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11 Attorney for Defendants

12 **UNITED STATES DISTRICT COURT**

13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 JCM FARMING, INC., a California  
15 corporation,

16 Plaintiff,

17 vs.

18 ANDREW WHEELER, Administrator,  
19 United States Environmental Protection  
20 Agency; and UNITED STATES  
21 ENVIRONMENTAL PROTECTION  
22 AGENCY,

23 Defendants.

Case No. 20-cv-1119-BAS-AGS

**NOTICE OF MOTION AND  
MOTION TO DISMISS**

Judge: Cynthia A. Bashant  
Hearing: October 19, 2020  
Time:  
Place:

**NO ORAL ARGUMENT UNLESS  
REQUESTED BY THE COURT**

**NOTICE OF MOTION**

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2 TO ALL PARTIES AND THEIR COUNSEL OF RECORD: Please take  
3 notice that on October 19, 2020, or as soon thereafter as counsel may be heard,  
4 before the Honorable Cynthia A. Bashant, at the United States District Court for  
5 the Southern District of California, located at 221 West Broadway, San Diego,  
6 California, Defendants Andrew Wheeler and United States Environmental  
7 Protection Agency will, and hereby do, move to dismiss the above-captioned case,  
8 pursuant to Rule 12(b)(1), (3), and (6) of the Federal Rules of Civil Procedure.  
9 This motion is made following the conference of the counsel that took place on  
10 August 25, 2020.  
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14 Respectfully submitted this 1st day of September, 2020.

15 /s/ Lucy E. Brown  
16 LUCY E. BROWN  
17 Attorney for Defendants  
18 Andrew Wheeler and  
19 Environmental Protection Agency  
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26 Notice of Motion  
And Motion to Dismiss

20cv1119

**MOTION TO DISMISS**

Defendants Andrew Wheeler and United States Environmental Protection Agency move to dismiss Plaintiff’s Complaint for lack of subject matter jurisdiction and improper venue pursuant to Federal Rule of Civil Procedure 12(b)(1), (3), and (6). Defendants have submitted a memorandum of points and authorities in support of the motion.

Respectfully submitted this 1st day of September, 2020.

/s/ Lucy E. Brown  
LUCY E. BROWN  
Attorney for Defendants  
Andrew Wheeler and  
Environmental Protection Agency

**CERTIFICATE OF SERVICE**

I hereby certify that, on September 1, 2020, a true and correct copy of the foregoing Motion to Dismiss was served electronically via the Court’s e-filing system to Counsel of Record.

/s/ Lucy E. Brown  
LUCY E. BROWN  
Attorney for Defendants  
Andrew Wheeler and  
Environmental Protection Agency

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Notice of Motion  
And Motion to Dismiss

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