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22 UNITED STATES DISTRICT COURT

23 EASTERN DISTRICT OF CALIFORNIA

24 UNITED STATES OF AMERICA,
25 Plaintiff,
26 v.
27 ROGER J. LAPANT, JR., *et al.*,
28 Defendants.

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

**JOINT STATUS REPORT,
STIPULATION, MOTION, AND
PROPOSED ORDER TO AMEND**

1 The Parties to this action—Plaintiff United States of America and Defendants Roger J.
2 LaPant, J&J Farms, Goose Pond Ag, Inc., and Farmland Management Services (collectively,
3 unless specially noted, “Defendants”)—have conferred following the issuance of the Court’s
4 Minute Order of April 19, 2017 (ECF No. 42) and hereby provide this status report, stipulation,
5 motion, and proposed order to amend the Court’s Amended Status (Pretrial Scheduling) Order of
6 April 7, 2017 (ECF No. 32) (“Scheduling Order”).

7 1. Defendants’ opposed motions for stay, as referenced in the Court’s Minute Order
8 of April 19, 2017, remain pending. All paragraphs of this joint status report, stipulation, and
9 motion that follow are without prejudice to Defendants’ arguments in support of their requested
10 stay and without prejudice to the United States’ opposition to Defendants’ requested stays. If the
11 Court denies Defendants’ motions for stay, all paragraphs of this joint status report, stipulation,
12 and motion remain unaltered. If the Court grants Defendants’ motions for stay, the parties shall
13 meet and confer and file any appropriate update.

14 2. The parties stipulate and move to amend the following deadlines set forth in the
15 Scheduling Order:

16 a. Any joinder of parties or amendments to the pleadings shall be filed by
17 **January 16, 2018** (rather than October 1, 2017, under the Scheduling Order at 2:2-3).

18 b. All discovery (fact or expert) shall be completed by **July 20, 2018** (rather
19 than February 23, 2018, under the Scheduling Order at 2:12 and 4:14).

20 c. The parties shall provide “opening expert reports” by **February 23, 2018**
21 (rather than October 2, 2017, under the Scheduling Order at 3:15).

22 d. The parties shall provide “responsive expert reports” by **April 27, 2018**
23 (rather than December 13, 2017, under the Scheduling Order at 3:26).

24 e. All dispositive motions shall be heard no later than **September 21, 2018**
25 (rather than April 20, 2018, under the Scheduling Order at 4:17).

26 f. The parties shall confer and file a joint pretrial conference statement by
27 **December 21, 2018** (rather than August 31, 2018, under the Scheduling Order at 6:22).

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1 g. Motions *in limine* shall be filed by **January 12, 2019** (rather than
2 September 10, 2018, under the Scheduling Order at 9:7).

3 h. Oppositions to motions *in limine* are due **January 22, 2019** (rather than
4 September 20, 2018, under the Scheduling Order at 9:8).

5 i. Replies to oppositions to motions *in limine* are due **January 29, 2019**
6 (rather than September 27, 2018, under the Scheduling Order at 9:8).

7 j. Any hearing, if needed, shall be held on or before **February 22, 2019**
8 (rather than October 5, 2018, under the Scheduling Order at 9:9).

9 k. The Final Pretrial Conference is set for **January 25, 2019** (rather than
10 September 21, 2018, under the Scheduling Order at 6:14).

11 l. Trial briefs are due by **March 29, 2019** (rather than October 15, 2018,
12 under the Scheduling Order at 9:16).

13 m. The jury trial on liability is set for **April 15, 2019** (rather than October 29,
14 2018, under the Scheduling Order at 9:15).

15 n. If the jury returns a verdict for the United States on liability against
16 defendant(s), a bench trial on the remedy phase is set for **May 20, 2019** (rather than December 3,
17 2018, under the Scheduling Order at 9:18).

18 3. In all other respects, the Scheduling Order remains in effect.

19 4. Defendants agree to provide the United States with access to the Site either from
20 September 18 to 22, 2017 or September 25 to 29, 2017 — at the United States' choosing¹ —
21 absent a material change or development in the regulatory, administrative, or judicial arenas
22 affecting the Clean Water Act standards applicable to the claims against Defendants. In the
23

24
25 ¹ The United States shall notify Defendants of its selection no later than the conclusion of the
26 remedy trial in the related *Duarte* case, which is currently scheduled to begin on August 14,
27 2017. That trial involves many of the same experts. In the event that the trial runs longer than
28 the United States currently expects (10 days) or is rescheduled for September, 2017, the United
States may substitute a period of five days in October, 2017, after meeting and conferring with
Defendants. In no event shall the date notice provided by the United States to Defendants be less
than 21 days in advance of the United States' selected inspection date.

1 event that Defendants believe that such a material change or development has occurred,
2 Defendants must provide notice, in writing, to counsel for the United States, and the parties shall
3 meet and confer. However, unless and until Defendants obtain a protective order or other
4 appropriate relief (or agreement of the parties) halting the September, 2017 inspection, the
5 United States shall have access to the Site under the timeframe stated at the outset of this
6 paragraph. The United States reserves all rights to argue that there has been no material change
7 or development; access to the Site is warranted regardless of any alleged change or development;
8 and any other argument opposing Defendants' motion for a protective order or other appropriate
9 relief.

10 5. The United States shall withdraw the protective motion to compel it filed on May
11 26, 2017 (ECF No. 45).

12 6. No fact or expert depositions may be taken in July or August, 2017, with one
13 exception: the United States will not object to a mutually agreeable date in July, 2017, for one or
14 more Defendants to take the deposition of Charley Ohm. The United States reserves all other
15 objections to any such deposition.

16 7. Parties may only file an "early" dispositive motion (e.g., a motion for summary
17 judgment or partial summary judgment filed before the dispositive motion deadline) after all
18 opening and responsive expert reports have been exchanged in accordance with the schedule of
19 dates set forth above in this stipulation, and there has been a reasonable opportunity for expert
20 depositions following the exchange those expert reports.

21
22 STIPULATED AND RESPECTFULLY SUBMITTED,

23 DATED: June 1, 2017

DOWNEY BRAND LLP

24 By: /s/ Robert P. Soran

ROBERT P. SORAN

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and FARMLAND MANAGEMENT SERVICES

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28 By: /s/ Therese Y. Cannata

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and J&J FARMS

JEFFREY H. WOOD
Acting Assistant Attorney General

By: /s/ Andrew J. Doyle
ANDREW J. DOYLE
Attorneys for Plaintiff UNITED STATES OF
AMERICA

ORDER

Upon due consideration, the Court approves and enters the foregoing stipulation and motion as an Order and amendment to the Scheduling Order (ECF No. 32).

DATED: June 6, 2017.


UNITED STATES DISTRICT JUDGE