

1 JOHN C. CRUDEN  
 Assistant Attorney General  
 2 ANDREW J. DOYLE (FL Bar No. 84948)  
 JOHN THOMAS H. DO (CA Bar No. 285075)  
 3 SAMARA M. SPENCE (TN Bar No. 031484)  
 United States Department of Justice  
 4 Environment and Natural Resources Division  
 5 P.O. Box 7611  
 Washington, DC 20044 / (202) 514-4427 or 514-2593  
 6 *Attorneys for Defendants and Counterclaim-Plaintiff*

7 M. REED HOPPER (CA Bar No. 131291)  
 8 ANTHONY L. FRANÇOIS (CA Bar No. 184100)  
 Pacific Legal Foundation  
 9 930 G Street  
 Sacramento, CA 95814 / (916) 419-7111  
 10 *Attorneys for Plaintiffs and Counterclaim-Defendants*

11 (See *infra* for additional counsel of record.)  
 12

13 UNITED STATES DISTRICT COURT

14 EASTERN DISTRICT OF CALIFORNIA

15 DUARTE NURSERY, INC., a California  
 Corporation; et al.,

No. 2:13-cv-02095-KJM-AC

16 Plaintiffs,

**STIPULATION AND ORDER  
 TO RESCHEDULE THE FINAL PRETRIAL  
 CONFERENCE AND DUE DATE FOR THE  
 JOINT PRETRIAL CONFERENCE  
 STATEMENT**

17 v.

18 UNITED STATES ARMY CORPS OF  
 ENGINEERS, et al.,

19 Defendants.

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 UNITED STATES OF AMERICA,

22 Counterclaim- Plaintiff,

23 v.

24 DUARTE NURSERY, INC., a California  
 Corporation; et al.,

25 Counterclaim- Defendants.  
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1 The parties to this action -- i.e., Plaintiffs and Counterclaim-Defendants Duarte Nursery,  
2 Inc. and John Duarte (collectively, "Duarte") and Defendants United States Army Corps of  
3 Engineers, United States of America, and Counterclaim-Plaintiff United States of America  
4 (collectively, "United States") -- hereby stipulate and jointly move to reschedule the final pretrial  
5 conference from May 18, 2016, as set forth in the Court's Minute Order of April 5, 2016 (ECF  
6 No. 184), to **June 30, 2016, at 2:30 p.m.**, and the due date for the joint pretrial statement from  
7 May 11, 2016, as set forth in the Court's Order of April 15, 2016 (ECF No. 186), to **June 10,**  
8 **2016.** In support of this stipulation and proposed Order the parties state as follows:

9 1. On November 20, 2015, the Court heard oral argument on six dispositive or  
10 partially dispositive motions that the parties had filed on October 23, 2015 ("pending motions").

11 2. At that time, the Court's original scheduling Orders had required the parties to file  
12 their joint pretrial statement by January 28, 2016; scheduled the final pretrial conference for  
13 February 18, 2016; and scheduled a bench trial to commence on March 28, 2016.

14 3. On January 26, 2016 (ECF No. 177), the Court resolved the parties' disagreement  
15 about maintaining the foregoing events as originally scheduled, concluding that in light of the  
16 pending motions, "for which orders will issue in the reasonably foreseeable future," the events  
17 should be rescheduled.

18 4. Under the Court's existing scheduling Orders, the joint pretrial statement is due  
19 by May 11, 2016; the final pretrial conference is scheduled for May 18, 2016; and a bench trial is  
20 scheduled to commence on July 25, 2016.

21 5. Given that the motions remain pending, the parties stipulate and move the Court  
22 to change the deadline for the joint pretrial statement to June 10, 2016, and to reschedule the  
23 final pretrial conference to June 30, 2016.

24 6. The parties acknowledge the Court's general practice of conducting the final  
25 pretrial conference at least a month before trial. However, at this time the only other available  
26 date on the Court's calendar appear to be May 26, June 3, June 9, and June 17. The parties are  
27 unavailable on June 17 due to conflicts on the part of (at least) lead counsel for each side. The  
28 earlier dates, the parties believe, may not allow sufficient time for rulings on the pending

1 motions and for the parties to draft their joint pretrial statement in light of those rulings.  
2 Although the parties' requested date for the final pretrial conference (June 30) is less than a full  
3 month from trial (July 25), the parties believe that a minimal departure from the Court's general  
4 practice is warranted given that the Court, having considered the extensive record in conjunction  
5 with the pending motions, is very familiar with the issues in the case.

6 7. At this time and in light of the Court's statements in its Order of January 26, 2016  
7 regarding rulings on the pending motions, the parties urge the Court *not* to alter the schedule  
8 associated with the bench trial; that is, the parties request that any bench trial commence on July  
9 25, 2016 -- as set forth in the Court's March 25, 2016, Minute Order (ECF No. 183). The parties  
10 have each retained expert witnesses; their collective availability for trial is limited; and the  
11 parties previously and extensively conferred about the window of time for trial.

12 8. Wherefore, based on the above, and for good cause shown, the parties stipulate  
13 and request that the Court reschedule the final pretrial conference from May 18, 2016, to June  
14 30, 2016, at 2:30 p.m., and the due date for the joint pretrial statement from May 11, 2016, to  
15 June 10, 2016, and to so order.

16  
17 Respectfully submitted and stipulated:

18 JOHN C. CRUDEN  
19 Assistant Attorney General

20 Dated: April 28, 2016

21 /s/ Andrew J. Doyle  
22 ANDREW J. DOYLE (FL Bar No.84948)  
23 JOHN THOMAS H. DO (CA Bar No. 285075)  
24 SAMARA M. SPENCE (TN Bar No. 031484)  
25 Trial Attorneys  
26 United States Department of Justice  
27 Environment and Natural Resources Division  
28 P.O. Box 7611  
Washington, DC 20044  
(202) 514-4427 (p) (Doyle)  
(202) 514-2593 (p) (Do)  
(202) 514-2285 (p) (Spence)  
(202) 514-8865 (f)  
andrew.doyle@usdoj.gov  
john.do@usdoj.gov

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BENJAMIN B. WAGNER  
United States Attorney  
GREGORY T. BRODERICK (CA Bar No. 220871)  
Assistant United States Attorney  
501 I Street, Suite 10-100  
Sacramento, CA 95814  
(916) 554-2700 (p)  
(916) 554-2900 (f)  
gregory.broderick@usdoj.gov

*Attorneys for Defendants and Counterclaim-  
Plaintiff*

Dated: April 28, 2016

        /s/ Anthony L. François  
M. REED HOPPER (CA Bar No. 131291)  
ANTHONY L. FRANÇOIS (CA Bar No. 184100)  
Pacific Legal Foundation  
930 G Street  
Sacramento, CA 95814  
(916) 419-7111 (p)  
(916) 419-7747 (f)  
mrh@pacificlegal.org  
alf@pacificlegal.org

DAVID M. IVESTER (CA Bar No. 76863)  
PETER PROWS (CA Bar No. 257819)  
Briscoe Ivester & Bazel LLP  
155 Sansome Street, Seventh Floor  
San Francisco, CA 94104  
(415) 402-2700 (p)  
(415) 398-5630 (f)  
divester@briscoelaw.net  
pprows@briscoelaw.net

GERALD E. BRUNN (CA Bar No. 107004)  
Law Offices of Brunn & Flynn  
928 12th Street, Suite 200  
Modesto, CA 95354  
(209) 521-2133 (p)  
(209) 521-7584 (f)  
gbrunn@brunn-flynn.com

*Attorneys for Plaintiffs and Counterclaim-  
Defendants*

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DUARTE NURSERY, INC., a California Corporation; and JOHN DUARTE, an individual,

Plaintiffs,

v.

UNITED STATES ARMY CORPS OF ENGINEERS and UNITED STATES OF AMERICA

Defendants.

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UNITED STATES OF AMERICA,

Counterclaim- Plaintiff,

v.

DUARTE NURSERY, INC., a California Corporation; and JOHN DUARTE, an individual,

Counterclaim- Defendants.

No. 2:13-cv-02095-KJM-AC

ORDER

Good cause appearing, and in light of the pending motions, IT IS HEREBY ORDERED:

The Joint Pretrial Conference Statement is now due **June 10, 2016**.

The Final Pretrial Conference is now set for **June 30, 2016, at 2:30 p.m.**

A bench trial, currently scheduled to commence on **July 25, 2016**, remains on calendar as set forth in the Court's Minute Order of March 25, 2016 (ECF No. 183).

DATED: May 3, 2016

  
UNITED STATES DISTRICT JUDGE