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20 UNITED STATES DISTRICT COURT  
 21 EASTERN DISTRICT OF CALIFORNIA

23 UNITED STATES OF AMERICA,  
 Plaintiff,  
 24 v.  
 25 ROGER J. LAPANT, JR., J&J FARMS,  
 GOOSE POND AG, INC. and  
 26 FARMLAND MANAGEMENT  
 SERVICES,  
 27 Defendants.  
 28

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

**SECOND STIPULATION, MOTION, AND  
 PROPOSED ORDER TO AMEND  
 SCHEDULE**

1 On September 4, 2018 (ECF No. 84), the Court approved a stipulation presented by  
 2 Plaintiff United States of America and all of the defendants to this action (“Parties”)—the United  
 3 States of America and Roger J. LaPant, Jr., dba J&J Farms (“Mr. LaPant”), Goose Pond Ag, Inc.,  
 4 and Farmland Management Services (collectively, “Goose Pond Defendants”)—to amend the  
 5 schedule and impose a partial stay of discovery. The reason for that stipulation was a proposed  
 6 consent decree between the United States and the Goose Pond Defendants. To date, the United  
 7 States’ motion for entry of the proposed decree remains pending, and the Court recently vacated  
 8 the November 16, 2018 hearing date (ECF No. 96).

9 Given that the Court’s review of the proposed consent decree remains pending, the  
 10 parties hereby stipulate, move, and propose that the Court amend its September 4, 2018 Order as  
 11 set forth herein.

12 1. All remaining events should be rescheduled as follows:

Event	Current	Proposed
<b>All discovery completed</b>	December 21, 2018	February 15, 2019
<b>Last day to hear dispositive motions</b>	Feb. 22, 2019	April 5, 2019
<b>Joint Pretrial Statement Due</b>	May 23, 2019	June 20, 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.
<b>Final Pretrial Conference</b>	Same as above	No change; same as above
<b>Trial Brief</b>	Same as above	No change; same as above
<b>Jury Trial (Liability)</b>	Same as above	No change; same as above
<b>Bench Trial (Remedy)</b>	Same as above	No change; same as above

1           2.       The Parties have met and conferred about an “Equipment Inspection,”<sup>1</sup> and they  
2 agree that it may occur on November 27, 2018, starting at 10 a.m. at the location arranged by Mr.  
3 LaPant. No depositions may be taken between now and January 7, 2019, and all such notices  
4 and/or subpoenas that have already been issued or are forthcoming, including but not limited to  
5 notices and/or subpoenas for expert witnesses, shall be held in abeyance pending efforts to meet  
6 and confer (as discussed in the sentence that follows).<sup>2</sup> The Parties shall, no later than December  
7 14, 2018, complete their meet and confer regarding depositions, including without limitation, the  
8 date and place for each event. Depositions may again be taken starting on January 8, 2019, and  
9 continue through and including February 15, 2019, and following the Parties’ meet-and-confer  
10 referenced above, the Parties are permitted to serve additional deposition notices and/or subpoenas  
11 in accordance with the agreed-upon dates and places. Notwithstanding any other provision in this  
12 stipulation, any and all objections by or on behalf of the Parties or deponents to the notices or  
13 subpoenas described herein are reserved, and any and all unresolved objections shall be served in  
14 writing on or before December 21, 2018. Additionally, notwithstanding any other provision of this  
15 stipulation, the deadline for any motion to quash or motion for a protective order, whether filed by a  
16 Party or a deponent to the notices or subpoenas described herein shall be tolled while those notices  
17 or subpoenas are held in abeyance (as stated in the second sentence of this paragraph). The time for  
18 such motions shall be based upon the date for compliance as determined through the Parties’ meet  
19 and confer described herein and at the availability of the Court.

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21 <sup>1</sup> The term “Equipment Inspection” refers to the United States’ “First Request to LaPant to  
22 Produce Tangible Things” propounded on July 20, 2018.

23 <sup>2</sup> The foregoing sentence in the body of this stipulation refers to the following deponents about  
24 which the United States and Mr. LaPant have initially conferred: Ken Lane, Matthew Kelley,  
25 Terry Cheney, James Komar, Todd LaPant, and Roger J. LaPant, Jr. Mr. LaPant has issued  
26 notices of deposition for Messrs. Kelley and Komar, and the United States intends to issue  
27 notices of deposition or subpoenas to the remaining deponents. In addition, the foregoing  
28 sentence in the body of this stipulation refers to the following retained experts for which Mr.  
LaPant has issued notices of deposition or subpoenas: Gregory House, Peter Stokely, Scott  
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           3.       From now until the Court enters any consent decree between the United States  
2 and the Goose Pond Defendants, the Parties shall not: (a) propound or conduct any fact or expert  
3 discovery, written, oral, or otherwise, including but not limited to any depositions or any requests  
4 or subpoenas for documents, except as set forth in Paragraph 2 above and Paragraphs 4 through 6  
5 below; and (b) conduct any law and motion practice, except for discovery motions as referenced  
6 in Paragraphs 4 and 5 below; motions to further amend the schedule; and motions for leave as  
7 referenced in Paragraph 6 below.

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

- 10           a.       Interrogatories solely between the United States and Mr. LaPant;
- 11           b.       Requests for admission solely between the United States and Mr. LaPant;
- 12           c.       Requests for documents solely between the United States and Mr. LaPant; and
- 13           d.       Subpoena for documents and electronically stored information from third parties,  
14               provided that the third party is not either affiliated with the Goose Pond  
15               Defendants (i.e. current employee or affiliated business entity), is not a former  
16               employee, retained expert, or confidential consultant, and the subpoena does not  
17               otherwise seek documents that contain information in the possession or control of  
18               the subpoenaed third party, which is asserted to be privileged or protected from  
19               disclosure by the Goose Pond Defendants.<sup>3</sup>

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

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24 <sup>3</sup> To facilitate implementation of this provision, the Parties further agree that any party wishing  
25 to serve any additional deposition notices and/or subpoenas not served on opposing counsel  
26 prior to November 15, 2018, shall first provide seven days advance written notice to all other  
27 parties, prior to service of any such subpoena. No such subpoena may be served without leave  
28 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           6.       The Parties reserve their right to seek leave of Court for any appropriate relief  
 2 from or related to the restrictions on discovery set forth in this stipulation, motion, and proposed  
 3 Order upon a showing of good cause. By the same token, the Parties reserve their right to  
 4 oppose any request for relief.

5  
 6 STIPULATED AND RESPECTFULLY SUBMITTED,

7 DATED: Nov. 16, 2018

DOWNEY BRAND LLP

8 By: /s/ Robert P. Soran (authorized 11/16/2018)

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

11 CANNATA, O'TOOLE, FICKES & ALMAZAN LLP

12 By: /s/ Therese Y. Cannata (authorized 11/16/2018)

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14 JONATHAN D. BRIGHTBILL  
 15 Deputy Assistant Attorney General

16 By: /s/ Andrew J. Doyle

17 ANDREW J. DOYLE  
 Attorney  
 United States Department of Justice  
 18 Environment & Natural Resources Division  
 Attorneys for UNITED STATES OF AMERICA

19  
 20 **ORDER**

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

Event	Current	Proposed
<b>All discovery completed</b>	December 21, 2018	February 15, 2019
<b>Last day to hear dispositive motions</b>	Feb. 22, 2019	April 5, 2019
<b>Joint Pretrial Statement Due</b>	May 23, 2019 Pretrial Statement due date vacated, to be set upon resolution of dispositive motions or	To be set upon resolution of dispositive motions or at further scheduling conference.

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	at further scheduling conference.	
<b>Motions in Limine</b>	Same as above	No change; same as above
<b>Final Pretrial Conference</b>	Same as above	No change; same as above
<b>Trial Brief</b>	Same as above	No change; same as above
<b>Jury Trial (Liability)</b>	Same as above	No change; same as above
<b>Bench Trial (Remedy)</b>	Same as above	No change; same as above

In all other respects, the Court's prior Status and Scheduling Orders remain in effect.

DATED: November 26, 2018.

  
UNITED STATES DISTRICT JUDGE