

RECITALS

- A. On or about March 23, 2007, T&T asserts to have entered into a written contract (the eradication contract) to disperse by air sterile pink bollworm moths on cotton and/or okra fields in the counties of San Bernardino, Riverside and Imperial, California as part of a United States Department of Agriculture (USDA) run eradication program (the "eradication flights").
- B. Plaintiff, JCM Farming, Inc. is an owner of certain real property described as that property situated in the State of California, County of Riverside, more particularly described as follows:

Parcels 1, 2, 3, and 4 of Parcel Map 16173, on file in Book 93,
Pages 3 and 4 of Parcel Maps, Records of Riverside County,
California.

For ease of reference, the above-described real property ("the Property") is also known as 54-560 Oasis Street, Thermal, California and is generally depicted on that map which is attached hereto and marked as "Exhibit A."

- C. JCM asserts that it maintains an active farming operation, including a commercial olive orchard, and several buildings for both agricultural uses and private business activities on the Property. Employees of JCM Farming, Inc. on the property routinely use heavy machinery in performing their duties. The agriculture, repair, and maintenance activities often include working from elevated locations or on top of tall buildings or structures. Workers use cranes to move palm trees and other very heavy objects. The work on the Property, which is typical of other agricultural operations, includes many activities that are inherently dangerous. Employees need to exercise extreme caution in performing their functions. An unwanted distraction or activity that interferes with communications

invested large amounts of capital and resources to preserve its privacy. JCM claims this loss creates irreparable damage.

- G. Additionally, due to the unusual/high profile nature of the Property, JCM asserts that the airspace above the Property has been subjected to over-flights by many different types of aircraft, including hot air balloons, hang gliders, "ultralights" and aircraft operated by defendants. This combination of aircraft in this area creates a danger for mid-air collisions between the various types of aircraft, a danger not only to pilots, but to the public below.
- H. As part of the Subject Dispute, JCM asserts that it caused to be filed a Complaint in the present action to abate the conduct of defendants, to preserve its safety, to defend its rights, and to seek recovery of the damages it has suffered.
- I. T&T Defendants do not adopt any of the assertions or concede any of the points stated in paragraphs C through H (above).
- J. On or about August 26, 2009, JCM commenced Civil Action No. INC 089070 in the Superior Court of the State of California for the County of Riverside. On or about October 1, 2010, this action was removed to federal court and assigned case no. CV-10-08126 DSF (OPx). On or about October 10, 2010, JCM and Jesus Garcia commenced civil action no. CV-10-07442 DSF (Opx) in the United State District Court for the Central District of California. All of the aforesaid litigation are referred to hereinafter as "the litigation."
-
- K. The parties hereto have now reached an agreement as to the settlement of all current disputes pending between them arising from the flights, the assertions stated above and the litigation.

COVENANTS

forty-eight (48) hours before such a flight; (c) to consult with JCM to schedule the flight at a time during daylight hours which will cause the least disturbance to JCM's operations; (d) to provide to JCM the name of the contract officer or other official who has given the order to JCM; (e) to give permission to the contract officer or other responsible official to speak to a representative of JCM about the flight; and (f) the flight will be conducted at the maximum altitude permitted by the contract and if the contract does not specify an altitude, then the flight will be conducted at an altitude greater than 1000 feet. Also, T&T Defendants will provide the identification number of its aircraft to JCM so that JCM will be able to distinguish it from aircraft owned by others.

Upon the termination or expiration of such contract, T&T Defendants hereby agree not to fly over the Property at any time.

2. Notification of Future Flights

Prior to the commencement of any flight over the Property, T&T Defendants will provide JCM with written notice of the location of the fields, if any, scheduled for treatment within the Property within forty-eight (48) hours of T&T Defendants' receipt thereof. T&T Defendants will provide copies to JCM of new contracts and flight plans that T&T Defendants may receive from time to time. In addition, T&T Defendants will provide JCM with written notice of the initial scheduling of dates and times for the eradication flights over the Property. However, JCM hereby acknowledges that fields may be added or removed from the eradication program by the appropriate governmental agency after the initial notification.

3. Dismissal.

Following the execution of this Agreement by all parties hereto, the litigation will be dismissed, with prejudice, against the T&T Defendants, Richard Tookey, and 2 Key, LLC. JCM hereby specifically authorizes and directs its attorneys of record to dismiss the litigation. It is further agreed that all parties will bear their own costs, expenses and attorneys fees incurred in

Each party hereto expressly covenants that the terms of this agreement have been freely negotiated by and between each of the parties.

6. Covenant Running With Land

T&T Defendants specifically agree that the terms of this agreement inure to the benefit of JCM and any successor in interest to the Property. Any successor in interest is entitled to all the benefits of this Agreement. The terms of this Agreement are intended to run with the title of the Property. JCM, or its successor, may record a copy of this Agreement.

7. Entire Agreement.

This Agreement constitutes an integration of the entire understanding and agreement of the parties hereto, and all prior negotiations, discussions, statements, agreements and understandings are merged herein and superseded hereby.

8. Admissibility of Agreement

The parties hereby stipulate that this agreement is admissible in any legal proceeding to enforce its terms and provisions, or seeking damages for its breach. The parties to this Agreement stipulate that it is their desire to avoid further litigation regarding the over-flights. However, the duties of T&T Defendants are permanent and require the Court to retain jurisdiction in this matter.

9. Representations and Warranties.

Each of the parties hereto represents, warrants and agrees as follows:

A. Each party hereto has had the opportunity to receive independent legal advice

11. Mutual Drafting of Agreement.

No provision of this Agreement shall be interpreted for or against any party because that party, or its legal representative, drafted the provision; this Agreement shall be deemed to have been drafted by all parties hereto.

12. Notices

Any notices requires hereunder are to be provided as follows, or as designated in writing by the parties;

T&T Defendants
Attention: Travis Perkins
5035 Creekwood Drive
Flower Mound, Texas 75028

JCM Farming, Inc.
Jesus Garcia
Attention: Marilena Marrelli
201 Lomas Santa Fe Drive, Suite 400
Solana Beach, California 92075

13. Counterparts.

This Agreement may be signed in counterparts and each counterpart shall be effective to bind the party who has signed.

JCM FARMING, INC.


Date: September 27, 2011

By: Travis Dwan Perkins
Name: TRAVIS DWAN PERKINS
Its: PARTNER

Dated: September 28, 2011

By: Travis Dwan Perkins
Name: TRAVIS PERKINS

APPROVED AS TO FORM:

Dated: September 29, 2011

By: Andrew Rauch
ANDREW K. RAUCH, ESQ.
ATTORNEY FOR JCM FARMING, INC.

Dated: September 29, 2011

MCBREEN & SENIOR

By: Peter J. MCBreen
PETER J. MCBREEN, ESQ.
ATTORNEY FOR T&T DEFENDANTS