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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

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

Respectfully submitted this 1st day of September, 2020.

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

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

Notice of Motion
And Motion to Dismiss

20cv1119