



**U.S. Department of Justice**

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October 4, 2006

Via Electronic Mail

Marci Seville  
Monitor, Hispanic Settlement Agreement  
Golden Gate University School of Law  
536 Mission Street  
San Francisco, CA 94105-2968

Re: Brionez v. USDA, USDC N.D. Cal.,  
Civil Action No. C 01 3969 CW

Dear Ms. Seville:

During our telephone conference on Monday, you said that the Region had not provided you with specifics about the Hispanic employees who had been hired by the Region and left (*i.e.*, separated from) the Region during the term of the HSA.

In following up on your request, I learned the following. In a letter from me dated September 27, 2006, the Region provided the requested statistics on Hispanics who were hired and separated during the term of the HSA. However, as indicated in a letter to you dated July 24, 2006, from Marissa Suarez, the Region informed you that obtaining the details you requested (name, position title, series, grade, unit location, hire date, whether the employee is still working for Region 5, and, if the employee is no longer working for the Region provide the separation date and the reason for the separation), would be burdensome because it is not information the Region ordinarily tracks.

Nonetheless, in light of your renewed request for such information, the Region generated the attached Excel spreadsheet for the Hispanics who were hired and separated during the term of the HSA.

Sincerely,

/s/

Susan K. Ullman

Enclosure

**EXHIBIT 10**

March 10, 2003

The following reports are provided for inclusion in the Hispanic Settlement Agreement Monitoring Report addressing the period of December 22, 2002, through February 20, 2003.

Each report was written using the USDA National Finance Center's FOCUS Report Generator System and PERHIS database.

**The numbers and percentages of Hispanics and the total number of permanent employees in the Region 5 workforce, by race, gender, and national origin (RSNO), by forest, including the Regional Office (RO).**

FOCUS Name: HRAHON

Note: For this report, permanent employees are defined as non-separated employees holding the following appointment types: Competitive-Career, Competitive-Career Conditional, Excepted-Permanent, and Excepted-Conditional.

**The number and percentage of all Region 5 positions filled, by RSNO, by forest, including the RO.**

FOCUS Name: HRAFILL1

Notes:

The Settlement Agreement between Region 5 and the Regional Hispanic Working Group defines "Region 5 Position" as "funded vacancy that management decides to fill permanently and where management has a choice regarding selection, after fulfilling all of the mandatory placement requirements found in the current Forest Service Merit Promotion Plan."

Career and career condition appointments and conversions, excepted appointments, reassignments, promotions, change to lower grade and position changes are the actions taken to fill positions. However, not all reassignments, promotions, change to lower grade and position changes fill vacant positions. The applicable reassignment actions are precisely defined in the Settlement Agreement; but which promotion, change to lower grade, and position change types to include were less clear. Therefore, the nature of action code and authority code combinations used in writing the FOCUS query are our best attempt to meet the intent of the agreed upon report. These combinations addressed:

Promotions: There are sixteen Competitive Service Promotion Rules and eight Excepted Service Promotion Rules in the Office of Personnel Management's (OPM) Guide to Processing Personnel Actions. Of the Competitive Service

EXHIBIT 11

Promotion Rules, Rules 4, 5, 6, 10, and 13 are included as meeting the definition of "Region 5 positions." The promotions based upon accretion of duties (Rule 7) are reported on separately. Of the Excepted Service Promotion Rules, Rules 1, 5, and 7 are included as meeting the definition of "Region 5 positions."

Change to Lower Grade: There are twenty-five Competitive Service Change to Lower Grade Rules and nineteen Excepted Service Change to Lower Grade Rules in the OPM Guide to Processing Personnel Actions. Of the Competitive Service Change to Lower Grade Rules, Rules 1, 13, 14, 15, 17, 18, 19, 20, 23, 24, and 25 are included as meeting the definition of "Region 5 positions." Of the Excepted Service Change to Lower Grade Rules, Rules 1, 10, 11, 12, 13, 14, 17, 18, and 19 are included as meeting the definition.

Position Changes: Due to the small number of Position Change Actions taken during the course of a year (five in FY 2002) and the number of Rules involved in Position Change Actions (twenty-nine for Competitive Service and twenty-one for Excepted Service), all permanent Position Change actions are counted in HRAFILL1. A FOCUS Report named HRAFILL6 was also developed to determine what authority codes were used for the five Position Change Actions taken in FY 2002. The authority codes used did not indicate with certainty whether or not the situations were ones in which management had a choice regarding the selections.

Note that HRAFILL6 should always be processed as background for this report to evaluate the Position Changes, and the possible need to revise the FOCUS query for HRAFILL1 should the Position Change Nature of Action code be used with greater frequency in the future. For the period addressed in this report, December 22, 2002 through February 20, 2003, there were zero (0) positions changes in Region 5.

**The number and percentage of accretion of duties promotions by RSNO, by forest, including the RO.**

FOCUS Name: HRAAOD

**The number and percentage of Hispanics and total number admitted into the Region 5 Student Career Employment Program during the preceding year.**

FOCUS Name: HRASCEP

**The average grade of Hispanic employees and the average grade of all employees.**

FOCUS Name: HRAGRDR

Note: For this report, permanent employees are defined as non-separated employees holding the following appointment types: Competitive-Career, Competitive-Career Conditional, Excepted-Permanent, and Excepted-Conditional.

**The race, gender, and national origin of those individuals who are reassigned pursuant to Rule 12 ("Rule 12" reassignment).**

FOCUS Name: HRARULE



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May 9, 2006

**VIA ELECTRONIC MAIL AND U.S. MAIL**

Marci Seville  
Monitor, Hispanic Settlement Agreement  
Golden Gate University School of Law  
536 Mission Street  
San Francisco, CA 94105-2968

Re: Brionez v. USDA

Dear Ms. Seville:

I am writing in response to your letter of April 3, 2006. In that letter you made five specific requests for information. I am providing Region 5's responses to those requests below. As you know, Region 5 will provide a report on its implementation of the HSA and the Court-ordered additional remedial measures on June 1, 2006.

I will repeat your questions, and the responses of Region 5 provided to me will follow in bold:

Status of Human Resources Staffing in Region 5

(1) For *each forest*, provide the information below, including the names and positions of persons performing the responsibilities addressed:

a) If there is still a Human Resource Officer (HRO) position filled on the forest?

**Yes. See Attachment A for a list of the HROs on each forest.**

b) If there is no longer an HRO, when was the position vacated and who is performing the responsibilities set out for the HRO in the FSH and Outreach and Recruitment Strategy; who is performing the Unit Review Team responsibilities of the former HRO? (Provide the name and position of the person now doing those functions).

**Not applicable. See response to question 1.a.**

**EXHIBIT 12**

c) If there is still an HRO, who fills that position and how long will that person remain in the position?

**See Attachment A for a list of who holds the HRO position on each forest. Region 5 plans to reassign the current HROs to be fulltime Human Resources Recruitment Specialists (GS-201) on each forest. The Region has developed new position descriptions for the Recruitment Specialists (GS 11 and 12) focused only on HSA-related activities, including recruitment in coordination with the Settlement Agreements staff. See Attachment B. The Region expects the reassignments to begin at the end of this month. The HROs' other responsibilities will be transferred to the Employment Center (see Attachment C – Human Resources Program Delivery Plan), which is not a Center with one physical location, but a "virtual" Center run from the Regional Office.**

d) Whether the position is currently filled as a permanent position, a detail, a term or other status (specify status).

**See Attachment A.**

e) Whether the HRO position will be filled on the forest for the one year extension of the HSA and, if so, in what status (permanent, detail, term, etc).

**The Region is complying with the Court's order to "retain until the Agreement ends, human resources personnel, sufficient to carry out all recruitment activities related to implementing the Agreement and this order, on each forest and in the Regional Office of Region 5." See response to question 1.c. In addition, the implementation of Region 5's HR-BPR migration to Albuquerque has been postponed until September 2007.**

f) Who are the Level II recruiters on the forest and what are their job titles?

**See Attachment D.**

(2) Which Provinces currently have Recruiter Teams and who is on those teams (provide names and positions)?

**Recruiter Teams are not required under the HSA. Region 5 has a formalized Recruiter Team in the Northern Province which encompasses the Shasta-Trinity, Mendicino, Klamath, and Six-Rivers Forests. The names and titles of those individuals on the Recruitment Team are: (1) Shasta-Trinity – Curtis Coots, Forestry Technician (Training Battalion); Steven Noverr, Supervisory Forestry Technician; G. Chapman, Supervisory Forestry Technician; Sandy Graham, Lead Forestry Technician; Dave Loeffler, Fire Prevention Officer; Dan Ballard, Supervisory Forestry Technician; Steve Diaz, Supervisory Forestry Technician; Jeff Michels, Supervisory Forestry Technician; Robin Milovich, Supervisory Technician; Marilyn Loughrey, FCRO; Natosha Mauer, HR Assistant, Dan Mallia, Forestry Technician (HotShot); (2) Mendocino – Erich Schwab, Forestry Technician; Mike Cooper, Forestry Technician (Engine Cpt); Jeff Vance, Supervisory Technician; (3) Klamath – Jon Jones, Supervisory Forestry Technician; Devin Parks, Lead Forestry Technician; Penny Melum, FCRO, Tammy**

Wodarczak, Forestry Technician Aaron Schuh, Supervisory Forestry Technician; and (4) Six-Rivers – Kathy Allen, FCRO.

(3) What Special Emphasis Program Managers are involved in HSA recruitment (provide names and positions)? What responsibilities do they have for the HSA?

**Special Emphasis Program Managers are not charged with recruitment under the HSA. The only Special Emphasis Program Manager with any involvement in HSA recruitment is the Hispanic Employment Program Manager (HEPM), Abel Sanchez. Mr. Sanchez does not have direct responsibility for recruitment, but he is involved in conducting targeted outreach to Hispanics. Mr. Sanchez is strengthening community relationships through networking with Hispanic organizations such as Puente, the National Association La Raza, HACU, and the United Farm Workers. Mr. Sanchez is part of the Civil Rights staff.**

(4) Provide a copy of the operational paper, discussed at the March 30, 2006 meeting regarding Marcia Staten's Regional Employment Center.

**Attachment C is the document that was discussed at the meeting. However, it is not an operational paper for the Employment Center – an operational paper does not yet exist. The Region is still in the process of designing the Employment Center and anticipates implementation by June 1, 2006.**

(5) In light of Judge Wilken's Order, what steps will the Region take to retain, on each forest and in the Region Office, human resources personnel sufficient to carry out all recruitment activities related to implementing the Agreement and the Court's Order?

**See response to questions 1.c. and e. In addition, the Region will modify the supplement to Forest Service Handbook 6109.12 Employment and Benefits, Recruitment Plan, and the Outreach and Recruitment Strategy Plan to reflect this change. (The Region plans to make the changes by July 1, 2006.)**

#### Apprentice Mentorship Program

Please provide information as to whether, in light of the Court's Order, the Region will take any steps to provide effective mentoring opportunity for fire apprentices before October 2006, and, if so, what those steps will be.

**Yes. The Region has accelerated the deployment of an effective revised Mentoring Program. The first training session, for Mentors and Mentees, is scheduled for May 23<sup>rd</sup> on the Los Padres National Forest. The Mentoring Program is now available to all employees, including employees who have been with the Agency less than two years and all SCEPs (including Fire Apprentices and Non-Fire SCEPs). The Region hopes all Fire Apprentices will participate. The Region has identified all SCEPs and individuals with less than two years of service, and plans to send them personal invitations from the Regional Forester urging them to participate in the program. Attachment E is the documents sent to the field about the Mentoring Program.**

Outside Recruiter

In light of the Court's order, please provide the following information:

1. What criteria will the Region use for selection of an outside recruiter?

**The criteria the Region will use are set forth in the solicitation for an Outside Recruiter. The criteria include relevant technical experience and past performance. Technical experience will be weighted at 60% and cost of service will be weighted at 40%.**

2. What process and timeframe will the Region use to retain an effective outside recruiter?

**The solicitation for the Outside Recruiter was issued on April 17, 2006. Bids in response to the solicitation are due by May 17, 2006. The Region has already received numerous indications of interest in the contract. The Region will convene a review panel to evaluate all proposals and to enter into any relevant negotiations. The Region hopes to award the contract by May 26, 2006. The contract will end on February 13, 2007.**

3. What, if any, competitive bidding procedures must be used to retain the recruiter and what is the timeframe for such procedures?

**See Region 5's response to question 2. The procedures are full and open competition which means anyone interested can submit a proposal.**

Monitoring of All Recruitment and Promotions

Please provide copies of all the write ups, reports, notes and/or memoranda that have been prepared during the monitoring process by Joy Gibson-Taylor, Joyce Branch, Carla Kamerdula, Renee Reed, or any other staff responsible for the monitoring of recruitment and promotions.

**Attachment F is Region 5's summary and analysis of the monitoring results from January 2005 through March 2006, as well as detailed documentation for the same time period. As of March 31, 2006, there has been no backlog of the monitoring of the selection packages.**

Central California Consortium

The Court granted the recommendation for expansion of the Central California Consortium to at least two additional locations. Please provide information on what steps the Region will take to comply with this provision in the Court's Order and what the timetable will be.

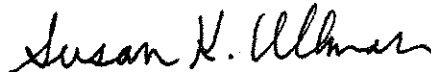
**The Region is establishing two additional consortia based on the Central California Consortium model. One will be in Northern California on the Mendocino National Forest, headquartered in Willows, California. The other will be established in Southern California on the Angeles National Forest, headquartered in Arcadia, California. Jim Pena, Forest Supervisor on the Plumas National Forest, is leading the effort for the Northern California Consortium.**



**Jody Noiron, Forest Supervisor on the Angeles National Forest, is leading the effort for the Southern California Consortium. Jim Oftedal, Program Coordinator for the Central California Consortium, has been involved in all aspects of the planning for the additional consortia. Associate Regional Forester Vicki Jackson provided you with the completed action plans for the two consortia on May 8th.**

The Agency's implementation is dynamic and on-going. If you have any questions, or if you would like any further information about these responses, please feel free to contact me. I expect to be in California next week and would be available to meet with you, with or without representatives from the Region, to discuss these responses, as well as other aspects of the implementation of the HSA and the additional remedial measures. We look forward to continuing to work with you to implement the Hispanic Settlement Agreement.

Sincerely,



Susan K. Ullman

cc: Denise Hulett

