

DOWNEY BRAND LLP

1 DOWNEY BRAND LLP
 ROBERT P. SORAN
 2 ASHLEY M. BOULTON
 621 Capitol Mall, 18th Floor
 3 Sacramento, CA 95814-4731
 Telephone: (916) 444-1000 / Facsimile: (916) 444-2100
 4 *Attorneys for GOOSE POND AG, INC., and FARMLAND MANAGEMENT SERVICES*

5 CANNATA, O'TOOLE, FICKES & OLSON
 THERESE Y. CANNATA
 6 MARK P. FICKES
 100 Pine Street, Suite 350
 7 San Francisco, CA 94111
 Telephone: (415) 409-8900 / Facsimile: (415) 409-8904

8 WITHERS BERGMAN LLP
 9 KIMBERLY A. ALMAZAN
 505 Sansome Street, 2nd Floor
 10 San Francisco, California 94111
 Telephone: (415) 872-3200/ Facsimile: (415) 549-2480
 11 *Attorneys for ROGER J. LAPANT, JR. dba J&J FARMS*

12 ANDREW J. DOYLE
 JOHN THOMAS H. DO
 13 United States Department of Justice
 Environmental and Natural Resources Division
 14 P.O. Box 7611
 Washington, D.C. 20044
 15 Telephone: (202) 514-4427
 16 *Attorneys for the UNITED STATES OF AMERICA*

17 UNITED STATES DISTRICT COURT
 18 EASTERN DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,

20 Plaintiff,

21 v.

22 ROGER LAPANT, JR., J&J FARMS,

23 Defendants.
24

Case No. 2:16-cv-01498-KJM-DB

FOURTH STIPULATION, MOTION, AND ORDER TO AMEND SCHEDULE

25 On December 17, 2018 (ECF No. 99), Plaintiff United States of America and all of the
 26 defendants to this action (“Parties”)—the United States of America and Roger J. LaPant, Jr., dba
 27 J&J Farms (“Mr. LaPant”), Goose Pond Ag, Inc., and Farmland Management Services
 28 (collectively, “Goose Pond Defendants”)—presented the Court with a stipulation, motion, and

1 proposed order to amend the schedule and impose a partial stay of discovery. The reason for that
 2 stipulation was a proposed consent decree between the United States and the Goose Pond
 3 Defendants. To date, the Court has not entered the December 17, 2018 stipulation, motion, and
 4 proposed order presented by the Parties as ECF No. 99.

5 To date, the United States' motion for entry of the proposed decree remains pending.
 6 Additionally, as of midnight on December 21, 2018, funding for the Department of Justice
 7 expired and appropriations to the Department lapsed, and remains lapsed to date.

8 Given that the Court's review of the proposed consent decree remains pending and the
 9 ongoing lapse in appropriations, the parties hereby stipulate, move, and propose that the Court
 10 amend its November 26, 2018 Order (ECF No. 98) as set forth herein.

- 11 1. All remaining events should be rescheduled as follows:

Event	Current	Proposed
All discovery completed	February 15, 2019	May 16, 2019
Last day to hear dispositive motions	April 5, 2019	July 19, 2019
Joint Pretrial Statement Due	June 20, 2019	September 19, 2019
<i>Motions in Limine</i>	To be set upon resolution of dispositive motions or at further scheduling conference.	No change; to be set upon resolution of dispositive motions or at further scheduling conference.
Final Pretrial Conference	Same as above	No change; same as above
Trial Brief	Same as above	No change; same as above
Jury Trial (Liability)	Same as above	No change; same as above
Bench Trial (Remedy)	Same as above	No change; same as above

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. No depositions may be taken between now and April 8, 2019, and all such notices and/or subpoenas that have already been issued or are forthcoming, including but not limited to notices and/or subpoenas for expert witnesses, shall be held in abeyance pending efforts to meet

1 and confer (as discussed in the sentence that follows).¹ The Parties shall, no later than March 14,
2 2019, complete their meet and confer regarding depositions, including without limitation, the date
3 and place for each event. Depositions may again be taken starting on April 9, 2019, and continue
4 through and including May 16, 2019, and following the Parties' meet-and-confer referenced
5 above, the Parties are permitted to serve additional deposition notices and/or subpoenas in
6 accordance with the agreed-upon dates and places. Notwithstanding any other provision in this
7 stipulation, any and all objections by or on behalf of the Parties or deponents to the notices or
8 subpoenas described herein are reserved, and any and all unresolved objections shall be served in
9 writing on or before March 21, 2019. Additionally, notwithstanding any other provision of this
10 stipulation, the deadline for any motion to quash or motion for a protective order, whether filed
11 by a Party or a deponent to the notices or subpoenas described herein shall be tolled while those
12 notices or subpoenas are held in abeyance (as stated in the second sentence of this paragraph).
13 The time for such motions shall be based upon the date for compliance as determined through the
14 Parties' meet and confer described herein and at the availability of the Court.

15 3. From now until March 22, 2019, the Parties shall not: (a) propound or conduct any
16 fact or expert discovery, written, oral, or otherwise, including but not limited to any depositions
17 or any requests or subpoenas for documents, except as set forth in Paragraph 2 above and
18 Paragraphs 4 through 6 below; or (b) conduct any law and motion practice, except for discovery
19 motions as referenced in Paragraphs 4 through 6 below; motions to further amend the schedule;
20

21 ¹ The foregoing sentence in the body of this stipulation refers to the following deponents about
22 which the United States and Mr. LaPant have initially conferred: Ken Lane, Matthew Kelley,
23 Terry Cheney, James Komar, Todd LaPant, and Roger J. LaPant, Jr. Mr. LaPant has issued
24 notices of deposition for Messrs. Kelley and Komar, and the United States intends to issue
25 notices of deposition or subpoenas to the remaining deponents. In addition, the foregoing
26 sentence in the body of this stipulation refers to the following retained experts for which Mr.
27 LaPant has issued notices of deposition or subpoenas: Gregory House, Peter Stokely, Scott
28 Stewart, Michael Josselyn, Randall Grip, Misha Schwarz, and Mark Hanna. Additionally, the
foregoing sentence in the body of this stipulation refers to the following retained experts for
which the United States may issue notices of deposition: Paul Wisniewski, Paul Squires, and
Damon Brown. In addition, the foregoing sentence in the body of this stipulation refers to any
additional deponents for which the Goose Pond Defendants may issue notices of deposition or
subpoenas, including but not limited to retained experts.

1 and motions for leave as referenced in Paragraph 6 below.

2 4. This stipulation, motion, and proposed Order does not prohibit the following
3 discovery (and any related motion to compel or similar discovery motion) at any time:

- 4 a. Interrogatories solely between the United States and Mr. LaPant;
5 b. Requests for admission solely between the United States and Mr. LaPant;
6 c. Requests for documents solely between the United States and Mr. LaPant; and
7 d. Subpoena for documents and electronically stored information from third parties,
8 provided that the third party is not either affiliated with the Goose Pond
9 Defendants (i.e. current employee or affiliated business entity), is not a former
10 employee, retained expert, or confidential consultant, and the subpoena does not
11 otherwise seek documents that contain information in the possession or control of
12 the subpoenaed third party, which is asserted to be privileged or protected from
13 disclosure by the Goose Pond Defendants.²

14 5. This stipulation, motion, and proposed Order does not otherwise affect the written
15 discovery propounded discovery propounded by Mr. LaPant to date, including Mr. LaPant's
16 Second Set of Interrogatories, Fourth Set of Request For Production of Documents, and First Set
17 of Request For Admissions propounded on December 3, 2018 to the United States.

18 6. This stipulation, motion, and proposed Order does not prohibit the United States
19 and Mr. LaPant from taking any action to address or resolve disputes regarding any outstanding
20 discovery requests solely between themselves, including any pending discovery motions or
21 matters currently the subject of discussion among the Parties.

22 7. The Parties reserve their right to seek leave of Court for any appropriate relief
23 from or related to the restrictions on discovery set forth in this stipulation, motion, and proposed
24 Order upon a showing of good cause. By the same token, the Parties reserve their right to oppose
25 any request for relief.

26 _____
27 ² To facilitate implementation of this provision, the Parties further agree that any party wishing to
28 serve any additional deposition notices and/or subpoenas not served on opposing counsel prior to
November 15, 2018, shall first provide seven days advance written notice to all other parties,
prior to service of any such subpoena. No such subpoena may be served without leave of Court if
the Goose Pond Defendants notify the other parties in writing, within the seven day period, that
the proposed subpoena is directed to a party that is either affiliated with the Goose Pond
Defendants (i.e. current employee or affiliated business entity), or is a former employee, retained
expert, or confidential consultant, or the subpoena otherwise seeks documents that contain
information in the possession or control of the subpoenaed third party, which is asserted to be
privileged or protected from disclosure by the Goose Pond Defendants.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STIPULATED AND RESPECTFULLY SUBMITTED,

DATED: January 18, 2019

DOWNEY BRAND LLP

By: /s/ Robert P. Soran

ROBERT P. SORAN
Attorneys for GOOSE POND AG, INC., and
FARMLAND MANAGEMENT SERVICES

DATED: January 18, 2019

CANNATA, O'TOOLE, FICKES & ALMAZAN LLP

By: /s/ Mark P. Fickes

MARK P. FICKES
Attorneys for ROGER J. LAPANT, Jr., dba J&J
FARMS

DATED: January 18, 2019

UNITED STATES DEPARTMENT OF JUSTICE,
ENRD

By: /s/ Andrew Doyle

ANDREW DOYLE
Attorneys for UNITED STATES OF AMERICA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Upon due consideration, and good cause shown, the Court approves the following:

Event	Approved New Date
All discovery completed	May 16, 2019
Last day to hear dispositive motions	July 19, 2019
Joint Pretrial Statement Due	September 19, 2019
<i>Motions in Limine</i>	No change; to be set upon resolution of dispositive motions or at further scheduling conference.
Final Pretrial Conference	No change; same as above
Trial Brief	No change; same as above
Jury Trial (Liability)	No change; same as above
Bench Trial (Remedy)	No change; same as above

DATED: January 24, 2019.


 UNITED STATES DISTRICT JUDGE