

## Declaration of Alfonzo Abeyta

I, Alfonzo Abeyta, hereby state and declare the following:

1. I am over 18 years of age and a U.S. citizen. My date of birth is April 25, 1938. My mailing address is 6925 County Road D5, Antonito, Colorado 81120.
2. I grew up on a ranch with my brothers, Roger and Ruben. I currently own an interest in the family ranch, which covers approximately 700 acres. We raise sheep and cattle on our ranch, as well as some alfalfa. At the present time, my son, Andrew Abeyta, runs the day-to-day operations of our ranch.
3. At one time, our farming operations had two distinct entities: Abeyta Brothers and Abeyta Grazing Association. Before 1981, my brothers and I, through our entities, obtained loans from the Farmers Home Administration (generally known as the "FmHA") and from other sources. We did our best to be candid and truthful on all of our dealings with the FmHA and other lenders.
4. In 1981, the FmHA discovered that because we applied for a loan as a partnership, our outstanding grazing association loan did not meet the FmHA's requirements. It demanded that we add members to the association, dissolve the partnership, or liquidate the account. This demand put us in a very difficult position. We attempted to refinance the grazing association loan, but the FmHA refused, claiming that it was unable to refinance its own loans.
5. In the early 1980's, because of poor production yields and declining prices, both of our production entities were threatened with foreclosure. Local "Anglo" farmers experienced similar problems; I understand that they received debt relief from the FmHA. We did not receive relief; we were variously told that we had too much money to receive some forms of assistance, and not enough to receive other forms.
6. In or about 1982, in an attempt to save our family farm, we investigated dividing the assets of our operation among the partners and some of our sons. The FmHA staffers and county committee refused to take us seriously, contending that the sons were too inexperienced and not independent, despite their having been raised in farm families.
7. In or about 1984, the FmHA began sending us curious mixed messages that told us both (a) that we were doing well and that as a result we would have to refinance our debt with another lender, and (b) not to bother with seeking outside financing because our financial position was so precarious. These messages continued for some years.
8. The FmHA held a UCC financing statement, giving it a lien on our ranch's personal property. In or about 1985, the FmHA allowed this financing statement to expire. As a result of this expiration, the FmHA lost its lien priority on that property, some of which

was sold. Curiously, it seems to me that the FmHA blamed us for the results of its own conduct.

9. In 1986, my brother Roger, who had been acting as principal operating partner of both our operating entities, resigned and left farming. I assumed primary responsibility for the operation to keep it running, although this was a strain on me. I realized the need for management and cash flow, and formed a land partnership to make certain land trades.
10. In 1986, I submitted a proposal to save our operation to the FmHA in Alamosa County, Colorado. The FmHA accepted this proposal. My plan to save our ranch consisted of a series of land trades that were to take place in two steps. These land trades were contingent upon the FmHA's releasing its liens on certain parcels of Abeyta land so they could be traded.
11. The first step of the transaction was successful. The Bureau of Land Management of the Department of Interior (hereinafter "BLM") owned a 31 acre property in or near Santa Fe, New Mexico. The Abeytas owned a property in Taos County, New Mexico (sometimes known as the "Mestas property"), burdened by an FmHA lien on it. The FmHA agreed to partially release the Mestas property so that it could be traded for the BLM property. Once the trade was completed, we sold the 31 acres for approximately \$450,000. We received a down payment and a promissory note. Some of this money was used to pay co-investors, and some was used to retire debt, principally debt of the Abeyta Grazing Association. Some of the money was rolled over into the next transaction.
12. Subsequently, it came to light that the New Mexico FmHA office had released the FmHA lien on the Mestas property without the knowledge of the Colorado office, and without following the proper procedures in such situations. It is my understanding that the documentation pertaining to that release has been lost by the FmHA. Thereafter, the Colorado office treated us as though we were at fault for the New Mexico office's conduct, and refused to cooperate with us in a number of ways.
13. The second step of the transaction required us to obtain two properties to trade for a third. At that time, the Abeyta Brothers owned approximately seventy percent of the Rio Grande Land Partnership. The Rio Grande Land Partnership was formed to trade private lands with the BLM for more profitable pieces of land in and around Santa Fe, N.M. The Rio Grande Land Partnership purchased the first property (approximately 3,500 acres, known as the "Junker property" after the previous owner), which was located in Taos County, N.M. The Rio Grande Land Partnership borrowed money and used a portion of the \$450,000 from the previous transaction to purchase the Junker property. Because the Abeyta Brothers still owed money to the FmHA, we agreed to allow the FmHA to place a lien on the Junker property. Our understanding was that the FmHA would partially release the property to allow us to trade for another BLM property when the time came. We acted in reliance on that understanding.

14. The second property, the "Rael property" (also named after the previous owner), was also in Taos County, N.M. I paid a down payment for that property; the option/purchase agreement allowed me two years to complete the purchase of the Rael property.
15. The BLM owned approximately 196 acres of prime real estate near downtown Santa Fe, N.M. The plan for the second transaction was to trade the Junker and Rael properties together for this BLM property. In order to consummate the trade, we needed the FmHA to grant a partial release of the Junker property, allowing it to be transferred in order to complete the second step of the trade with the BLM.
16. At least one potential deal fell through in or about 1990, but I kept working at making this transaction succeed. The FmHA began foreclosure proceedings against Abeyta Grazing in or about 1991, and we were forced to scale back our operations while I continued to work on the land trade.
17. In 1992, the FmHA refused to release the Junker property to allow the second trade to take place. I am informed that the regional director of the FmHA did not want to release the property. I appealed to the State Director, Ruth Rodriguez, who ordered the release of the property, seven months after the FmHA refusal. Because of the seven months' delay, I incurred a \$130,000 loss, as detailed herein.
18. During the seven months' delay, two minority partners in the Rio Grande Land Partnership, Ben Borrego and Ernest Moeller, filed suit against me and Mr. Santiago Chavez, a Rio Grande Land attorney. Also, during the seven months, the two-year option to buy the Rael property, for the second trade, lapsed and the price went up. The losses due to this part of the delay are \$85,000.
19. Furthermore, I was forced to use my home as collateral in order to purchase the Rael property, which was needed for the second step of the trade.
20. In March 1993, the second step of the land-trade transaction was completed. As a result of this transaction, the Abeyta Grazing Association paid the full amount of its debt, \$140,000. The Abeyta Brothers debt was reduced by \$110,000. This amount would have been greater had the cost of the transaction not increased because of the FmHA's conduct.
21. In 1995, we used private funds to purchase 320 acres (the "Robbins property"). We made improvements to this property such as planting fields to make them profitable, adding new irrigation sprinklers to improve yield, and installing electricity to improve efficiency.
22. In January of 1996, I submitted the paperwork to the Farm Service Agency ("FSA") for subordination of an operating loan. All of the improvements to the Robbins property and their respective costs were not a part of the FSA subordination, yet the FSA used them in its determination not to grant a subordination. The FSA delayed the release of their funds until June of 1997. I calculate that this was the third consecutive delay of this kind. We were unable to purchase seed, fuel, fertilizer, equipment and labor until the funds were

released to us. As a consequence, we were not able to plant at the optimal time of year, and our effective growing season was shortened. The shortened growing season resulted in marginal production. The FSA used our marginal production numbers to justify their non-subordination.

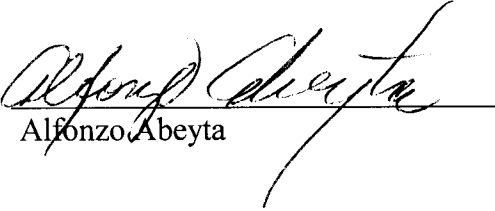
23. In December 1997, I met with FSA representative Michael Steffen and First Western Bank president Mike Toczek to discuss the farm plan and cash flow issues. All parties agreed that the farm plan and projected cash flow were realistic. Shortly thereafter, Mr. Steffen changed the farm plan and cash flow projection to my detriment. Mr. Steffen did not consult with me or Mr. Toczek before making his changes. Mr. Steffen cited the previous year's crops and expenses as his reason for making his unauthorized changes. However, the previous year's crop was marginal because of the FSA's delays. In addition, during the previous year, expenses were incurred for one-time-only improvements, and thus would not be repeated. Mr. Steffen submitted the altered plan to the FSA state office. In part because of Mr. Steffen's altered numbers, the subordination was not granted.
24. My attorney, Santiago Chavez, did not timely file documents in response to the Borrego and Moeller lawsuits. As a result, in or about 1998 the court entered default judgments against me in favor of Borrego and Moeller. The home that I used as collateral for the Rael transaction was subject to foreclosure. In order to protect our home, my wife, Martha, and I filed for Chapter 7 bankruptcy protection. I contacted all institutions that might be affected by this decision. Mr. Steffen told me that he did not know how the Chapter 7 bankruptcy would affect the working relationship between me and the FSA. Mr. Steffen promised to explore all options and to keep me informed. Attorney William Dunn, our bankruptcy counsel, sent correspondence to the FSA, First Western National Bank and Decibel Credit Union about the bankruptcy hearing. The FSA was the only institution that was not present at the hearing.
25. Mr. Steffen did not communicate any further information to me about the bankruptcy, despite his promise. Therefore, I did not know that the FSA debt would need to be re-affirmed in bankruptcy. I did not learn this until after the FSA declined a request for subordination. I filed a formal appeal with the FSA, appealing their decision not to subordinate the operating loan and complaining about Mr. Steffen's discriminatory treatment of me and my family. The appeal was denied and I filed a further appeal.
26. In the determination of the appeal, the appeal hearing officer took special note of the fact that Mr. Steffen had changed figures on the application without consulting with the Abeytas. The officer concluded that Mr. Steffen did not fully consider all of the business information available in preparation of these materials, and did not comply with the FSA's regulations and instructions by making these changes and not contacting us about them. I brought these findings to the attention of the national office.
27. I wrote to the director of the Civil Rights office of the U.S. Department of Agriculture, requesting review and complaining of bias against local Hispanics on the part of the FSA.

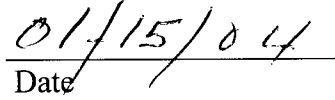
Eventually, I received correspondence from the FSA, requesting that I stop inquiring about the status of my appeal. As of today, this complaint has not, to my knowledge, been ruled upon.

30. In 1999, the FSA was paid in full for the land trades, although some partnership debt remained. Still, the FSA refused to subordinate our loans. The FSA cited my Chapter 7 bankruptcy as the reason for non-subordination. The property at issue in the bankruptcy, our home, has no connection to the FSA.
28. In or about the Spring of 2002, the national office ruled that we were indeed eligible for further FSA assistance. We promptly requested a loan. The Alamosa office kept returning our application for one reason or another, frequently for updated information. One problem was that the land in question was appraised at a value too low for the loan. I sought and eventually obtained permission to employ a private appraiser. This appraiser appraised the land at more than \$300,000 more than the FSA appraiser did. The private appraiser used sales of nearby, comparable land in his analysis. The FSA appraiser told me that he had to use another method in southern Conejos County, one that ignores comparables and results in lower appraised values. Southern Conejos County is approximately 90% Hispanic.
29. It was not until September 2003 that we were able to have our debt restructured. It took over a year from the time the national office ruled that we were eligible for assistance.
31. In 2001, my brother Ruben, my son Andrew, and I formed a new partnership, Abeyta Ranches. On nearly the same day, the FSA rejected Abeyta Brothers' request for disaster set-aside assistance, citing the partnership's cash flow.
32. I do not know if my discrimination complaint was the cause, but recently, the FSA seems to have been somewhat more interested in actually helping us. Abeyta Ranches sought an FSA loan to assume the debt of Abeyta Brothers, although it took many months for the loan to be approved.
33. Because of these numerous delays and denials, we have lost approximately \$215,000, not including losses in crop production or the other expenses we incurred. Similarly-situated white farmers have had their debt reduced by the FSA.
34. The FmHA and FSA have repeatedly made serious errors in their handling of our account, through no fault of our own. The agency's handling of our account has been severely incompetent, but we have been the ones to pay for the agency's incompetence. Each time, when an error has been discovered, the FmHA or FSA has acted as if the error came about through our wrongdoing, and has demanded that we assume the full burden of the error and of making it whole. The FmHA even repeatedly criticized us for poor record-keeping.

35. Every time we went to the FmHA or FSA in Alamosa County, Colorado, to apply for a loan or other assistance, we understood we were qualified for the loan or other assistance that we sought. I believe that the FSA, and/or its predecessor the FmHA, discriminated against us because we are Hispanic.

I have reviewed the foregoing Declaration, consisting of thirty-five (35) numbered paragraphs, and declare under penalty of perjury that it is true and correct, to the best of my personal knowledge.

  
Alfonzo Abeyta

  
Date