

**Second Declaration Of Denise M. Hulett In
Support Of Plaintiffs' Motion For Enforcement**

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MICHAEL BRIONEZ, <i>et al.</i> , Plaintiffs, v. UNITED STATES DEPARTMENT OF AGRICULTURE, <i>et al.</i> , Defendants.	No. C 01 3969 CW
---	------------------

THIRD SUPPLEMENTAL REPORT OF LOUIS R. LANIER, PH.D.

I. Introduction

1. My name is Louis R. Lanier, and I am a Managing Economist at Nathan Associates Inc., an economic consulting firm in Arlington, Virginia. My background and credentials are contained in my previous report in this matter, Second Supplemental Report of Louis R. Lanier, Ph.D., dated November 2, 2006.
2. Nathan Associates is being compensated for my time at an hourly rate of \$175. Fees for Nathan Associates' services are not contingent in any manner on the outcome of this litigation.
3. The purpose of this report is to supplement my earlier analyses concerning Hispanic representation in the Region 5 workforce using updated Census Civilian Labor Force (CLF) information presented by Dr. Marc Bendick in his report, The Expected Representation of Hispanics in Selected Occupations in Region 5: A Fourth Analysis,

dated December 21, 2006. In the time since my last report, defense expert, Dr. Christopher Erath, and Dr. Bendick have both submitted reports in which the subject of investigation was narrowed to only the largest of the Region 5 job series—GS-462 (Forestry Technician). Accordingly, I have been asked to determine whether a shortfall of Hispanic employees continues to exist in that series and how much time it is likely to take Region 5 to meet the goal for Hispanic representation in the GS-462 series, given Dr. Bendick's newly-updated Census 2000 CLF figure. In addition, I address the issue of applicant flow, as measured by Region 5's AVUE and AFS databases.

4. The employee counts referenced in this report are taken from my most recent previous report.

5. The documents and data I have relied upon and/or reviewed in producing this report are:

- Second Supplemental Report of Louis R. Lanier, Ph.D.;
- The Expected Representation of Hispanics in Selected Occupations in Region 5: A Fourth Analysis, by Dr. Marc Bendick, dated December 21, 2006;
- Declaration of Christopher Erath, Ph.D., dated December 1, 2006;
- The AVUE and AFS applicant flow databases produced in the form of twelve Excel files;
- Correspondence between the court-appointed Monitor and Region 5 concerning questions about the applicant flow data;

II. Supplemental Region 5 Workforce Analysis

Current Shortfall: October 21, 2006

6. Table 1 shows counts of total and Hispanic employees in the GS-462 series as of October 21, 2006, along with percentage Hispanic representation, the comparative Census CLF benchmark, the predicted number of Hispanic employees based on the CLF benchmark, and the current surplus/shortfall of Hispanic employees for the GS-462 job series. The predicted number of Hispanic employees is equal to the Census CLF benchmark multiplied by the total number of employees. The surplus/shortfall of Hispanic employees is the difference between actual Hispanic employment and predicted Hispanic employment.

7. According to Table 1, the current Hispanic shortfall in the GS-462 series is 118 individuals, which implies that current Hispanic employment in the series of 299 must increase by 39.5 percent (118 divided by 299) before parity with the Census 2000 CLF benchmark is achieved.

Table 1
GS-462 Series Hispanic Shortfall

Total Employees	Hispanic Employees	Percent Hispanic	CLF Percent Hispanic	Predicted Hispanic	Shortfall
2,266	299	13.2%	18.4%	417	118

Projection to 2015

8. Chart 1, attached to the back of this report, shows a projection of GS-462 employment through 2015, assuming that the rate of Hispanic hiring will continue as it is reported in the AVUE and AFS data for the year 2006—22.2 percent of all hires. In order to determine the number of likely total hires in each year, I calculated the average annual number of hires into the GS-462 series for the years 2004 and 2005—the only two years that overlap between the AVUE and AFS databases, for which there are a full year's worth of data. The resulting estimate is 213 annual hires into GS-462. For the purpose of this projection, I also assume that the overall size of the GS-462 workforce will remain constant at its current (October 21, 2006) level (2,266) and that Hispanic termination and attrition rates will be equal to those of non-Hispanics.

9. Chart 1 shows that, under current hiring conditions, the GS-462 series is likely to attain the Census CLF benchmark of 18.4 percent Hispanic representation in the year 2015—nine years from now.

Applicant Flow Databases

10. In my initial report in this matter, I made some observations concerning the percentages of Hispanic applicants, as reported by Region 5 in its semi-annual monitoring reports. In fact, my observation that Hispanic application rates appeared to be falling over time, seemed inconsistent with another of my findings—that Region 5 was making progress in increasing Hispanic representation in its workforce. This inconsistency of findings now appears to have been the result of faulty reporting of application data by Region 5.

11. Upon his examination of the actual applicant flow databases (as opposed to the figures reported in the monitoring reports) Dr. Erath concludes in his report that Region 5 made a number of errors in its reporting from those databases, and that those errors led to the conclusion that the percent Hispanic among applicants was falling over time. Having recently been provided with the underlying AVUE and AFS databases, I have conducted my own analysis to determine the actual Hispanic representation among applicants to GS-462 jobs from 2004 through 2006, as measured by these databases. The information in them shows that the percent Hispanic among GS-462 applicants has, contrary to my earlier finding, increased from 2004 to 2006. This new finding is consistent with the fact that Hispanic representation has increased over the same time period.

III. Conclusions

12. Based on the newly-updated Census 2000 CLF figures presented by Dr. Bendick in his latest report, dated December 21, 2006, the analyses discussed above support the following conclusions concerning the representation of Hispanic employees in Region 5's GS-462 job series:

- An Hispanic shortfall of 118 workers remains as of October 21, 2006 for the GS-462 job series;
- Under the assumptions that: 1) Hispanic hiring will continue at the current rate of 22.2 percent of all hires, 2) the level of employment in the GS-462 job series will remain steady, and 3) termination and attrition rates of Hispanic employees are equal to those of non-Hispanics, the GS-462

series is likely to attain the CLF benchmark of 18.4 percent Hispanic in approximately nine years.

- Earlier concerns about falling Hispanic representation among job applicants appear to have been driven by faulty data reporting. To the extent the current AVUE and AFS databases are representative of actual applicant flow to GS-462 jobs, the earlier concern does not remain.


Louis R. Lanier

12/22/06
Date

Chart 1. Projection of Hispanic Representation in the GS-462 Series Workforce, 2006-2015

