William M. Simpich #106672
Attorney at Law
528 Grand Avenue
Oakland, CA 94610
Telephone: (415) 542-6809
bsimpich@gmail.com

Lawrence P. Schnapf
Schnapf LLC
55 E. 87th Street #8N
New York, New York 10128
Telephone: (212) 876-3189
Larry@schnapflaw.com

**UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

THE MARY FERRELL FOUNDATION, INC.; JOSIAH THOMPSON; and GARY AGUILAR,

Plaintiffs,

v.

JOSEPH R. BIDEN, in his official capacity as President of the United States; and the NATIONAL ARCHIVES AND RECORDS ADMINISTRATION,

Defendants.

No. 3:22-cv-06176-RS

SECOND SUPPLEMENTAL DECLARATION OF COUNSEL FOR PLAINTIFFS RE REPLY BRIEFS (ECF 99 & 100); EXHIBITS 1-3

Date: January 18, 2024
Time: 1:30 pm
Dept: Hon. Richard Seeborg

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I, William M. Simpich, declare:

1. I am one of the attorneys for the Plaintiffs.

2. I have reviewed the documents published in the Federal Register between 1994-1998. These documents show that the determinations for postponement were published in the Federal Register between 1994-1998, but without stating the reasons for the postponement of each of the documents. Attached as Exhibit 1 is a set of those determinations published in 1998.

3. From 2017-2023, documents show that NARA continued to rely on Section 6 of the JFK Records Act and engage in periodic review. Attached as Exhibit 2 is the opening page of a NARA memo and spreadsheet pursuant to a 3/28/18 memo by NARA CEO William Bosanko that shows exactly that. I received this document from my co-counsel Lawrence Schnapf, who told me that he received it in an FOIA suit in which he was the Plaintiff.

4. I discovered while doing research in this last round of briefing over the last month that "Section 6 Statements" were created by the ARRB and the agencies between 1994-1998 in a haphazard manner that stated the reasons for the continued postponements, but, again, there was never any occasion during this period any publication in the Federal Register of the reasons for the continued postponement of each of these documents.

5. Attached as Exhibit 3 is a page from a recently discovered 1997 ARRB memo stating that six FBI agents worked full-time to identify hundreds of law enforcement informants to see if they were still alive, with another four FBI agents working half-time at this task; the second page, ARRB Final Report, p. 69, shows this was a study of "hundreds of informants".

6. Neither counsel nor plaintiffs knew that a claim existed for making a claim for the legislative records until a short time before the filing of the complaint in October 2022.

I declare under penalty of perjury that the foregoing is true and correct and of my own knowledge. Executed on January 8, 2024, in Richmond, California.

_____/s/_____
William M. Simpich

# Exhibit 1

**DATES:** The teleconference will convene Tuesday, August 18, 1998, at 11:20 a.m. EDT and continue until 5:00 p.m. EDT. Written material and requests to make presentations should reach the Natural Resources Conservation Service on or before August 14, 1998.

**ADDRESSES:** Written material and requests to make presentations should be sent to George Bluhm, University of California, Land, Air, Water Resources, 151 Hoagland Hall, Davis, CA 95616–6827.

**FOR FURTHER INFORMATION CONTACT:** George Bluhm, Designated Federal Official, telephone (530) 752–1018, fax (530) 752–1552, email bluhm@crocker.ucdavis.edu.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information about the Task Force on Agricultural Air Quality, including any revised agendas for the August 18, 1998, meeting that may appear after this Federal Register Notice is published, may be found on the World Wide Web at http://www.nhq.nrcs.usda.gov/faca/aaqtf.html.

Participants are advised that the entire proceedings of the teleconference will be recorded. Minutes from the teleconference will be published and available to the public after October 1, 1998.

### Teleconference Access Instructions

In order to determine the number of phone lines needed for this teleconference, members of the public wishing to participate are asked to contact the Natural Resources Conservation Service in Washington, D.C. at (202) 720–4716 for access numbers and dialing instructions.

### Draft Agenda of the August 18, 1998, Meeting

A. Opening Remarks
1. Call the meeting to order and explain the meeting process—George Bluhm, Designated Federal Official
2. Opening remarks of the Chair—Pearlie Reed

B. Past Actions
1. Air quality research needs subcommittee report—Jim Trotter
a. National Research Council activities—Tim Strickland
2. Agricultural burning subcommittee report—Robert Quinn
3. Model MOU for voluntary compliance with bad actor clause—Dennis Tristao and Manuel Cunha
4. Recognition of committee for past efforts—Pearlie Reed

C. New Issues
1. Reconstitution of the AAQTF charter—Gary Margheim
2. Reconstitution of the AAQTF membership—Gary Margheim
3. Suggested date and location of a future meeting—committee

D. Public Input
E. Adjourn

### Procedural

This meeting is open to the public. At the discretion of the Chair, members of the public may provide input during the August 18, 1998 teleconference. Persons wishing to make oral presentations should notify George Bluhm no later than August 14, 1998.

If a person submitting material would like a copy distributed to each member of the committee in advance of the teleconference, that person should submit material to Jeff Graham, curator of Task Force documents, by August 17, 1998. Material should be in electronic format suitable for posting to the Internet. Mr. Graham may be reached via phone at (202) 720–1858 or email at *jeff.graham@usda.gov*. Handouts for presentations to Task Force members will be posted to the Web address listed above before the meeting, as they become available.

### Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact George Bluhm as soon as possible.

Dated: July 21, 1998.

Thomas A. Weber,

*Deputy Chief for Science and Technology.*

[FR Doc. 98–19998 Filed 7–24–98; 8:45 am]

BILLING CODE 3014–16–P

## ASSASSINATION RECORDS REVIEW BOARD

### Sunshine Act Meeting; Formal Determinations and Additional Releases

**AGENCY:** Assassination Records Review Board.

**ACTION:** Notice.

**SUMMARY:** The Assassination Records Review Board (Review Board) met in closed meetings on July 8, 1998 and July 20, 1998, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions in the Federal Register within 14 days of the date of the decision.

**FOR FURTHER INFORMATION CONTACT:** Peter Voth, Assassination Records Review Board, Second Floor, Washington, D.C. 20530, (202) 724–0088, fax (202) 724–0457. The public may obtain an electronic copy of the complete document-by-document determinations by contacting <Eileen—Sullivan@jfk-arrb.gov≤.

**SUPPLEMENTARY INFORMATION:** This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. § 2107.9(c)(4)(A) (1992). On July 8, 1998, the Review Board made formal determinations on records it reviewed under the JFK Act.

### Notice of Formal Determinations

4 Church Committee Documents: Postponed in Part until 10/2003
15 Church Committee Documents: Postponed in Part until 10/2017
2 CIA Documents: Postponed in Part until 05/2001
909 CIA Documents: Postponed in Part until 10/2017
37 DOJ Documents: Postponed in Part until 10/2017
1 FBI Document: Open in Full 6 Ford Library Documents: Postponed in Part until 10/2017
10 JCS Documents: Postponed in Part until 10/2017
8 NSC Documents: Postponed in Part until 10/2017
326 US ARMY Documents: Postponed in Part until 10/2017

### Notice of Other Releases

After consultation with appropriate Federal agencies, the Review Board announces that documents from the following agencies are now being opened in full: 92 CIA documents; 3 Ford Library documents; 18 NSC documents; 182 U.S. Army (Califano) documents; 242 U.S. Army (IRR) documents.

On July 20, 1998, the Review Board made formal determinations on records it reviewed under the JFK Act.

### Notice of Formal Determinations

3 CIA Documents: Postponed in Part until 05/2001
1 CIA Document: Postponed in Part until 10/2003
704 CIA Documents: Postponed in Part until 10/2017
7 FBI Documents: Open in Full
229 FBI Documents: Postponed in Part until 10/2017
1 Ford Library Document: Open in Full
11 Ford Library Documents: Postponed in Part until 10/2017
5 HSCA Documents: Postponed in Part until 10/2017

40 NSC Documents: Postponed in Part until 10/2017
392 US ARMY Documents: Postponed in Part until 10/2017

Notice of Other Releases

After consultation with appropriate Federal agencies, the Review Board announces that documents from the following agencies are now being opened in full: 1087 FBI documents; 4 Ford Library documents; 48 NSC documents; 10 U.S. Army (Califano) documents; 302 U.S. Army (IRR) documents.

Notice of Corrections

On December 15, 1997 the Review Board made formal determinations that were published in the December 24, 1997 Federal Register (FR Doc. 97–33529, 60 FR 12345). For that Notice make the following corrections:

| Record identification number | Previously published | Corrected data |
|---|---|---|
| 119–10021–10357 | 1; 10/2017 | 0; n/a |
| 119–10022–10395 | 1; 10/2017 | 0; n/a |
| 119–10022–10074 | 1; 10/2017 | 0; n/a |

Dated: July 22, 1998.

T. Jeremy Gunn,

*Executive Director.*

[FR Doc. 98–20092 Filed 7–23–98; 11:27 am]

BILLING CODE 6118–01–P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Applications and Reports for Registration as a Tanner or Agent.

*Agency Form Number(s):* None.

*OMB Approval Number:* 0648–0179.

*Type of Request:* Extension of a currently approved collection.

*Burden:* 154 hours.

*Number of Respondents:* 77.

*Avg. Hours Per Response:* 2 hours.

*Needs and Uses:* The Marine Mammal Protection Act exempts Alaskan natives from the prohibitions from taking, killing, or injuring marine mammals without a permit or exemption if the taking is done for subsistence or for creating and selling authentic native articles of handicraft or clothing. Non-natives who wish to act as a tanner or an agent for such products must register with NOAA and submit certain records. The information obtained is used for law enforcement purposes.

*Affected Public:* Businesses or other for-profit organizations.

*Frequency:* On occasion, annually.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: July 22, 1998.

Linda Engelmeier,

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 98–19940 Filed 7–24–98; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Western Alaska Community Development Quota Program.

*Agency Form Number(s):* None.

*OMB Approval Number:* 0648–0269.

*Type of Request:* Revision of a currently approved collection.

*Burden:* 3,495 hours.

*Number of Respondents:* 59.

*Avg. Hours Per Response:* Ranges between 4 and 520 hours depending on the requirement.

*Needs and Uses:* The collection of information is needed to administer and manage harvests of groundfish and halibut under the Western Alaska Community Development Quota (CDQ) Program for the groundfish fisheries off Alaska. The information collected will be used to determine whether communities applying for allocations under the CDQ program meet administrative requirements, whether vessels and processors harvesting CDQ species meet equipment and operational requirements, and to monitor whether quotas have been harvested or exceeded.

*Affected Public:* Not-for-profit institutions, businesses or other for-profit organizations, state, local or tribal government.

*Frequency:* On occasion, weekly, annually, recordkeeping.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: July 22, 1998.

Linda Engelmeier,

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 98–19941 Filed 7–24–98; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–351–820]**

### Amended Order and Final Determination of Sales at Less Than Fair Value: Ferrosilicon From Brazil

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Amendment to Final Determination of Antidumping Duty

# Exhibit 2

**From:** William Bosanko <william.bosanko@nara.gov> <william.bosanko@nara.gov>
**Sent time:** 03/28/2018 01:52:23 PM
**To:** Fitzpatrick, John P. EOP/NSC [redacted]
**Cc:** Murphy, Martha <martha.murphy@nara.gov>; Stern, GaryM <garym.stern@nara.gov>
**Subject:** Revised Spreadsheet Pages
**Attachments:** Revised Spreadsheet Pages.pdf

John,

Please see attached (1 file). Please print these and replace the last three pages in each of the hardcopies I delivered with the two pages attached.

This removes 53 from the spreadsheet.

The number in the memo remains accurate. The difference between the two should now be 80. That is because the 80 are being postponed pending resolution and have not been released in part.

Please let me know of any questions or concerns

Thanks,

Jay

| JFK Record Number | Agency | Agency Decision [Release, Redact, or Withheld] | Agency JFK Act Justification [61a, 61b, 61c, 63, or 64] | File Number | Document Date | Number of Pages |
|---|---|---|---|---|---|---|
| 194-10001-10430 | ARMY | Redact | | 63 | 00/00/00 | 1 |
| 194-10001-10433 | ARMY | Redact | | 63 | 03/21/196 | 1 |
| 194-10001-10434 | ARMY | Redact | | 63 | 05/00/196 | 6 |
| 194-10001-10435 | ARMY | Redact | | 63 | 12/13/196 | 1 |
| 194-10001-10436 | ARMY | Redact | | 63 | 12/08/196 | 1 |
| 194-10001-10437 | ARMY | Redact | | 63 | 00/00/00 | 1 |
| 194-10001-10438 | ARMY | Redact | | 63 | 00/00/00 | 1 |
| 194-10012-10001 | ARMY | Redact | | 63 | 04/21/195 | 2 |
| 194-10012-10138 | ARMY | Redact | | 63 | 01/14/195 | 18 |
| 194-10013-10321 | ARMY | Redact | | 63 | 06/17/195 | 1 |
| 194-10013-10338 | ARMY | Redact | | 63 | 09/10/196 | 2 |
| 194-10013-10339 | ARMY | Redact | | 63 | 10/09/196 | 2 |
| 194-10013-10340 | ARMY | Redact | | 63 | 06/29/195 | 2 |
| 194-10013-10341 | ARMY | Redact | | 63 | 02/05/195 | 1 |
| 194-10013-10342 | ARMY | Redact | | 63 | 04/25/195 | 4 |
| 194-10013-10344 | ARMY | Redact | | 63 | 11/24/195 | 1 |
| 194-10013-10345 | ARMY | Redact | | 63 | 11/30/195 | 1 |
| 194-10013-10346 | ARMY | Redact | | 63 | 11/25/195 | 2 |
| 194-10013-10337 | ARMY | Redact | | 63 | 06/26/195 | 1 |
| 144-10001-10230 | NSA | Redact | 63 | | 4/2/1992 | |
| 124-90029-10001 | USA | Redact | | 63 CR 100-40 | 11/06/195 | 9 |
| 124-90029-10002 | USA | Redact | | 63 CR 100-40 | 11/06/195 | 7 |
| 124-90029-10003 | USA | Redact | | 63 CR 100-40 | 00/00/000 | 1 |
| 124-90029-10006 | USA | Redact | | 63 CR 100-40 | 12/24/195 | 3 |
| 124-90029-10007 | USA | Redact | | 63 CR 100-40 | 06/28/195 | 2 |
| 124-90029-10008 | USA | Redact | | 63 CR 100-40 | 11/09/195 | 5 |
| 124-90029-10010 | USA | Redact | | 63 100-40529 | 09/25/195 | 1 |
| 124-90029-10011 | USA | Redact | | 63 100-40529 | 01/11/195 | 1 |
| 124-90029-10012 | USA | Redact | | 63 100-40529 | 06/28/196 | 3 |
| 124-90029-10014 | USA | Redact | | 63 100-40529 | 01/04/195 | 1 |
| 124-90029-10015 | USA | Redact | | 63 100-40529 | 01/20/195 | 1 |
| 124-90029-10016 | USA | Redact | | 63 100-40529 | 01/11/195 | 1 |
| 124-90029-10017 | USA | Redact | | 63 100-40529 | 03/03/195 | 3 |
| 124-90029-10019 | USA | Redact | | 63 100-40529 | 08/10/195 | 8 |
| 124-90029-10023 | USA | Redact | | 63 100-40529 | 11/03/195 | 2 |
| 124-90029-10024 | USA | Redact | | 63 100-40529 | 09/29/195 | 1 |
| 124-90029-10026 | USA | Redact | | 63 100-40529 | 09/29/195 | 4 |
| 124-90029-10033 | USA | Redact | | 63 CR 100-40 | 11/10/195 | 7 |
| 124-90029-10034 | USA | Redact | | 63 CR 100-40 | 05/20/195 | 2 |
| 124-90029-10035 | USA | Redact | | 63 CR 100-40 | 06/01/195 | 2 |

# Exhibit 3

***CIA Sources***

The Review Board established guidelines, during its December 1996 meeting, for handling CIA source issues and applied those guidelines at the January 1997 meeting. These guidelines directed the protection of names and identifying information of CIA sources in cases where the identity of the source is of low public interest or is peripheral to the JFK assassination. The Board's decision was based on two factors: the concern that since CIA sources generally live outside the United States, they could risk harm if their identities were revealed. Moreover, many of the sources referenced in CIA records appear infrequently and are of relatively low public interest. Therefore, in records where the identity of the source is of importance for understanding the assassination, the CIA will be required to provide additional evidence to support the protection of the source's identity.[3] In cases where the identify of the source is peripheral to the assassination story, the information will be postponed until 2017.

***FBI National Security Assets***

FBI national security assets should be treated in the same manner as CIA sources.

***FBI Informants***

Informant issues represent the largest category of postponements in the FBI's Segregated Collection, as they do in the "core" FBI assassination files. They also provide the greatest opportunity for streamlining the review process. Currently, there are ten members of the Bureau's JFK Task Force who are responsible for researching individual informants in response to evidence requests from the Review Board.[4] They retrieve and review the informants' files and attempt, through DMV, Social Security, and other database searches, to determine if the informant is alive. Under current Review Board standards for "core" files, this work is necessary to provide evidence to support redacting the informant's name, ***regardless*** of whether the informant provided information. Removing the requirement of proving whether informants are alive in the Segregated Collections would free up significant resources that could be deployed to reviewing unprocessed HSCA subject files.

The new approach to HSCA subjects is to protect informant-identifying information,

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[3]An example would be the case of John Scelso (pseud.). The Board found that his identity is relevant to the assassination story and CIA offered evidence of a continuing need to protect the identity. In this case, "Scelso" documents would continue to be scheduled for release in five years.

[4]Six work full-time on informant evidence, four devote about half their time to informant evidence.

Where the FBI did not adequately identify the informant as still living, the Review Board voted to release the name and any accompanying identifying information.

The FBI unilaterally released all unclassified "negative contact" symbol number informants.

*ii. Commentary.* In the FBI's early investigations into the assassination of President Kennedy, Director Hoover ordered special agents to ask all informants for relevant information. Even when informants reported that they knew nothing that would assist the FBI in its investigation, FBI agents filed reports in the assassination investigation file documenting the "negative contact."

As a result of Director Hoover's broad directive to agents to question all informants concerning the assassination, the assassination investigation file provides a reasonably comprehensive picture of the state of the FBI's informant network in late 1963 and early 1964. The FBI, of course, preferred that this overview of its informant operations not be disclosed to the public. The Review Board acknowledged that the public had little or no interest in knowing the identities of each "negative contact" informant. At the same time, the Review Board believed that the public did have an interest in having accurate information concerning the FBI's activities in the days and weeks following the assassination. As a compromise, the FBI agreed that it would unilaterally release all unclassified negative contact symbol number informants (on the theory that, with no additional information from or about the informant, no researcher could ever determine the identity of the informant) and the Review Board agreed that it would protect those "negative contact" named informants that were still alive (on the theory that, since they provided no information about the assassination, there was little value to be gained from disclosing the identities of hundreds of living FBI informants.)

*f. "Positive Contacts": Informants who provided at least some assassination-related information to the FBI.*

*i. Review Board guidelines.* "Positive contact" informants provided at least *some* assassination-related information. Where the FBI adequately identified the informant as still living, the Review Board adopted a case-by-case approach, considering the factors listed in the commentary below. When the Review Board voted to postpone the identity of a "positive contact" informant, it voted to postpone it for ten years, and adopted appropriate substitute language. The Review Board released informant names if the informant was of particular relevance to the assassination.

Where the FBI did not adequately identify the informant as still living, the Review Board released the informant's name and any accompanying information. *See* 4. (Deceased Informants) above.

*ii. Commentary.* The Review Board's decision making with regard to "positive contact" informant postponements involved an evaluation of some combination of the following factors:

(A) the significance of the information that the informant provided to understanding of the assassination;

(B) the importance of the identity of the informant to assessing the accuracy of the reported information; and

(C) the significance of the threat of harm to the informant from disclosure, considering the following:

(1) whether the informant is still living, and if so, whether the informant still lives in the same area;

(2) the amount of time that has passed since the informant last provided information;

(3) the type of information the informant provided;

(4) the level of confidentiality that existed between the FBI and the informant at the time that the informant provided the information; and

(5) any specific evidence of possible harm or retaliation that might come to the informant or his or her relatives.