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12 UNITED STATES DISTRICT COURT

13 FOR THE EASTERN DISTRICT OF CALIFORNIA

14
15 UNITED STATES OF AMERICA,

No.

16 Plaintiff,

17 v.

COMPLAINT

18
19 ROGER J. LAPANT, JR.; J&J
FARMS; GOOSE POND AG, INC.;
20 and FARMLAND MANAGEMENT
SERVICES,

21 Defendants.
22

23 The United States of America ("United States"), through its
24 undersigned attorneys, by the authority of the Attorney General,
25 and at the request of the Secretary of the Army acting through
26 the United States Army Corps of Engineers ("Corps"), alleges as
27 follows:
28

NATURE OF THE ACTION

1
2 1. This is a civil enforcement action commenced under
3 sections 309 and 404 of the Clean Water Act ("CWA"), 33 U.S.C.
4 §§ 1319 and 1344, against four persons (an individual and three
5 corporations) for discharging pollutants into waters of the
6 United States in Tehama County, California without authorization,
7 in violation of CWA section 301(a), 33 U.S.C. § 1311(a).

8 2. The United States seeks: (a) injunctive relief
9 prohibiting these persons from further unauthorized discharges;
10 (b) injunctive relief compelling these persons to restore and
11 mitigate the impacts of the unauthorized discharges; (c) civil
12 penalties in favor of the United States and against these
13 persons; and (d) such other relief as the Court may deem
14 appropriate.

15 3. The United States has provided notice of the
16 commencement of this action to the State of California pursuant
17 to 33 U.S.C. § 1319(b).

JURISDICTION AND VENUE

18
19 4. This Court has jurisdiction over the subject matter of
20 this action pursuant to section 309(b) of the CWA, 33 U.S.C.
21 § 1319(b), and 28 U.S.C. §§ 1331 and 1345.

22 5. Venue is proper in the United States District Court for
23 the Eastern District of California pursuant to 33 U.S.C.
24 § 1319(b) and 28 U.S.C. § 1391(b) and (c) because these four
25 persons reside or conduct business in this District; the waters
26 of the United States into which pollutants were discharged are
27 located in this District; and the events giving rise to these
28 claims occurred in this District.

PARTIES

1
2 6. Plaintiff is the United States of America, and
3 authority to bring this action is vested in the United States
4 Department of Justice pursuant to Section 506 of the CWA, 33
5 U.S.C. § 1366, and 28 U.S.C. §§ 516 and 519.

6 7. Defendants are Roger J. LaPant, Jr.; J&J Farms; Goose
7 Pond Ag, Inc.; and Farmland Management Services.

8 8. Roger J. LaPant, Jr. is an individual residing at 147
9 Shippee Road, Oroville, California 95965, or 9032 Goodspeed St.,
10 Durham, CA 95938.

11 9. Upon information and belief, J&J Farms is a privately
12 held company, incorporated in the State of California, with a
13 business address of 147 Shippee Road, Oroville, California 95965,
14 or 9032 Goodspeed St., Durham, CA 95938.

15 10. Roger J. LaPant, Jr. owns, controls, or occasionally
16 does business as J&J Farms.

17 11. Goose Pond Ag, Inc. is a corporation registered in the
18 State of Florida with a principal place of business at 99 High
19 Street, 26th Floor, Boston, MA 02110.

20 12. Farmland Management Services is a corporation
21 registered in the State of California with a business address of
22 301 East Main Street, Turlock, CA 95380.

23 13. Defendants at this time do not include other persons
24 such as Todd LaPant, LaPant Farms LLC, Carl Evers, Jr., David
25 Evers, Oliver Williams, Hancock Agricultural Investment Group,
26 and Hancock Farmland Services, but the United States may seek to
27 amend this complaint as appropriate based on information obtained
28 during discovery regarding other persons' involvement with or

1 responsibility for the CWA violations alleged in this complaint.

2 **STATUTORY AND REGULATORY BACKGROUND**

3 14. Section 101(a) of the CWA, 33 U.S.C. § 1251(a),
4 provides that "[t]he objective of this chapter is to restore and
5 maintain the chemical, physical, and biological integrity of the
6 Nation's waters."

7 15. Section 301(a) of the CWA, 33 U.S.C. § 1311(a),
8 prohibits the "discharge of any pollutant by any person" except,
9 *inter alia*, in compliance with a permit issued by the Corps
10 pursuant to section 404 of the CWA, 33 U.S.C. § 1344.

11 16. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines
12 "person" to include, *inter alia*, an "individual" and a
13 "corporation."

14 17. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines
15 "pollutant" to include, *inter alia*, "dredged spoil," "biological
16 materials," "rock," "sand," and "cellar dirt."

17 18. Section 502(12) of the CWA, 33 U.S.C. § 1362(12),
18 defines "discharge of a pollutant" as "any addition of any
19 pollutant to navigable waters from any point source."

20 19. Section 502(14) of the CWA, 33 U.S.C. § 1362(14),
21 defines "point source" to include "any discernible, confined and
22 discrete conveyance . . . from which pollutants are or may be
23 discharged."

24 20. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines
25 "navigable waters" as "the waters of the United States, including
26 the territorial seas."

27 21. 33 C.F.R. § 328.3(a)(1), (5) and (7), at all times
28 relevant to the CWA violations alleged in this complaint, define

1 "waters of the United States" to include, *inter alia*: all waters
2 that are currently used, were used in the past, or may be
3 susceptible for use in interstate or foreign commerce
4 ("traditional navigable waters"); tributaries of traditional
5 navigable waters; and wetlands adjacent to traditional navigable
6 waters or their tributaries.¹

7 22. 33 C.F.R. § 328.3(b) defines "wetlands" as "those areas
8 that are inundated or saturated by surface or ground water at a
9 frequency and duration sufficient to support, and that under
10 normal circumstances do support, a prevalence of vegetation
11 typically adapted for life in saturated soil conditions."

12 23. 33 C.F.R. § 328.3(c), at all times relevant to the CWA
13 violations alleged in this complaint, defines "adjacent" as
14 "bordering, contiguous, or neighboring." It further provides:
15 "Wetlands separated from other waters of the United States by
16 man-made dikes or barriers, natural river berms, beach dunes and
17 the like are 'adjacent wetlands.'"²

18 24. Section 309(b) of the CWA, 33 U.S.C. § 1319(b),
19 authorizes the commencement of a civil action for appropriate
20 relief, including a permanent injunction, against any person who,
21 *inter alia*, violates 33 U.S.C. § 1311(a) by discharging dredged
22 or fill material without obtaining and complying with a permit
23 issued by the Corps pursuant to 33 U.S.C. § 1344.

24
25 ¹ This regulation has since been amended by the "Clean Water
26 Rule," 80 Fed. Reg. 37,054 (June 29, 2015), but the activities in
27 question occurred before the effective date of the Clean Water
28 Rule. The Clean Water Rule has been stayed pending resolution of
claims that it is arbitrary, capricious, and contrary to law.
See In re EPA, 803 F.3d 804 (6th Cir. 2015).

² *See supra* n.1.

1 34. For shorthand purposes, this complaint refers to the
2 real property referenced in paragraphs 30-33 above as "the Site."

3 35. On or about March 22, 2011, Defendant Roger J. LaPant,
4 Jr. acquired ownership of the Site (as well as additional real
5 property comprising approximately 450 acres immediately to the
6 south of the main stem of Coyote Creek).

7 36. During Defendant Roger J. LaPant, Jr.'s ownership of
8 the Site, he and/or Defendant J&J Farms contracted and
9 corresponded with at least one environmental consultant,
10 NorthStar Environmental, regarding the Site and its aquatic
11 features.

12 37. On or about March 23, 2012, Duarte Nursery, Inc.
13 acquired ownership of the Site (as well as additional real
14 property comprising approximately 450 acres immediately to the
15 south of the main stem of Coyote Creek).

16 38. On or about October 29, 2012, Defendant Goose Pond Ag,
17 Inc. acquired ownership of the Site (without acquiring ownership
18 of the 450 acres immediately to the south of the main stem of
19 Coyote Creek; Duarte Nursery, Inc. continues to own that real
20 property).

21 39. Defendant Farmland Management Services is the land
22 manager for Defendant Goose Pond Ag, Inc.

23 **The Sacramento River, Coyote Creek, and Oat Creek**

24 40. From its headwaters in the Klamath Mountains, the
25 Sacramento River flows generally south for approximately 445
26 miles before it reaches the Sacramento-San Joaquin River Delta,
27 San Francisco Bay, and the Pacific Ocean.

28 41. The Sacramento River is the longest river in

1 California.

2 42. The Sacramento River's watershed is approximately
3 27,500 square miles.

4 43. The Sacramento River is currently used for interstate
5 commerce.

6 44. The Sacramento River was used in the past for
7 interstate commerce.

8 45. The Sacramento River is susceptible for use in
9 interstate commerce.

10 46. The Sacramento River is navigable in fact from, at
11 least, Tehama County to and including the Pacific Ocean.

12 47. Among the biota that depend on the Sacramento River are
13 "anadromous" salmon, steelhead, and other fish that are hatched
14 in freshwater, spend most of their life in oceanic waters, and
15 return to freshwater to spawn.

16 48. Anadromous fish also depend on streams that contribute
17 flow to the Sacramento River.

18 49. One such stream is Coyote Creek, the main stem of which
19 forms the southern boundary of the Site.

20 50. Coyote Creek carries water.

21 51. Coyote Creek has a bed and bank.

22 52. Coyote Creek originates generally west of the Site.

23 53. The direction of the flow of water in Coyote Creek is
24 generally from west to east.

25 54. Coyote Creek's watershed, or the area from which it
26 receives water, exceeds 16,000 acres.

27 55. Downstream (east) of the Site, Coyote Creek joins Oat
28 Creek.

1 56. Oat Creek carries water.

2 57. Oat Creek has a bed and bank.

3 58. The direction of the flow of water in Oat Creek is
4 generally from west to east.

5 59. Oat Creek's watershed, at its junction with Coyote
6 Creek, exceeds 22,000 acres.

7 60. Downstream (east) of Coyote Creek's confluence with Oat
8 Creek, Oat Creek joins the Sacramento River.

9 61. Coyote Creek and Oat Creek contribute flow to the
10 Sacramento River.

11 62. The Sacramento River, Coyote Creek, and Oat Creek are
12 critical habitat for, *inter alia*, two threatened species:
13 Central Valley Spring Run Chinook Salmon (*Oncorhynchus*
14 *tshawytscha*) and Central Valley Steelhead (*Oncorhynchus mykiss*).
15 50 C.F.R. § 223.102(c)(4) and (17); *id.* § 226.211(k) and (l).
16 The Endangered Species Act ("ESA") defines "critical habitat" for
17 a threatened or endangered species, in pertinent part, as "the
18 specific areas within the geographical area occupied by the
19 species, at the time it is listed in accordance with the
20 provisions of section 1533 of this title, on which are found
21 those physical or biological features (I) essential to the
22 conservation of the species and (II) which may require special
23 management considerations or protections"; and "specific areas
24 outside the geographical area occupied by the species at the time
25 it is listed in accordance with the provisions of section 1533 of
26 this title, upon a determination by the Secretary that such areas
27 are essential for the conservation of the species." 16 U.S.C.
28 § 1532(5)(A)(i), (ii). The ESA defines "endangered species" in

1 pertinent part as "any species which is in danger of extinction
2 throughout all or a significant portion of its range." *Id.*
3 § 1532(6). The ESA defines "threatened species" as "any species
4 which is likely to become an endangered species within the
5 foreseeable future throughout all or a significant portion of its
6 range." *Id.* § 1532(20). The ESA defines "species" to include
7 "subspecies" and certain "distinct population segment[s]." *Id.*
8 § 1532(16).

9 63. Central Valley Spring Run Chinook Salmon and Central
10 Valley Steelhead are anadromous fish.

11 64. Critical habitat for Central Valley Spring Run Chinook
12 Salmon extends upstream (west) from the confluence of Oat Creek
13 with the Sacramento River to the following location in Coyote
14 Creek: Latitude 40.0929°, Longitude -122.1621°. 50 C.F.R.
15 § 226.211(k)(1)(ii).

16 65. Critical habitat for Central Valley Steelhead extends
17 upstream (west) from the confluence of Oat Creek with the
18 Sacramento River to the following location in Oat Creek:
19 Latitude 40.0769°, Longitude -122.2168°. 50 C.F.R.
20 § 226.211(l)(1)(ii).

21 66. The Site is upstream (west) of critical habitat for
22 Central Valley Spring Run Chinook Salmon and Central Valley
23 Steelhead.

24 67. Alteration in the timing and volume of water flows and
25 sediment transport delivered from the Coyote Creek ecosystem to
26 Oat Creek and then to the Sacramento River will alter conditions
27 in the Sacramento River for maintaining water quality and
28 navigation.

1 68. Alteration in the timing and volume of water flows and
2 sediment transport delivered from the Coyote Creek ecosystem to
3 Oat Creek and then to the Sacramento River will alter conditions
4 in the Sacramento River for maintaining suitable habitat for
5 support of several classes of aquatic faunal species such as
6 macroinvertebrate communities (food webs for fish) and adult and
7 juvenile fishes.

8 69. Exhibit 1 to this complaint is a map that fairly and
9 accurately depicts the flow path from the main stem of Coyote
10 Creek at the Site to the Sacramento River.

11 **Branches of Coyote Creek**

12 70. In addition to being bordered by the main stem of
13 Coyote Creek, the interior of the Site contains -- or contained
14 prior to the CWA violations alleged in this complaint -- streams.

15 71. These streams carry -- or carried prior to the CWA
16 violations alleged in this complaint -- water.

17 72. These streams have -- or had prior to the CWA
18 violations alleged in this complaint -- beds and banks.

19 73. The direction of the flow of water in these streams is
20 -- or was prior to the CWA violations alleged in this complaint
21 -- generally from west to east, north to south, or northwest to
22 southeast.

23 74. These streams contribute -- or contributed prior to the
24 CWA violations alleged in this complaint -- flow to the main stem
25 of Coyote Creek.

26 75. These streams function -- or functioned prior to the
27 CWA violations alleged in this complaint -- as branches of Coyote
28 Creek.

1 **Adjacent Wetlands**

2 76. In addition to streams, the interior of the Site
3 contains -- or contained prior to the CWA violations alleged in
4 this complaint -- other aquatic features.

5 77. These aquatic features include -- or included prior to
6 the CWA violations alleged in this complaint -- vernal pools and
7 swales.

8 78. These aquatic features are -- or were prior to the CWA
9 violations alleged in this complaint -- inundated or saturated by
10 surface or ground water at a frequency and duration sufficient to
11 support, and under normal circumstances did support, a prevalence
12 of vegetation typically adapted for life in saturated soil
13 conditions.

14 79. These aquatic features are -- or were prior to the CWA
15 violations alleged in this complaint -- "wetlands" within the
16 meaning of 33 C.F.R. § 328.3(a)(7), (b).

17 80. Wetlands at the Site provide -- or provided prior to
18 the CWA violations alleged in this complaint -- suitable habitat
19 for, *inter alia*, vernal pool fairy shrimp (*Branchinecta lynchi*),
20 a threatened species, and vernal pool tadpole shrimp (*Lepidurus*
21 *packardi*), an endangered species. 50 C.F.R. § 17.11(h);
22 *Endangered and Threatened Wildlife and Plants; Determination of*
23 *Endangered Status for the Conservancy Fairy Shrimp, Longhorn*
24 *Fairy Shrimp, and Vernal Pool Tadpole Shrimp; and Threatened*
25 *Status for the Vernal Pool Fairy Shrimp*, 59 Fed. Reg. 48,136
26 (Sept. 19, 1994).

27 81. Since at least 2006, wetlands at the Site have been
28 designated critical habitat for vernal pool fairy shrimp. 50

1 C.F.R. § 17.95(h)(13); *Endangered and Threatened Wildlife and*
2 *Plants; Designation of Critical Habitat for Four Vernal Pool*
3 *Crustaceans and Eleven Vernal Pool Plants*, 71 Fed. Reg. 7,118,
4 7,141-42 (Feb. 10, 2006).

5 82. Exhibit 2 to this complaint is a true and correct copy
6 of a map, codified at 50 C.F.R. § 17.95(h)(13), depicting areas
7 of critical habitat for vernal pool fairy shrimp.

8 83. The Site falls within the area marked as "Unit 6" on
9 Exhibit 2.

10 84. Wetlands at the Site border (or bordered prior to the
11 CWA violations alleged in this complaint), are (or were prior to
12 the CWA violations alleged in this complaint) contiguous to, or
13 neighbor (or neighbored prior to the CWA violations alleged in
14 this complaint) the main stem of Coyote Creek and/or the streams
15 or branches of Coyote Creek within the interior of the Site.

16 **Waters of the United States**

17 85. The Sacramento River is a traditional navigable water
18 within the meaning of 33 C.F.R. § 328.3(a)(1) from at least Tehama
19 County to the Pacific Ocean.

20 86. Coyote Creek is a "tributary" of the Sacramento River
21 within the meaning of 33 C.F.R. § 328.3(a)(5).

22 87. Oat Creek is a "tributary" of the Sacramento River
23 within the meaning of 33 C.F.R. § 328.3(a)(5).

24 88. The streams or branches of Coyote Creek within the
25 interior of the Site are -- or were prior to the CWA violations
26 alleged in this complaint - "tributaries" of Oat Creek and the
27 Sacramento River within the meaning of 33 C.F.R. § 328.3(a)(5).

28 89. Wetlands at the Site are -- or were prior to the CWA

1 violations alleged in this complaint -- "adjacent" to one or more
2 tributaries within the meaning of 33 C.F.R. § 328.3(a)(7), (c).

3 90. Coyote Creek, including the streams or branches of
4 Coyote Creek within (or previously within) the interior of the
5 Site, either alone or in combination with similarly situated
6 lands in the region, significantly affects the chemical,
7 physical, or biological integrity of the Sacramento River.

8 91. Oat Creek, either alone or in combination with
9 similarly situated lands in the region, significantly affects the
10 chemical, physical, or biological integrity of the Sacramento
11 River.

12 92. Adjacent wetlands at the Site, either alone or in
13 combination with similarly situated lands in the region,
14 significantly affect or affected the chemical, physical, or
15 biological integrity of the Sacramento River.

16 93. At all times relevant to the CWA violations alleged in
17 this complaint, the Sacramento River, Oat Creek, Coyote Creek,
18 including the streams or branches of Coyote Creek within the
19 interior of the Site, and adjacent wetlands at the Site
20 constitute "waters of the United States" and "navigable waters"
21 within the meaning of 33 U.S.C. § 1362(7).

22 **COUNT ONE: CWA VIOLATIONS BY DEFENDANTS LAPANT AND J&J FARMS**

23 94. The United States repeats the allegations set forth in
24 Paragraphs 1 through 93 of this complaint.

25 95. Defendants Roger J. LaPant, Jr. and J&J Farms are each
26 a "person" under 33 U.S.C. § 1362(5).

27 96. Beginning in or about July 2011, Defendants Roger J.
28 LaPant, Jr. and J&J Farms or a person at their (or either

1 person's) behest operated a tractor with tillage implements
2 and/or other earthmoving equipment at the Site.

3 97. This equipment operated in uplands as well as in waters
4 of the United States -- potentially 100 or more acres of waters
5 of the United States.

6 98. As operated, this equipment constituted a "point
7 source" within the meaning of 33 U.S.C. § 1362(14).

8 99. Operation of this equipment resulted in the placement
9 of dredged spoil, biological materials, rock, sand, cellar dirt,
10 or other earthen material constituting "pollutants" within the
11 meaning of 33 U.S.C. § 1362(6) into waters of the United States.

12 100. Operation of this equipment fragmented and severely
13 impacted hydrophydic plants, substantially disturbed the root
14 system, or involved the mechanized pushing, dragging, or other
15 redepositing of excavated soil material.

16 101. Operation of this equipment had the effect of replacing
17 one or more portions of waters of the United States with dry land
18 or changing the bottom elevation of one or more portions of
19 waters of the United States.

20 102. Operation of this equipment had the effect of
21 redistributing surface and/or sub-surface material in a manner
22 which changed one or more areas of waters of the United States to
23 dry land.

24 103. Operation of this equipment resulted in the "discharge
25 of any pollutant" within the meaning of 33 U.S.C. § 1311(a).

26 104. At no time did Defendants Roger J. LaPant, Jr. and J&J
27 Farms, or any person on their (or either person's) behalf, apply
28 for, secure, or comply with a CWA section 404 permit to discharge

1 pollutants at the Site.

2 105. Defendants Roger J. LaPant, Jr. and J&J Farms violated
3 33 U.S.C. § 1311(a).

4 106. The operation of equipment and resulting discharges of
5 pollutants by or on behalf of Defendants Roger J. LaPant, Jr. and
6 J&J Farms ceased no later than on or about March 23, 2012, when
7 Defendant Roger J. LaPant, Jr. transferred ownership of the Site
8 to Duarte Nursery, Inc.

9 107. After such cessation, Defendants Roger J. LaPant, Jr.
10 and J&J Farms allowed pollutants that had been discharged without
11 authorization to remain in waters of the United States.

12 108. Defendants Roger J. LaPant, Jr. and J&J Farms remain in
13 violation of 33 U.S.C. § 1311(a).

14 **COUNT TWO: CWA VIOLATIONS BY DEFENDANTS**

15 **GOOSE POND AG, INC. AND FARMLAND MANAGEMENT SERVICES**

16 109. The United States repeats the allegations set forth in
17 Paragraphs 1 through 108 of this complaint.

18 110. On or about October 29, 2012, Duarte Nursery, Inc.
19 transferred ownership of the Site to Defendant Goose Pond Ag,
20 Inc.

21 111. Defendants Goose Pond Ag, Inc. and its land manager,
22 Farmland Management Services, are each a "person" under 33 U.S.C.
23 § 1362(5).

24 112. Beginning on or about November 15, 2012, Defendants
25 Goose Pong Ag, Inc. and Farmland Management Services or persons
26 at their behest operated a slip plow, tractor with tillage
27 implements, road-building machinery, land-leveler, trencher,
28 and/or other earthmoving equipment at the Site.

1 113. This equipment operated in uplands as well as in waters
2 of the United States -- potentially 100 or more acres of waters
3 of the United States.

4 114. As operated, this equipment constituted a "point
5 source" within the meaning of 33 U.S.C. § 1362(14).

6 115. Operation of this equipment resulted in the placement
7 of dredged spoil, biological materials, rock, sand, cellar dirt,
8 or other earthen material constituting "pollutants" within the
9 meaning of 33 U.S.C. § 1362(6) into waters of the United States.

10 116. Operation of this equipment fragmented and severely
11 impacted hydrophydic plants, substantially disturbed the root
12 system, or involved the mechanized pushing, dragging, or other
13 redepositing of excavated soil material.

14 117. Operation of this equipment had the effect of replacing
15 one or more portions of waters of the United States with dry land
16 or changing the bottom elevation of one or more portions of
17 waters of the United States.

18 118. Operation of this equipment had the effect of
19 redistributing surface and/or sub-surface material in a manner
20 which changed one or more areas of waters of the United States to
21 dry land.

22 119. Operation of this equipment resulted in the "discharge
23 of any pollutant" within the meaning of 33 U.S.C. § 1311(a).

24 120. At no time did Defendants Goose Pond Ag, Inc. or
25 Farmland Management Services, or any person on their behalf,
26 apply for, secure, or comply with a CWA section 404 permit to
27 discharge pollutants at the Site.

28 121. Defendants Goose Pond Ag, Inc. and Farmland Management

1 Services violated 33 U.S.C. § 1311(a).

2 122. After ceasing operation of equipment in waters of the
3 United States at the Site, Defendants Goose Pond Ag, Inc. and
4 Farmland Management Services allowed pollutants that had been
5 discharged without authorization to remain in waters of the
6 United States.

7 123. Defendants Goose Pond Ag, Inc. and Farmland Management
8 Services remain in violation of 33 U.S.C. § 1311(a).

9 **REQUEST FOR RELIEF**

10 WHEREFORE, the United States respectfully requests that this
11 Court order the following relief:

12 Enjoin Defendants from further discharges of pollutants
13 except as in compliance with the CWA;

14 Compel Defendants to restore impacted waters of the United
15 States;

16 Require Defendants to mitigate for impacted waters of the
17 United States;

18 Assess and direct Defendants to pay civil penalties;

19 Award the United States the costs and disbursements of this
20 action; and

21 Grant the United States such other relief as the Court deems
22 appropriate.

23 Respectfully submitted,

24 JOHN C. CRUDEN
25 Assistant Attorney General

26 Dated: June 30, 2016

27 /s/ Andrew J. Doyle
28 Andrew J. Doyle (FL Bar No. 84948)
John Thomas H. Do (CA Bar No. 285075)
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Attorneys for the United States

1 EXHIBITS TO THIS COMPLAINT:

2 Exhibit 1: Flow path from the main stem of Coyote Creek at
3 the Site to the Sacramento River

4 Exhibit 2: Map from 50 C.F.R. § 17.95(h)(13) depicting areas
5 of critical habitat for vernal pool fairy shrimp;
6 Site falls within area marked "Unit 6"

6

7

8 ALSO ATTACHED TO THIS COMPLAINT:

9 Civil Cover Sheet

10 Notice of Related Cases and Summary Judgment Order dated June 10,
11 2016, by the Honorable Kimberly J. Mueller, United States
12 District Judge, in *Duarte v. U.S. Army Corps of Eng'rs*, 2:13-cv-
13 02095-KJM-AC (E.D. Cal.)

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