in the Pecos Valley Meat Packing Monitoring File.

12 18. Exhibit 15 (Letter from Dr. Ron Nelson, Denver District Manager, USDA FSIS, to
13 Director, New Mexico Health Department, regarding rotting cattle carcasses and blood on De Los
14 Santos's property (January 22, 2010)) is a true and correct copy of a document received in the
15 May 2, 2012 IPRA Response Regarding Information Request for: *Any and all documents that the*
16 *Department has concerning Valley Meat Company- Roswell, NM.*

17 19. Exhibit 16 (Letter from George W. Akeley, Jr., Manager, Enforcement Section,
18 NMED, to Ricardo and Sarah De Los Santos, Owners, Valley Meat Company, LLC, Regarding
19 Notice of Violation- Valley Meat Company, LLC Composting Facility (January 4, 2011)) is a
20 true and correct copy of a document received in the May 2, 2012 IPRA Response Regarding
21 Information Request for: *Any and all documents that the Department has concerning Valley Meat*
22 *Company- Roswell, NM.*

23 20. Exhibit 17 (E-mail from Auralie Ashley-Marx, NMED, to Troy Grant,
24 Enforcement Officer, Solid Waste Bureau, NMED, regarding failure of Pecos Valley Meat
25 Company to dispose of legacy waste (April 18, 2012)) is a true and correct copy of a document
26 received in the May 2, 2012 IPRA Response Regarding Information Request for: *Any and all*
27 *documents that the Department has concerning Valley Meat Company- Roswell, NM.*

1 21. I personally drafted and sent a letter to USDA Secretary Vilsack regarding
2 defendants' potential Endangered Species Act violations. A true and correct copy of that letter is
3 attached as Exhibit 18.

4 22. I personally drafted and sent a letter to Ricardo De Los Santos regarding his
5 potential Clean Water Act violations. A true and correct copy of that letter is attached as
6 Exhibit 19.

7 23. A true and correct copy of the declaration of Krystle Smith is attached as
8 Exhibit 20.

9 24. A true and correct copy of the declaration of Deborah Trahan is attached as
10 Exhibit 21.

11 25. A true and correct copy of the declaration of Cassie Gross is attached as
12 Exhibit 22.

13 26. A true and correct copy of the declaration of Ramona Cordova is attached as
14 Exhibit 23.

15 27. A true and correct copy of the declaration of Barbara Sink is attached as
16 Exhibit 24.

17 28. A true and correct copy of the declaration of Lawrence Seper is attached as
18 Exhibit 25.

19 29. Pursuant to Civil Local Rule 65-1(b), on July 1, 2013, the notice letter attached as
20 Exhibit 26 was transmitted to Ramona E. Romero, General Counsel for the USDA, by electronic
21 mail.

22 30. Exhibit 27 is a true and correct copy of the stipulated final order *N.M. Env't Dep't*
23 *v. Valley Meat Company, LLC*, SWB 12-16 (CO) (N.M. Env't Dep't Oct. 31, 2012).

24 I declare under penalty of perjury that the foregoing is true and correct. Executed this 1st
25 day of July 2013, in San Francisco, California.

26
27 
BRUCE A. WAGMAN, ESQ.

28 40858-0000
SF320710774.1