

I, Patricia M. Clary, do declare and if called as a witness would testify as follows.

1. I previously submitted a declaration in this matter on behalf of the Plaintiffs. I have read the Defendants' declarations and brief submitted in response to the Plaintiffs' Motion for Summary Judgment and my declaration. In my opinion the Defendants do not dispute the facts raised by me in my first declaration concerning the use of pesticides in and near the habitat of known populations of the red-legged frog, a species listed as endangered under the Endangered Species Act. I submit this declaration to restate and further clarify specific information sources submitted in my first declaration.

2. Pesticide use reporting is required of all commercial agricultural pesticide applicators in California by the California Department of Pesticide Regulation (DPR). The DPR pesticide use reporting program is recognized as the most comprehensive in the world. DPR has published an account of the program titled "DPR Pesticide Use Reporting — An Overview of California's Unique Full Reporting System." According to this account, pesticide use data is compiled statewide from monthly pesticide use reports submitted to each county agricultural commissioner and forwarded to DPR annually. Reports are submitted for all agricultural pesticide use as defined by the state, including applications to parks, golf courses, cemeteries, range and, pastures and rights-of-way. The primary exceptions to required pesticide use reporting are home and garden use and most industrial and institutional uses. Reported information includes geographic location including the section, township, range, base, and meridian; field location; operator and site identification; commodity treated; acres planted and treated; date and time of application; method of application; state and federal pesticide identification numbers; product name and manufacturer; and amount of product applied. The data compiled by the county agricultural commissioners is forwarded to and compiled by DPR for publication. The public has access to the Statewide Summary of Pesticide Use Report Data through printed and electronic editions. The full database and supporting documentation are available to the public on CD-ROM. DPR also makes available a CD-ROM with spatial representation of statewide Public Land Survey System sections which, when linked with the pesticide use data, makes spatial display and analysis possible. A true and correct copy of the relevant pages of "DPR Pesticide Use Reporting — An Overview of California's Unique Full Reporting System." are attached as Exhibit 1.

3. As described in my first declaration, the organization I work for, Californians for Alternatives to Toxics (CATs), obtained the CD-ROMs containing the DPR database described in paragraph 2. I used this database to investigate pesticide use in and near the habitat of the California red-legged frog (RLF), a species recognized as endangered under the Endangered Species Act. Under my direction, the CATs staff electronically linked the full database of pesticide use to the spatial representation data, making available spatial display and analysis for statewide pesticide use.

4. Electronic geographical information obtained from federal agencies was linked together to allow analysis of the habitat of the RLF. A database published electronically under the title "finalach" was obtained by CATs from the U.S. Fish and Wildlife Service (USFWS). This database shows by the USFWS's approximation the critical habitat of the RLF. It was linked to a U.S. Geological Service (USGS) database named "CO100A" that is available to be downloaded and used by any member of the public from the internet address of: <http://www.gis.ca.gov/meta.epl?title+California%20Counties&name+co100a> These two databases when overlaid made available spatial display and analysis of the USFWS's approximation of RLF habitat statewide for California and was printed as a map and submitted as Exhibit 1 in my first declaration.

5. No electronic data is available that specifies where USFWS has found populations of RLF within the habitat areas defined by the agency. To locate these areas on a map, it was necessary to compare the geographical description of these habitats available in printed text in the USFWS Draft Recovery Plan for the Red Legged Frog (2000) (a copy of this printed text was submitted as Exhibit 3 in first declaration) to the electronically-generated geographical descriptions map described in paragraph 4. From this township, range and section descriptions were derived that correspond to RLF habitat.

6. CATs then overlaid, or linked, the DPR databases with one identified as the cgapstr100 which is available from the University of California, Santa Barbara Geography Department Laboratory. cgapstr100 provides spatial identification of rivers and other hydrologic features and another database named Federal Land Features of the United States (polygon), which is published electronically by the USGS and shows other geographical features. CATs determined where known populations of RLF exist

through this process, which utilizes federal and state agency databases which are widely available, and compared this information with the DPR pesticide use reporting database. The result was the straightforward determination of pesticide use within and near (within one mile) RLF habitat.

I declare under the penalty of perjury that the foregoing is true and correct and was executed this 20th day of December, 2002 at Eureka, California

Patricia M. Clary