

Exhibit 1

Declaration of Hubert Hamer

United Farm Workers et al. v. Perdue et al.
No. 1:20-cv-01452-DAD-JLT
Exhibit to Defendants' Notice

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

UNITED FARM WORKERS, *et al.*,

Plaintiffs,

v.

SONNY PERDUE, in his official capacity as
the Secretary of the United States Department
of Agriculture, *et al.*,

Defendants.

Case No. 1:20-CV-01452-DAD-JLT

DECLARATION OF HUBERT HAMER

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1
2 I, Hubert Hamer, make the following declaration in lieu of an affidavit, as permitted by Section
3 1746 of Title 28 of the United States Code.

4 1. I am currently the Administrator of the U.S. National Agricultural Statistics Service
5 (“NASS”), United States Department of Agriculture (“USDA”). I have served in this position since
6 April 2016. I previously served as director of NASS’s Statistics Division and chair of USDA’s
7 Agricultural Statistics Board. In my capacity as NASS Administrator, I am responsible the overall
8 administration of the NASS survey and estimation program.

9 2. I have personal knowledge of the facts contained in this Declaration and, if called to
10 testify as a witness, I can and will competently testify to the facts stated herein.

11 3. In recent years, NASS has published the Farm Labor report semi-annually, in May and
12 November. The May report includes employment and wage estimates based on January and April
13 reference weeks, and the November report includes estimates based on July and October reference
14 weeks. The November report additionally provides annual data based on the quarterly estimates. In
15 each case, the reference week is the Sunday to Saturday period that includes the 12th day of the month.

16 4. On September 30, 2020, USDA issued a notice announcing its intention not to collect
17 data for the Farm Labor Survey previously scheduled for October 2020 and not to publish the Farm
18 Labor report previously scheduled for November 2020.

19 5. On October 28, 2020, this Court issued an order restraining and preventing USDA from
20 “giving effect to the September 30, 2020 decision to suspend the October 2020 [Farm Labor Survey]
21 and cease publication of the November 2020 [Farm Labor report].”

22 6. Prior to the Court’s Order, and to be in a position to move quickly if the Court issued an
23 injunction, NASS shipped the survey questionnaires from Washington, DC, where they are printed, to
24 NASS’s processing facility in St. Louis.

25 7. In accordance with the Court’s Order, NASS then finished preparing the survey
26 questionnaires for mailing by assembling the surveys in envelopes and affixing labels to the envelopes.
27 NASS completed these pre-mailing steps during the week of November 2, 2020.
28

8. OIRA has informed USDA that a reinstatement notice must be cleared by OIRA and published in the Federal Register prior to NASS mailing out the survey questionnaires. Accordingly, during the week of November 2, 2020, NASS prepared a draft Federal Register notice announcing the reinstatement of the Farm Labor Survey originally scheduled for October 2020 and the Farm Labor report originally scheduled for November 2020. This notice will inform the public, and specifically survey respondents, that the prior suspension notice is no longer effective and that survey respondents should expect to be contacted by mail and phone in the coming days. The notice is expected to increase participation from survey participants and avoid confusion from respondents who previously understood the October 2020 data collection to have been suspended. A similar notice was published in the Federal Register in 2007 and 2011 announcing the resumption of data collection.

9. On the morning of Tuesday, November 10, NASS submitted the draft notice to OIRA for clearance. After OIRA concludes its review, NASS will promptly transmit the notice to the Office of the Federal Register for publication. Because NASS has completed all pre-mailing steps, once the reinstatement notice is published in the Federal Register, NASS will promptly mail the survey questionnaires to the respondents and begin data collection.

10. From the date that the notice is published in the Federal Register, the data collection and report publication process will take approximately nine weeks, as set forth in the table below.

Farm Labor Data Collection & Publication Timeline

| Task | Duration |
|--|-----------------|
| Mail Period | Two Weeks |
| Phoning Period, Internet Period & Field Interview Period | Two Weeks |
| Edit & Analysis | Two Weeks |
| Summary, Estimates, Publication Review & Release | Three Weeks |
| Total USDA-NASS Survey-Summary-Estimation-Release Period | Nine Weeks |

11. The Farm Labor report was originally scheduled for publication on November 25, 2020. To publish the report by November 25, 2020, NASS would have mailed questionnaires during the week of September 28, 2020. The entire process, from mailing questionnaires to publishing the final report, would have taken approximately eight weeks.

1 12. Completing the Farm Labor Survey off-cycle from its originally scheduled collection
2 period has lengthened the collection and analysis period by approximately one week. The additional
3 time is necessary for at least three reasons.

4 13. First, NASS annually publishes approximately 450 agricultural statistical national reports
5 each year, including 44 of the 68 Principal Federal Economic Indicator reports for USDA, and
6 thousands of additional agricultural statistical State reports, covering more than 120 crops, 45 livestock
7 items, and 12 major economic and environmental categories. To ensure these statistical reports are
8 delivered as scheduled, NASS must balance available staff resources for each project and ensure that
9 adequate bandwidth exists throughout the calendar year. To do so, NASS schedules and preannounces
10 to the public the release date of each planned report in NASS's Agricultural Statistics Board Calendar.

11 14. Completion of the Farm Labor Survey outside of the original research timeline creates
12 additional resource challenges and will take longer than usual. As one example of the increased
13 competing demands that NASS faces under a revised research schedule, the original research timeline
14 overlaps with three Principal Federal Economic indicator reports while a research timeline shifted back
15 by one month overlaps with six Principal Federal Economic reports along with some additional large-
16 scale projects including the Census of Horticultural Specialties, the Annual Floriculture Crops report,
17 and County-level estimates for Barley, Oats, and Wheat.

18 15. Second, this year has added additional difficulties in balancing these resources. In prior
19 years, NASS utilized both in-person and telephone follow-up procedures to increase participation. Since
20 the pandemic began, in-person follow-up procedures have been suspended, including with the April
21 2020 Farm Labor Survey data collection. Further, due to COVID-19 restrictions, NASS's four call
22 centers are currently closed, which has forced NASS to implement a decentralized phone data collection
23 system. Callers using this decentralized phone data collection system lack a number of the tools
24 available in call centers, such as auto dialers and software typically used to record responses.

25 16. Third, under the original research timeline, data collection occurred during the month of
26 October. At the earliest, data collection will occur in November and December. During this period,
27 there are a few major holidays that may place additional limits on NASS's ability to reach producers in
28 follow-up phone calls.

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