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11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA

13
 14 JESUS SILVA RODRIGUEZ and
 RIGOBERTO ZEPEDA LOA,

15 Plaintiffs,

16 v.

17 RCO REFORESTING, INC. and
 18 ROBERTO OCHOA,

19 Defendants.

Case No. 2:16-cv-02523-WBS-CMK

**STIPULATION AND PROTECTIVE
 ORDER REGARDING USE AND
 DISCLOSURE OF DISCOVERY
 MATERIALS**

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1 Plaintiffs Jesus Silva Rodriguez and Rigoberto Zepeda Loa (collectively, the “Plaintiffs”)
2 and Defendants R.C.O. Reforesting, Inc. and Roberto Ochoa (collectively, the “Defendants”)
3 (Plaintiffs and Defendants are collectively referred to herein as the “Parties”) respectfully submit
4 the following proposed Stipulated Protective Order for the Court’s consideration in the above-
5 referenced matter so as to protect and preserve certain confidential and proprietary information that
6 may be produced or disclosed by the Parties in this action.

7 WHEREAS, the Parties in the action pending in the United States District Court for the
8 Eastern District of California entitled *Rodriguez, et al. v. R.C.O. Reforesting, Inc., et al.*, Case No.
9 2:16-cv-02523-PSG-PJW (the “Litigation” or the “Action”) anticipate that, during the course of the
10 Action, documents and/or information of a sensitive, private, confidential, and/or proprietary
11 nature may be produced in the course of discovery or otherwise disclosed or provided in the
12 Action;

13 WHEREAS, Plaintiffs specifically have requested that Defendants produce their financial
14 statements, business contracts, and other confidential financial information purportedly relevant to
15 their claims in this Litigation;

16 WHEREAS, the Parties wish to protect the confidentiality of certain documents and
17 information that may constitute proprietary and sensitive business or personal information;

18 THEREFORE, the Parties hereby stipulate and agree to the following proposed Stipulated
19 Protective Order.

20 1. PURPOSES AND LIMITATIONS

21 Disclosure and discovery activity in this action are likely to involve production of
22 confidential, proprietary, or private information for which special protection from public disclosure
23 and from use for any purpose other than prosecuting this litigation may be warranted.
24 Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated
25 Protective Order. The parties acknowledge that this Order does not confer blanket protections on
26 all disclosures or responses to discovery and that the protection it affords from public disclosure
27 and use extends only to the limited information or items that are entitled to confidential treatment
28 under the applicable legal principles. The parties further acknowledge, as set forth in Section 14.4,

1 below, that this Stipulated Protective Order does not entitle them to file confidential information
2 under seal; Civil Local Rule 141 sets forth the procedures that must be followed and the standards
3 that will be applied when a party seeks permission from the court to file material under seal.

4 2. DEFINITIONS

5 2.1 Challenging Party: A Party or Non-Party that challenges the designation of
6 information or items under this Order.

7 2.2 “CONFIDENTIAL” Information or Items: Information (regardless of how it is
8 generated, stored or maintained) or tangible things that if released would disclose private
9 information regarding the social security number, tax identification number, income tax and/or
10 social security withholdings, tax returns, unemployment insurance filings, or information of a
11 similar nature related to plaintiffs, other aggrieved employees, or defendants or their employees; or
12 would reveal sensitive, proprietary business information or a trade secret that would qualify for
13 protection under Federal Rule of Civil Procedure 26(c).

14 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as
15 well as their support staff).

16 2.5 Designating Party: A Party or Non-Party that designates information or items that it
17 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
18 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

19 2.6 Disclosure or Discovery Material: All items or information, regardless of the
20 medium or manner in which it is generated, stored, or maintained (including, among other things,
21 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
22 responses to discovery in this matter.

23 2.7 Expert: A person with specialized knowledge or experience in a matter pertinent to
24 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as
25 a consultant in this action, (2) is not a past or current employee of a Party or of a Party’s
26 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party or
27 of a Party’s competitor.
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1 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or
2 Items: Extremely sensitive “Confidential Information or Items,” disclosure of which to another
3 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less
4 restrictive means.

5 2.10 House Counsel: Attorneys who are employees of a party to this action. House
6 Counsel does not include Outside Counsel of Record or any other outside counsel.

7 2.11 Non-Party: Any natural person, partnership, corporation, association, or other legal
8 entity not named as a Party to this action.

9 2.12 Outside Counsel of Record: Attorneys who are not employees of a party to this
10 action but are retained to represent or advise a party to this action and have appeared in this action
11 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

12 2.13 Party: Any party to this action, including all of its officers, directors, employees,
13 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

14 2.14 Producing Party: A Party or Non-Party that produces Disclosure or Discovery
15 Material in this action.

16 2.15 Professional Vendors: Persons or entities that provide litigation support services
17 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
18 storing, or retrieving data in any form or medium) and their employees and subcontractors.

19 2.16 Protected Material: Any Disclosure or Discovery Material that is designated as
20 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

21 2.17 Receiving Party: A Party that receives Disclosure or Discovery Material from a
22 Producing Party.

23 3. SCOPE

24 The protections conferred by this Stipulation and Order cover not only Protected Material
25 (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all
26 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
27 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
28 However, the protections conferred by this Stipulation and Order do not cover the following

1 information: (a) any information that is in the public domain at the time of disclosure to a
2 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a
3 result of publication not involving a violation of this Order, including becoming part of the public
4 record through trial or otherwise; and (b) any information known to the Receiving Party prior to the
5 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the
6 information lawfully and under no obligation of confidentiality to the Designating Party. Any use
7 of Protected Material at trial shall be governed by a separate agreement or order.

8 4. DURATION

9 Even after final disposition of this litigation, the confidentiality obligations imposed by this
10 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
11 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims
12 and defenses in this action, with or without prejudice; and (2) final judgment herein after the
13 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
14 including the time limits for filing any motions or applications for extension of time pursuant to
15 applicable law.

16 5. DESIGNATING PROTECTED MATERIAL

17 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party
18 or Non-Party that designates information or items for protection under this Order must take care to
19 limit any such designation to specific material that qualifies under the appropriate standards. To
20 the extent it is practical to do so, the Designating Party must designate for protection only those
21 parts of material, documents, items, or oral or written communications that qualify – so that other
22 portions of the material, documents, items, or communications for which protection is not
23 warranted are not swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or
24 routinized designations are prohibited. Designations that are shown to be clearly unjustified or that
25 have been made for an improper purpose (e.g., to unnecessarily encumber or retard the case
26 development process or to impose unnecessary expenses and burdens on other parties) expose the
27 Designating Party to sanctions. If it comes to a Designating Party's attention that information or
28 items that it designated for protection do not qualify for protection at all or do not qualify for the

1 level of protection initially asserted, that Designating Party must promptly notify all other parties
2 that it is withdrawing the mistaken designation.

3 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
4 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
5 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
6 designated before the material is disclosed or produced. Designation in conformity with this Order
7 requires:

8 (a) For information in documentary form (e.g., paper or electronic documents,
9 but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing
10 Party affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
11 EYES ONLY” to each page that contains protected material. If only a portion or portions of the
12 material on a page qualifies for protection, the Producing Party also must clearly identify the
13 protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for
14 each portion, the level of protection being asserted. A Party or Non-Party that makes original
15 documents or materials available for inspection need not designate them for protection until after
16 the inspecting Party has indicated which material it would like copied and produced. During the
17 inspection and before the designation, all of the material made available for inspection shall be
18 deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party
19 has identified the documents it wants copied and produced, the Producing Party must determine
20 which documents, or portions thereof, qualify for protection under this Order. Then, before
21 producing the specified documents, the Producing Party must affix the appropriate legend
22 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each
23 page that contains Protected Material. If only a portion or portions of the material on a page
24 qualifies for protection, the Producing Party also must clearly identify the protected portion(s)
25 (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level
26 of protection being asserted.

27 (b) For testimony given in deposition or in other pretrial or trial proceedings,
28 that the Designating Party identify on the record, before the close of the deposition, hearing, or

1 other proceeding, all protected testimony and specify the level of protection being asserted. When
2 it is impractical to identify separately each portion of testimony that is entitled to protection and it
3 appears that substantial portions of the testimony may qualify for protection, the Designating Party
4 may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right
5 to have up to 21 days to identify the specific portions of the testimony as to which protection is
6 sought and to specify the level of protection being asserted. Only those portions of the testimony
7 that are appropriately designated for protection within the 21 days shall be covered by the
8 provisions of this Stipulated Protective Order. Alternatively, a Designating Party may specify, at
9 the deposition or up to 21 days afterwards if that period is properly invoked, that the entire
10 transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
11 ATTORNEYS’ EYES ONLY.”

12 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or
13 other proceeding to include Protected Material so that the other parties can ensure that only
14 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
15 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition
16 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
17 – ATTORNEYS’ EYES ONLY.”

18 Transcripts containing Protected Material shall have an obvious legend on the title page that
19 the transcript contains Protected Material, and the title page shall be followed by a list of all pages
20 (including line numbers as appropriate) that have been designated as Protected Material and the
21 level of protection being asserted by the Designating Party. The Designating Party shall inform the
22 court reporter of these requirements. Any transcript that is prepared before the expiration of a 21-
23 day period for designation shall be treated during that period as if it had been designated “HIGHLY
24 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After
25 the expiration of that period, the transcript shall be treated only as actually designated.

26 (c) For information produced in some form other than documentary and for any
27 other tangible items, that the Producing Party affix in a prominent place on the exterior of the
28 container or containers in which the information or item is stored the legend “CONFIDENTIAL”

1 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY. If only a portion or portions of
2 the information or item warrant protection, the Producing Party, to the extent practicable, shall
3 identify the protected portion(s) and specify the level of protection being asserted.

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5 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
6 designate qualified information or items does not, standing alone, waive the Designating Party’s
7 right to secure protection under this Order for such material. Upon timely correction of a
8 designation, the Receiving Party must make reasonable efforts to assure that the material is treated
9 in accordance with the provisions of this Order.

10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
12 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality
13 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
14 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
15 challenge a confidentiality designation by electing not to mount a challenge promptly after the
16 original designation is disclosed.

17 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
18 by providing written notice of each designation it is challenging and describing the basis for each
19 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
20 recite that the challenge to confidentiality is being made in accordance with this specific paragraph
21 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must
22 begin the process by conferring directly (in voice to voice dialogue; other forms of communication
23 are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging
24 Party must explain the basis for its belief that the confidentiality designation was not proper and
25 must give the Designating Party an opportunity to review the designated material, to reconsider the
26 circumstances, and, if no change in designation is offered, to explain the basis for the chosen
27 designation. A Challenging Party may proceed to the next stage of the challenge process only if it
28 has engaged in this meet and confer process first or establishes that the Designating Party is

1 unwilling to participate in the meet and confer process in a timely manner.

2 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
3 intervention, the Designating Party shall file and serve a motion to retain confidentiality under
4 Local Rule 141.1 within 21 days of the initial notice of challenge or within 14 days of the parties
5 agreeing that the meet and confer process will not resolve their dispute, whichever is earlier. Each
6 such motion must be accompanied by a competent declaration affirming that the movant has
7 complied with the meet and confer requirements imposed in the preceding paragraph. Failure by
8 the Designating Party to make such a motion including the required declaration within 21 days (or
9 14 days, if applicable) shall automatically waive the confidentiality designation for each challenged
10 designation. In addition, the Challenging Party may file a motion challenging a confidentiality
11 designation at any time if there is good cause for doing so, including a challenge to the designation
12 of a deposition transcript or any portions thereof. Any motion brought pursuant to this provision
13 must be accompanied by a competent declaration affirming that the movant has complied with the
14 meet and confer requirements imposed by the preceding paragraph.

15 The burden of persuasion in any such challenge proceeding shall be on the Designating
16 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose
17 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.
18 Unless the Designating Party has waived the confidentiality designation by failing to file a motion
19 to retain confidentiality as described above, all parties shall continue to afford the material in
20 question the level of protection to which it is entitled under the Producing Party's designation until
21 the court rules on the challenge.

22 7. ACCESS TO AND USE OF PROTECTED MATERIAL

23 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
24 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
25 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
26 the categories of persons and under the conditions described in this Order. When the litigation has
27 been terminated, a Receiving Party must comply with the provisions of section 15 below (FINAL
28 DISPOSITION). Protected Material must be stored and maintained by a Receiving Party at a

1 location and in a secure manner that ensures that access is limited to the persons authorized under
2 this Order.

3 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
4 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
5 information or item designated “CONFIDENTIAL” only to:

6 (a) The Receiving Party’s Outside Counsel of Record in this action, as well as
7 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
8 information for this litigation and who have signed the “Acknowledgment and Agreement to Be
9 Bound” that is attached hereto as Exhibit A;

10 (b) The officers, directors, and employees (including House Counsel) of the
11 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed
12 the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure
14 is reasonably necessary for this litigation and who have signed the “Acknowledgment and
15 Agreement to Be Bound” (Exhibit A);

16 (d) The court, including mediation and arbitrational services, and its personnel;

17 (e) Court reporters and their staff, professional jury or trial consultants, and
18 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
19 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

20 (f) During their depositions, witnesses in the action to whom disclosure is
21 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
22 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of
23 transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be
24 separately bound by the court reporter and may not be disclosed to anyone except as permitted
25 under this Stipulated Protective Order.

26 (g) The author or recipient of a document containing the information or a
27 custodian or other person who otherwise possessed or knew the information.
28

1 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
2 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
3 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY
4 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

5 (a) The Receiving Party’s Outside Counsel of Record in this action, as well as
6 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
7 information for this litigation and who have signed the “Acknowledgment and Agreement to Be
8 Bound” that is attached hereto as Exhibit A;

9 (b) Designated House Counsel of the Receiving Party (1) who has no
10 involvement in competitive decision-making, (2) to whom disclosure is reasonably necessary for
11 this litigation, (3) who has signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
12 and (4) as to whom the procedures set forth in paragraph 7.4(a)(1), below, have been followed.

13 (c) Experts of the Receiving Party (1) to whom disclosure is reasonably
14 necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be
15 Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below,
16 have been followed];

17 (d) The court, including any mediation or arbitration service, and its personnel;

18 (e) Court reporters and their staff, professional jury or trial consultants, and
19 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

21 (f) The author or recipient of a document containing the information or a
22 custodian or other person who otherwise possessed or knew the information.

23 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
24 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.

25 (a)(1) Unless otherwise ordered by the court or agreed to in writing by the
26 Designating Party, a Party that seeks to disclose to Designated House Counsel any information or
27 item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
28 pursuant to paragraph 7.3(b) first must make a written request to the Designating Party that (1) sets

1 forth the full name of the Designated House Counsel and the city and state of his or her residence,
2 and (2) describes the Designated House Counsel's current and reasonably foreseeable future
3 primary job duties and responsibilities in sufficient detail to determine if House Counsel is
4 involved, or may become involved, in any competitive decision-making.

5 (a)(2) Unless otherwise ordered by the court or agreed to in writing by the
6 Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any
7 information or item that has been designated "HIGHLY CONFIDENTIAL – ATTORNEYS'
8 EYES ONLY" pursuant to paragraph 7.3(c) first must make a written request to the Designating
9 Party that (1) identifies the general categories of "HIGHLY CONFIDENTIAL – ATTORNEYS'
10 EYES ONLY" information that the Receiving Party seeks permission to disclose to the Expert, (2)
11 sets forth the full name of the Expert and the city and state of his or her primary residence, (3)
12 attaches a copy of the Expert's current resume, (4) identifies the Expert's current employer(s), (5)
13 identifies each person or entity from whom the Expert has received compensation or funding for
14 work in his or her areas of expertise or to whom the expert has provided professional services,
15 including in connection with a litigation, at any time during the preceding five years, and (6)
16 identifies (by name and number of the case, filing date, and location of court) any litigation in
17 connection with which the Expert has offered expert testimony, including through a declaration,
18 report, or testimony at a deposition or trial, during the preceding five years.

19 (b) A Party that makes a request and provides the information specified in the
20 preceding respective paragraphs may disclose the subject Protected Material to the identified
21 Designated House Counsel or Expert unless, within 14 days of delivering the request, the Party
22 receives a written objection from the Designating Party. Any such objection must set forth in
23 detail the grounds on which it is based.

24 (c) A Party that receives a timely written objection must meet and confer with
25 the Designating Party (through direct voice to voice dialogue) to try to resolve the matter by
26 agreement within seven days of the written objection. If no agreement is reached, the Party seeking
27 to make the disclosure to Designated House Counsel or the Expert may file a motion as provided in
28 Local Rule 141.1 seeking permission from the court to do so. Any such motion must describe the

1 circumstances with specificity, set forth in detail the reasons why the disclosure to Designated
2 House Counsel or the Expert is reasonably necessary, assess the risk of harm that the disclosure
3 would entail, and suggest any additional means that could be used to reduce that risk. In addition,
4 any such motion must be accompanied by a competent declaration describing the parties' efforts to
5 resolve the matter by agreement (i.e., the extent and the content of the meet and confer discussions)
6 and setting forth the reasons advanced by the Designating Party for its refusal to approve the
7 disclosure. In any such proceeding, the Party opposing disclosure to Designated House Counsel or
8 the Expert shall bear the burden of proving that the risk of harm that the disclosure would entail
9 (under the safeguards proposed) outweighs the Receiving Party's need to disclose the Protected
10 Material to its Designated House Counsel or Expert.

11 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
12 LITIGATION

13 If a Party is served with a subpoena or a court order issued in other litigation that
14 compels disclosure of any information or items designated in this action as "CONFIDENTIAL" or
15 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party must:

16 (a) Promptly notify in writing the Designating Party. Such notification shall
17 include a copy of the subpoena or court order;

18 (b) Promptly notify in writing the party who caused the subpoena or order to
19 issue in the other litigation that some or all of the material covered by the subpoena or order is
20 subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective
21 Order; and

22 (c) Cooperate with respect to all reasonable procedures sought to be pursued by
23 the Designating Party whose Protected Material may be affected.

24 If the Designating Party timely seeks a protective order, the Party served with the
25 subpoena or court order shall not produce any information designated in this action as
26 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a
27 determination by the court from which the subpoena or order issued, unless the Party has obtained
28 the Designating Party's permission. The Designating Party shall bear the burden and expense of

1 seeking protection in that court of its confidential material, and nothing in these provisions should
2 be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful
3 directive from another court.

4 11. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
5 LITIGATION

6 (a) The terms of this Order are applicable to information produced by a Non-
7 Party in this action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
8 ATTORNEYS' EYES ONLY." Such information produced by Non-Parties in connection with this
9 litigation is protected by the remedies and relief provided by this Order. Nothing in these
10 provisions should be construed as prohibiting a Non-Party from seeking additional protections.

11 (b) In the event that a Party is required, by a valid discovery request, to produce
12 a Non-Party's confidential information in its possession, and the Party is subject to an agreement
13 with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

14 1. Promptly notify in writing the Requesting Party and the Non-Party
15 that some or all of the information requested is subject to a confidentiality agreement with a Non-
16 Party;

17 2. Promptly provide the Non-Party with a copy of the Stipulated
18 Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific
19 description of the information requested; and

20 3. Make the information requested available for inspection by the Non-
21 Party.

22 (c) If the Non-Party fails to object or seek a protective order from this court
23 within 14 days of receiving the notice and accompanying information, the Receiving Party may
24 produce the Non-Party's confidential information responsive to the discovery request. If the Non-
25 Party timely seeks a protective order, the Receiving Party shall not produce any information in its
26 possession or control that is subject to the confidentiality agreement with the Non-Party before a
27 determination by the court. Absent a court order to the contrary, the Non-Party shall bear the
28 burden and expense of seeking protection in this court of its Protected Material.

12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

1 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
2 Protected Material to any person or in any circumstance not authorized under this Stipulated
3 Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party
4 of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
5 Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made
6 of all the terms of this Order, and (d) request such person or persons to execute the
7 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

8 13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
9 MATERIAL

10 When a Producing Party gives notice to Receiving Parties that certain inadvertently
11 produced material is subject to a claim of privilege or other protection, the obligations of the
12 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
13 provision is not intended to modify whatever procedure may be established in an e-discovery order
14 that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence
15 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a
16 communication or information covered by the attorney-client privilege or work product protection,
17 the parties may incorporate their agreement in the stipulated protective order submitted to the
18 court.

19 14. MISCELLANEOUS

20 14.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
21 seek its modification by the court in the future.

22 14.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
23 Order, no Party waives any right it otherwise would have to object to disclosing or producing any
24 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
25 Party waives any right to object on any ground to use in evidence of any of the material covered by
26 this Protective Order.

27 14.3 Filing Protected Material. Without written permission from the Designating Party
28 or a court order secured after appropriate notice to all interested persons, a Party may not file in the

1 public record in this action any Protected Material. A Party that seeks to file under seal any
2 Protected Material must comply with Local Rule 141. Protected Material may only be filed under
3 seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue.
4 Pursuant to Local Rule 141, a sealing order will issue only upon a request establishing that the
5 Protected Material at issue is privileged, protectable as a trade secret, or otherwise entitled to
6 protection under the law. If a Receiving Party's request to file Protected Material under seal
7 pursuant to Local Rule 141 is denied by the court, then the Receiving Party may file the Protected
8 Material in the public record pursuant to court rules unless otherwise instructed by the court.

9 15. FINAL DISPOSITION

10 Within 60 days after the final disposition of this action, as defined in paragraph 4,
11 each Receiving Party must return all Protected Material to the Producing Party or destroy such
12 material. As used in this subdivision, "all Protected Material" includes all copies, abstracts,
13 compilations, summaries, and any other format reproducing or capturing any of the Protected
14 Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit
15 a written certification to the Producing Party (and, if not the same person or entity, to the
16 Designating Party) by the 60-day deadline that (1) identifies (by category, where appropriate) all
17 the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has
18 not retained any copies, abstracts, compilations, summaries or any other format reproducing or
19 capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to
20 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
21 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work
22 product, and consultant and expert work product, even if such materials contain Protected Material.
23 Any such archival copies that contain or constitute Protected Material remain subject to this
24 Protective Order as set forth in Section 4 (DURATION).

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD HEREIN.

Dated: February ____, 2018

Respectfully submitted,

By: _____

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Attorneys for Plaintiffs

Dated: February ____, 2018

Respectfully submitted,

By: _____

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Attorneys for Defendants

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February 13, 2018



CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [full name], of
5 _____ [full address], declare under penalty
6 of perjury that I have read in its entirety and understand the Stipulated Protective Order that was
7 issued by the United States District Court for the Eastern District of California on _____,2018
8 in the case of *Rodriguez, et al. v. R.C.O. Reforesting, Inc., et al.* U.S. District Court for the Eastern
9 District of California Case No. 2:16-cv-02523-WBS-CMK. I agree to comply with and to be
10 bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that
11 failure to so comply could expose me to sanctions and punishment in the nature of contempt. I
12 solemnly promise that I will not disclose in any manner any information or item that is subject to
13 this Stipulated Protective Order to any person or entity except in strict compliance with the
14 provisions of this Order. I further agree to submit to the jurisdiction of the United States District
15 Court for the Eastern District of California for the purpose of enforcing the terms of this Stipulated
16 Protective Order, even if such enforcement proceedings occur after termination of this action. I
17 hereby designate and appoint _____ [full
18 name] of _____ [address/telephone
19 number] as my California agent for service of process in connection with this action or any
20 proceedings related to enforcement of this Stipulated Protective Order.

21 Date: _____

22
23 City and State where sworn and signed: _____

24
25 Printed name: _____

26
27 Signature: _____

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