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Attorneys for Defendants and Counter-Claimants
California-Oregon Seed, Inc., and Discovery Garden's, LLC

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

BLACK GOLD POTATO SALES, INC.,
Plaintiff,

v.

DISCOVERY GARDEN'S, LLC, et al.,
Defendants.

CALIFORNIA-OREGON SEED, INC., and
DISCOVERY GARDEN'S, LLC,
Counterclaimants,

v.

BLACK GOLD POTATO SALES, INC.,
Counterdefendant.

Case No. 1:08-cv-01488-AWI-GSA

Judge: Gary S. Austin

**STIPULATION FOR VACATION OF
SETTLEMENT CONFERENCE;
ORDER VACATING SETTLEMENT
CONFERENCE**

**Date: April 13, 2009
Time: 10:00 a.m.
Place: Department 13
U.S. District Court
2500 Tulare Street
Fresno, California
Judge: Dennis L. Beck**

TO THE HONORABLE GARY S. AUSTIN, UNITED STATES MAGISTRATE JUDGE:

Defendants and Counter-Claimants California-Oregon Seed, Inc., and Discovery
Garden's, LLC, ("Discovery Garden's"), on the one hand, and Plaintiff and Counter-Defendant
Black Gold Potato Sales, Inc. ("Black Gold"), on the other hand, by and through their
respective counsel, stipulate to the vacation of the Settlement Conference currently scheduled
for April 13, 2009, at 10:00 a.m. before Judge Dennis L. Beck, and request that the Settlement
Conference be vacated by the Court, as follows:

1 1. The Court entered a Scheduling Order in the above captioned case on January
2 13, 2009. The Scheduling Order provides for a Settlement Conference, currently scheduled for
3 April 13, 2009, at 10:00 a.m. before Judge Dennis L. Beck.

4 2. Discovery Garden's and Black Gold (collectively "the Parties") do not believe
5 that settlement is possible at this early stage in the litigation. Discovery is in its early stages:
6 documents have yet to be produced and no depositions have taken place or been noticed. Thus
7 far, only interrogatories have been propounded and responded to by the Parties.

8 3. Based upon the discussions of the Parties, it is apparent that participation in the
9 Settlement Conference would be fruitless at this time. As a result, the Parties request that the
10 Court vacate the Settlement Conference set for April 13, 2009.

11 4. The Parties intend to proceed preparing for trial. If, however, once discovery
12 has progressed, the Parties believe that a Settlement Conference would be beneficial, the
13 Parties will notify the Court and request that a Settlement Conference be rescheduled.

14 Dated: April 6, 2009

KLEIN, DeNATALE, GOLDNER,
COOPER, ROSENLIEB & KIMBALL, LLP

/s/ Terrence T. Eglan

15 By _____
16 T. SCOTT BELDEN
17 TERRENCE T. EGLAND, Attorneys for
18 California-Oregon Seed, Inc., and Discovery
19 Garden's, LLC

20 Dated: April 7, 2009

CHOATE AND CHOATE

/s/ Joseph Choate, Jr.

21 By _____
22 JOSEPH CHOATE, JR.
23 ROBERT P. LEWIS, JR.
24 BRADLEY CORNELL, Attorneys for
25 Black Gold Potato Sales, Inc.

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ORDER VACATING SETTLEMENT CONFERENCE

Based upon the foregoing Stipulation, it is hereby Ordered as follows:

1. The Settlement Conference scheduled for April 13, 2009, in the above entitled action is vacated.
2. The Court, at its discretion, will reschedule the Settlement Conference upon the request of the Parties.

Dated: 9 April 2009

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE