

1 BENJAMIN B. WAGNER  
 United States Attorney  
 2 KEVIN C. KHASIGIAN  
 Assistant U. S. Attorney  
 3 501 I Street, Suite 10-100  
 Sacramento, CA 95814  
 4 Telephone: (916) 554-2700  
 5 Attorneys for the United States

6  
 7  
 8 IN THE UNITED STATES DISTRICT COURT  
 9 EASTERN DISTRICT OF CALIFORNIA

10  
 11 UNITED STATES OF AMERICA,

2:12-CV-01632-TLN-AC

12 Plaintiff,

ORDER TO AMEND THE EXISTING  
 PROTECTIVE ORDER TO APPOINT A  
 MONITOR FOR EARTHSAVERS EROSION  
 CONTROL, LLC

13 v.

14 APPROXIMATELY \$50,319.11 SEIZED  
 FROM 49ER CREDIT UNION BANK  
 15 ACCOUNT NUMBER 1096173, HELD IN  
 THE NAMES OF GREGORY S. BAKER  
 16 AND DARRELL HINZ, et al.,

17 Defendants.  
 18

19  
 20 This matter having come before this Court on the application of the United States of America to  
 21 amend the existing protective order pursuant to 18 U.S.C. § 983(j)(1)(A), which provides courts with  
 22 jurisdiction to enter restraining orders and take such other action in connection with any property or other  
 23 interest subject to forfeiture to ensure its availability for forfeiture.

24  
 25 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, PURSUANT TO 18 U.S.C. §  
 26 983(j)(1)(A) THAT:

27 Earthsavers Erosion Control, LLC is hereby restrained in the manner described below.  
 28

1 **PRIOR PROTECTIVE ORDERS**

2 1. The protective order entered on June 22, 2012 [ECF No. 6] remains in full force and  
3 effect.

4 2. The amendment to the protective order entered on April 16, 2013 [ECF No. 25] remains in  
5 full force and effect.

6  
7 **APPOINTMENT OF A MONITOR**

8 3. Mr. David Flemmer is APPOINTED as the monitor of Earthsavers Erosion Control, LLC  
9 as specifically set forth below.

10 4. The monitor may review accounting documents, financial statements, inventory logs,  
11 business books and records, journals, ledgers, invoices, contracts, bank records, correspondence,  
12 employment contracts, inventory sheets, and business manuals to ensure that Earthsavers Erosion  
13 Control, LLC (“Earthsavers”) is operating in compliance with generally accepted accounting principles  
14 and federal and state laws.

15 5. The monitor may order appraisals, consult with valuation professionals, and take other  
16 necessary and reasonable steps to properly value the business.

17 6. The monitor may access the business premises, the business bank accounts, consult with  
18 Earthsaver employees, and introduce other reasonable measures to prevent any potential business  
19 mismanagement or looting of company bank accounts, intellectual property and inventory.

20 7. The monitor, in consultation with the other equity partner of Earthsavers, may hire or  
21 terminate employees in order to efficiently conduct business.

22 8. The monitor, in consultation with the other equity partner of Earthsavers, may enter into  
23 or terminate contracts for professional services to efficiently conduct business.

24 9. The monitor, in consultation with the other equity partner of Earthsavers, may cut pay,  
25 give raises, or pay bonuses to deserving employees through their service to the business.

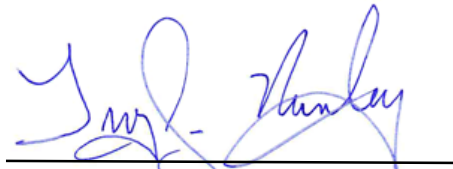
26 10. The monitor may secure the United States’ interest in the \$300,000 promissory note  
27 forfeited in Case No. 2:12-cr-00294-TLN. The monitor shall audit the Note and confirm the payment  
28 schedule and ensure that the promissory note is paid in a timely manner.

1 **JURISDICTION**

2 This Court shall retain jurisdiction of this matter for all purposes. The terms of this order shall  
3 remain in full force and effect until judgment is rendered on the civil forfeiture complaint filed with  
4 respect to the above-referenced defendant properties and the United States' interests are liquidated or sold  
5 in their entirety. In the event a party chooses to modify the terms of the protective order or any of its  
6 amendments, they can do so only with prior approval of the Court upon notice to the United States and an  
7 opportunity for the United States to be heard.

8 IT IS SO ORDERED.

9 Dated: December 1, 2015

10  
11   
12 \_\_\_\_\_  
13 Troy L. Nunley  
14 United States District Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28