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Yolo County District Attorney

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YOLO SUPERIOR COURT

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DEPUTY

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8
9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF YOLO

11 THE PEOPLE OF THE STATE OF CALIFORNIA,)

Case No. *PT 16-1683 Rae*

12 Plaintiff,)

~~PROPOSED~~ FINAL JUDGMENT
PURSUANT TO STIPULATION

13)
14 v.)

15)
16 DAVID TE VELDE, as trustee of the David and Alice)
Te Velde Revocable Family Trust dated April 21,)
2006; and ALICE TE VELDE, as trustee of the David)
17 and Alice Te Velde Revocable Family Trust dated)
April 21, 2006,)

18 Defendants.)
19)

20
21 Plaintiff, the People of the State of California, by and through Jeff W. Reisig, District
22 Attorney of Yolo County, filed its Complaint in this matter pursuant to Business and Professions
23 Code, § 17200 *et seq.* The People and Defendants have stipulated to entry of this Final Judgment
24 Pursuant to Stipulation (“Final Judgment”) to resolve all the matters alleged in the People’s
25 Complaint.

26 NOW THEREFORE, the People and Defendants having requested this Court to enter this
27 Final Judgment, and the Court having considered the Final Judgment reached between the parties, IT
28 IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

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2
3
4 **JURISDICTION AND VENUE**

5 1. The Superior Court of California, County of Yolo, has subject matter jurisdiction over
6 the matters alleged in this action and personal jurisdiction over the parties to this Final Judgment.

7 **INJUNCTIVE RELIEF**

8 2. Pursuant to Business and Professions Code section 17203, Defendants and their
9 agents, servants, employees, representatives, and successors are permanently enjoined from engaging
10 in the following acts or omissions in California:

- 11 a. Using pesticides in a manner that fails to prevent substantial drift to non-target
12 areas, in violation of Food and Agriculture Code section 12972;
- 13 b. Using pesticides in a manner that conflicts with pesticide labeling instructions, in
14 violation of Food and Agriculture Code section 12973; and
- 15 c. Failing to ensure that fieldworkers are notified before scheduled pesticide
16 applications, to the extent notification is required under California Code of
17 Regulations, title 3, section 6618.

18 **RESTITUTION**

19 3. Defendants must pay the Yolo County District Attorney’s Office FOUR THOUSAND
20 DOLLARS (\$4,000.00)—which will be used to provide restitution to those harmed by Defendant’s
21 use of pesticides on August 18, 2014—pursuant to Business and Professions Code section 17203.
22 Defendants must pay this amount in one business or cashier’s check at the time of the entry of this
23 Final Judgment.

24 4. Defendants must deliver all required payments required in the above paragraph to the
25 District Attorney’s Office for the County of Yolo, Attention David Green, Deputy District Attorney,
26 301 Second Street, Woodland, CA 95695.

27 5. The Yolo County District Attorney’s Office will undertake good faith and reasonable
28 efforts to locate those individuals harmed by Defendants’ use of pesticides on August 18, 2014, and
allocate the amount provided in Paragraph 3 to these individuals based on any losses they suffered—
including lost wages and personal property—as a result of being exposed to pesticides on August 18,
2014. If the total losses of these individuals exceeds the amount provided in Paragraph 3, the Yolo

1 County District Attorney's Office will distribute restitution on a percentage basis based on each
2 individual's loss in relation to the total losses claimed. Defendant must cooperate with the Yolo
3 County District Attorney's Office in locating those harmed by Defendant's use of pesticides on
4 August 18, 2014. If restitution funds remain after one year from the date of entry of this Final
5 Judgment, these remaining restitution funds will be made payable to the Yolo County District
6 Attorney's Office for partial reimbursement of costs of investigation and other costs of enforcement.

7 6. Nothing in Paragraphs 3-5 deprives those individuals harmed by Defendants' use of
8 pesticides on August 18, 2014 of any right or remedy that they may otherwise be entitled to by law.
9 Nor does anything in Paragraphs 3-5 relieve Defendants of any obligation they may have to those
10 individuals harmed by Defendants' use of pesticides on August 18, 2014.

11 **CIVIL PENALTIES AND COST RECOVERY**

12 **Cost recovery**

13 7. Defendants must pay the Yolo County Department of Agriculture TEN THOUSAND
14 DOLLARS (\$10,000.00) for partial reimbursement of costs of investigation and other costs of
15 enforcement.

16 8. Defendants must pay the Yolo County Environmental Health Division ONE
17 THOUSAND SIX HUNDRED AND THIRTY-THREE DOLLARS (\$1,633.00) for reimbursement
18 of costs of investigation and other costs of enforcement.

19 9. Defendants must pay the Yolo County District Attorney's Office TWO THOUSAND
20 NINE HUNDRED AND THIRTY-TWO DOLLARS (\$2,932.00) for partial reimbursement of costs
21 of investigation and other costs of enforcement.

22 **Civil Penalties**

23 10. Defendants must pay FIVE THOUSAND DOLLARS (\$5,000.00) as civil penalties
24 pursuant to Business and Professions Code section 17206.

25 11. Defendants are further liable for an additional FIFTEEN THOUSAND DOLLARS
26 (\$15,000.00) as civil penalties pursuant to Business and Professions Code section 17206. But
27 Defendants' obligation to pay this amount will be permanently stayed, unless the Court finds that
28 Defendants have materially violated a requirement of this Final Judgment. Defendants' violation of

1 any requirement in Paragraph 2 constitutes a material violation of this Final Judgment.

2 **Form of Payment**

3 12. Defendants must pay amounts owed under Paragraphs 7-10 in the total amount of
4 NINETEEN THOUSAND FIVE HUNDRED SIXTY-FIVE DOLLARS (\$19,565.00). Defendants
5 must pay these amounts, in four separate checks, at the time of the entry of this Final Judgment:

6 a. One business or cashier's check for TEN THOUSAND DOLLARS (\$10,000.00)
7 must be made payable to the Yolo County Department of Agriculture for partial
8 reimbursement of costs of investigation and other costs of enforcement.

9 b. One business or cashier's check for ONE THOUSAND SIX HUNDRED AND
10 THIRTY-THREE DOLLARS (\$1,633.00) must be made payable to the "Yolo
11 County EH" for reimbursement of costs of investigation and other costs of
12 enforcement.

13 c. One business or cashier's check for TWO THOUSAND NINE HUNDRED AND
14 THIRTY-TWO DOLLARS (\$2,932.00) must be made payable to the Yolo County
15 District Attorney's Office for partial reimbursement of costs of investigation and
16 other costs of enforcement.

17 d. One business or cashier's check for FIVE THOUSAND DOLLARS (\$5,000.00)
18 must be made payable to the Treasurer of Yolo County for civil penalties.

19 13. Within 21 days of a Court order finding Defendants have materially violated any
20 requirement of this Final Judgment, Defendants must pay amounts owed under Paragraph 11 in the
21 total amount of FIFTEEN THOUSAND DOLLARS (\$15,000.00). Defendants must pay this amount
22 in one business or cashier's check made payable to the Treasurer of Yolo County pursuant to
23 Business and Professions Code section 17206.

24 14. Defendants must deliver all required payments required in Paragraphs 12 and 13 to
25 the District Attorney's Office for the County of Yolo, Attention David Green, Deputy District
26 Attorney, 301 Second Street, Woodland, CA 95695.

27 **ENFORCEMENT OF FINAL JUDGMENT AND PENALTIES**

28 15. The People may move this Court for additional relief for any violation of any

1 provision of this Final Judgment including, but not limited to, contempt, additional injunctive
2 provisions, or additional penalties consistent with the provisions of this Final Judgment. Unless
3 otherwise set forth herein, nothing in this Final Judgment limits the People’s right to seek any other
4 relief or remedies provided by law, or limits Defendants’ right to defend against any request of the
5 People for such other relief or remedies.

6 **MATTERS COVERED BY THIS FINAL JUDGMENT**

7 16. This Final Judgment is a final and binding resolution and settlement of all claims,
8 violations, or causes of action expressly alleged by the People in the Complaint, and claims that
9 could have been asserted within the scope of the allegations set forth in the Complaint (“Covered
10 Matters”), against Defendants and their subsidiaries and affiliates, and each of their subsidiaries,
11 affiliates, successors, heirs, assigns, and each of their respective officers, directors, shareholders,
12 partners, employees, agents, representatives, members, managing members, managers, property
13 owners, and facility operators (“Entities Covered by Final Judgment”). Any claim, violation, or cause
14 of action that is not a Covered Matter is a “Reserved Claim.” Reserved Claims include, without
15 limitation, any violation that occurs after the Court’s entry of this Final Judgment and any violation
16 outside the scope of the allegations set forth in the People’s Complaint. The People reserve the right
17 to pursue any Reserved Claim, and Defendants reserve their defenses against any Reserved Claim.
18 Nothing in this paragraph limits the People’s ability to enforce the terms of this Final Judgment.

19 17. In any subsequent action that the People may bring based on any Reserved Claim,
20 Defendants cannot assert that failing to pursue any Reserved Claim as part of this action constitutes
21 claim-splitting.

22 18. Defendants cannot pursue any civil or administrative claims against the People or any
23 agency of the State of California, county or city in the State of California, or local agency
24 (collectively, “Agencies”), or against any of the People or Agencies’ officers, employees,
25 representatives, agents or attorneys, arising out of or related to any Covered Matter; provided,
26 however, that if any Agencies initiate claims against Defendants, Defendants reserve any and all
27 rights, claims, demands, and defenses against such Agencies.

28 //

1 **FUTURE REGULATORY CHANGES**

2 22. Nothing in this Final Judgment excuses Defendants from meeting any more-stringent
3 requirement that may be imposed by applicable law or by any change in the applicable law. To the
4 extent any future statutory or regulatory change makes Defendants' obligations less stringent than
5 those provided for in this Final Judgment, Defendants' compliance with the changed law will be
6 deemed compliance with this Final Judgment.

7 **WAIVER**

8 23. The People's failure to enforce any provision of this Final Judgment may neither be
9 deemed a waiver of such provision nor in any way affect the validity of this Final Judgment. The
10 People's failure to enforce any such provision does not preclude them from later enforcing the same
11 or any other provision of this Final Judgment. Except as expressly provided in this Final Judgment,
12 Defendants retain all defenses allowed by law to any such later enforcement. No oral advice,
13 guidance, suggestions, or comments by employees or officials of any party regarding matters covered
14 in this Final Judgment may be construed to relieve any party of its obligations under this Final
15 Judgment.

16 **CONTINUING JURISDICTION**

17 24. The Court will retain continuing jurisdiction to enforce the terms of this Final
18 Judgment and to address any other matters arising out of or regarding this Final Judgment. The
19 parties must meet and confer at least ten (10) business days before the filing of any application or
20 motion relating to this Final Judgment, and must negotiate in good faith in an effort to resolve any
21 dispute without judicial intervention. If the parties are unable to resolve their dispute after meet-and-
22 confer discussions, any party may move this Court seeking a resolution of that dispute by the Court.

23 **MODIFICATION**

24 25. This Final Judgment may be modified only on noticed motion by one of the parties
25 with approval of the Court, or upon written consent by all of the parties and the approval of the
26 Court.

27 **TERMINATION**

28 26. At any time after this Final Judgment has been in effect for five (5) years, and after

1 Defendants have paid any and all amounts due under the Final Judgment, any party may provide
2 notice to the Court (which shall be served on all parties) that the injunctive provisions of this Final
3 Judgment should expire and have no further force and effect (“Notice of Termination”). The
4 injunctive provisions of this Final Judgment will be of no further force or effect sixty (60) days
5 thereafter, unless the People file a motion contesting the expiration of any injunctive provisions
6 within forty (40) days of receipt of the Notice of Termination. In the event that such motion is filed,
7 none of the injunctive provisions of the Final Judgment contested in the People’s motion will
8 terminate pending the Court’s ruling on the motion. The People reserve the right to contest
9 termination exclusively on the ground that Defendants have not substantially complied in all material
10 respects with the injunctive provisions of Paragraph 2 of the Final Judgment, and to offer any
11 evidence relevant to such motion. Defendants reserve their rights to respond to any ground raised in
12 the People’s motion and to offer any evidence relevant to such motion. The injunctive provisions in
13 the Final Judgment will expire and be of no further force or effect unless the Court (upon
14 consideration of the parties’ pleadings and arguments, if any) determines that the expiration of the
15 provision at issue would not be in the interest of justice, because Defendants have not substantially
16 complied in material respects with the provisions of Paragraph 2 of the Final Judgment. The
17 termination of the injunctive provisions of the Final Judgment will have no effect on Defendants’
18 obligation to comply with the requirements imposed by statute, regulation, ordinance, or law.

19 **EFFECTIVE DATE**

20 27. The effective date of this Final Judgment is the date of the signature of the Court
21 entering this Final Judgment.

22
23 **IT IS SO ORDERED.**

24
25 Dated: OCT 25 2016

26 By: TIMOTHY L. FALL
27 JUDGE OF THE SUPERIOR COURT
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