

1 R. Rex Parris Esq. (SBN 96567)
rrexparris@rrexparris.com
2 Patricia K. Oliver, Esq. (SBN 193423)
poliver@rrexparris.com
3 Alexander R. Wheeler, Esq. (SBN 239541)
awheeler@rrexparris.com
4 **R. REX PARRIS LAW FIRM**
43364 10th Street West
5 Lancaster, California 93534
Telephone: (661) 949-2595
6 Facsimile: (661) 949-7524

7 David S. Casey, Jr., Esq. (SBN 060768)
dcasey@cglaw.com
8 Gayle M. Blatt, Esq. (SBN 122048)
gmb@cglaw.com
9 Mitch Olson, Esq. (SBN 82566)
Molson@cglaw.com
10 Jeremy Robinson, Esq. (SBN 188325)
jrobinson@cglaw.com
11 Jason C. Evans, Esq. (SBN 272932)
jevans@cglaw.com

12 **CASEY, GERRY, REDD, SCHENK,**
13 **FRANCAVILLA, BLATT & PENFIELD,**
LLP
14 110 Laurel Street
San Diego, California 92101
15 Telephone: (619) 238-1811
Facsimile: (619) 544-9232

16 *[Additional Counsel Shown on the Following Page]*

17 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
18 COUNTY OF KERN

19
20 PALLA FARMS, LLC,) Case No.:
21 Plaintiff,)
22 v.) COMPLAINT FOR NEGLIGENCE,
23) NEGLIGENCE PER SE, TRESPASS, PRIVATE
24) NUISANCE, and PUBLIC NUISANCE
25)
26) CRIMSON RESOURCE MANAGEMENT
CORP., a Colorado Corporation; DOLE
27) ENTERPRISES, INC., a California Corporation;
E & B NATURAL RESOURCES
28) MANAGEMENT CORP., a California
Corporation; SAN JOAQUIN FACILITIES
MANAGEMENT, INC., a California
Corporation; and DOES 1 through 50;
Defendants.)

ADDITIONAL COUNSEL

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Frank M. Pitre, Esq. (SBN 100077)
fpitre@cpmlegal.com
Robert B. Hutchinson, Esq. (SBN 045367)
rhutchinson@cpmlegal.com
Ara R. Jabaghourian, Esq. (SBN 205777)
ajabaghourian@cpmlegal.com
COTCHETT, PITRE & McCARTHY, LLP
840 Malcolm Road, Suite 200
Burlingame, California 94010
Telephone: (650) 697-6000
Facsimile: (650) 697-0577

Don Ernst, Esq. (SBN 065726)
de@ernstlawgroup.com
Terry Kilpatrick, Esq. (SBN 163197)
tk@ernstlawgroup.com
ERNST LAW GROUP
1020 Palm Street
San Luis Obispo, California 93401
Telephone: (805) 541-0300
Facsimile: (805) 541-5177

Attorneys for Plaintiff

INTRODUCTION

1
2 1. The Palla family began farming in the San Joaquin Valley in 1922. Raffaello Palla’s
3 children continue this tradition today – Palla Farms owns orchards in Rosedale, California where
4 the Palla family grows almonds and pistachios, and, until recently, cherry trees.

5 2. Like almost all other farmers in the San Joaquin Valley, Palla Farms depends heavily
6 upon the Central Valley aquifer system to water the orchards. Palla Farms has been relying on
7 this fresh water for 86 years and used the water underlying their Rosedale orchards since 1989.

8 3. Historically, the San Joaquin Valley had abundant water from underground water
9 sources (aquifers) and surface water.

10 4. In 2000, Palla Farms planted
11 cherry trees in one of their Rosedale orchards,
12 relying upon availability of fresh water from
13 the underlying aquifer. Cherry trees take
14 several years before bearing any fruit and
15 before they reach a peak for fruit production.

16 5. Palla Farms’ mature cherry trees
17 began showing leaf scorch many years later,
18 just when they should have reached their peak
19 fruit production.

20 6. Palla Farms began investigating
21 the cause of the leaf scorch immediately after
22 discovering the problem. First, they sought
23 advice of the company that provided their
24 cherry trees.

25 7. The nursery representatives visited the Palla orchard. They recommended Palla
26 Farms increase irrigation applied to the cherry orchard.

27 8. Palla Farms implemented the company’s suggestion and increased water flow to
28 their distressed orchard. Increased watering did not relieve the problem.



1 9. Palla Farms also tried replacing
2 the trees with the greatest scorch with new
3 cherry trees. Newly planted trees suffered
4 even more problems than the first trees
5 planted. The cherry trees failed to bear good
6 fruit.

7 10. Palla Farms ultimately was forced
8 to remove the dying cherry orchard in 2012.
9 Given the damage, the cherry trees could not
10 be restored to economic viability.

11 11. The surrounding almond orchard
12 also began exhibiting serious problems as
13 well: production began declining and
14 continues to decline.

15 12. In trying to save the cherry trees,
16 Palla Farms discovered the aquifer contained
17 extremely high amounts of salts (total dissolved solids, "TDS"). Salt water pulled up during oil
18 production contains extremely high amounts of TDS and high concentrations of sodium chloride
19 and boron. High total salts reduce tree growth. All three are toxic to cherries and almonds.
20 Chloride is readily absorbed through tree roots and then transported to leaves where it can be
21 observed in visible signs of leaf scorch. Boron accumulates in the younger tissue causing
22 developing shoots to "die back." Sodium can accumulate in woody tissue and be released to the
23 leaves years later. The chloride levels in the source of fresh water once used by Palla Farms now
24 exceed the secondary maximum contaminant level adopted by the EPA. The water also contains
25 excess boron and total dissolved solids. If the salt and boron levels remain high, all of the planted
26 trees will suffer severe injury and become unproductive.

27 13. Palla Farms subsequently learned that salt water containing high boron levels is one
28 of the waste products from nearby oil production activities. Over the last six years, the Oil



1 Companies in this action *disposed of 1.9 billion gallons of salt water near Palla Farms.*

2 **STATEMENT OF THE CASE**

3 **I. FARMING & OIL**

4 14. The San Joaquin Valley, home of Palla Farms, is “California’s top agricultural
5 producing region, growing more than 250 unique crops and much of the Nation’s fruits,
6 vegetables, and nuts.”¹ Grapes, raisins, nuts (mostly almonds and pistachios), oranges, peaches,
7 garlic, tangerines, tomatoes, and kiwi are just a few of the kinds of produce grown in this Valley.

8 15. The San Joaquin Valley is the most productive agricultural region in the United
9 States – “**25% of the nation’s table food**” is grown here.²

10 16. Farms in the San Joaquin Valley depend heavily upon fresh water underground to
11 maintain consistent food production, especially in drought years. Water was historically so
12 plentiful, the state built the California Aqueduct through the Valley. The aqueduct and aquifers in
13 this region supply drinking water to 25+ million people.³

14 17. The San Joaquin Valley is also the primary region for California’s oil production.
15 The largest county in the Valley, Kern County, ***produces 71% of all oil in California.***

16 18. The Oil Companies in this lawsuit own mineral rights and wells in the oil fields
17 surrounding Palla Farms. The picture below shows just how close idle oil wells and storage tanks
18 are to Palla Farms – right across the street.



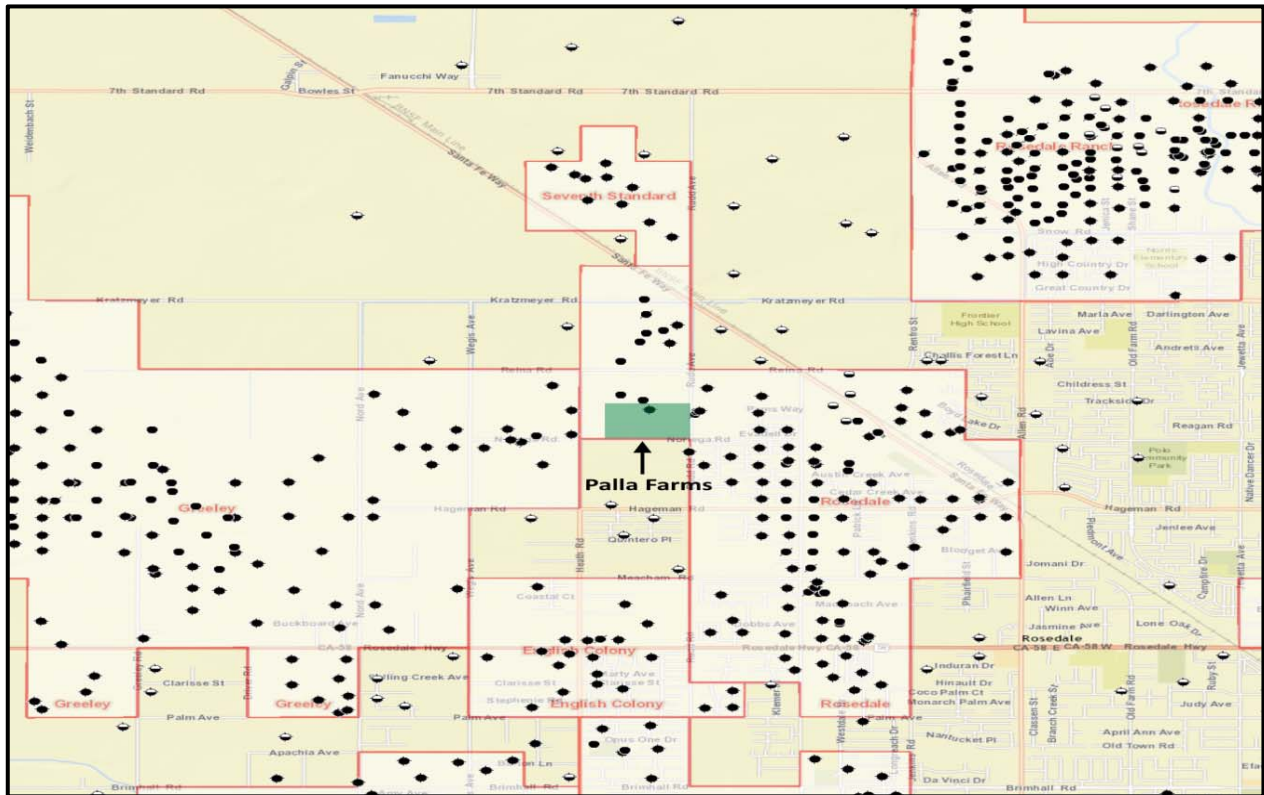
28 ¹ See, <http://www.epa.gov/region9/strategicplan/sanjoaquin.html>.

² See, <http://pubs.usgs.gov/circ/circ1182/pdf/06SanJoaquinValley.pdf> at 23.

³ See, <http://www.water.ca.gov/swp/>.

1 19. This is not the only idle well near Palla Farms – there are hundreds of active and idle
2 wells near Palla Farms.

3 20. The map below is pulled from the California Department of Oil, Gas & Geothermal
4 Resources website – it depicts the oil wells and waste disposal wells within a three mile radius of
5 Palla Farms.



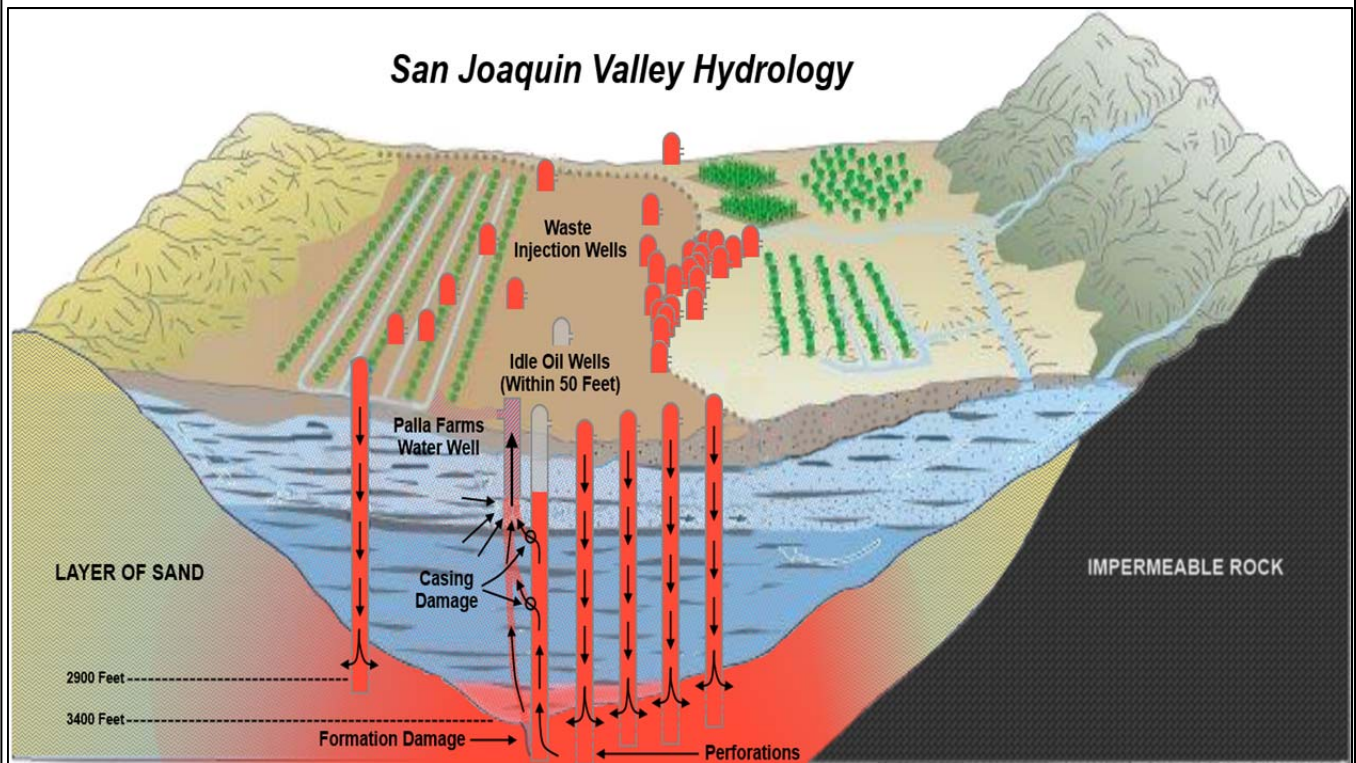
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20 21. Oil production creates dangerous waste products – most of which consist of naturally
21 occurring chemicals including boron in the salt water that comes up during all oil production
22 activities. The salt water pulled up during oil production is as salty, and upwards to thirty times
23 saltier, than sea water. As a result, the salts from the sodium chloride and other naturally
24 occurring chemicals from the oil production can pollute fresh water.

25 22. On average, *for every one (1) barrel of oil pumped up, an oil company pumps up ten*
26 *(10) barrels of salt water.*

27 23. Salt water comes up in even greater quantities near Palla Farms. For example, in the
28 last eight years, Defendant Crimson’s average ratio is 1 barrel of oil to 35 barrels of salt water.

1 And Defendant Dole's average is 1 to 17.

2 24. In the last six years, the Oil Companies disposed of the salt water they extracted by
3 transporting it through underground pipelines and into salt water injection wells near Palla Farms.
4 These salt water injection wells were re-worked from old oil wells that were often damaged and
5 idle. The Oil Companies did not remove the salt and boron from the produced water before
6 injecting it, and thus all naturally occurring chemicals including sodium chloride and boron
7 remained in the salt water.



21 25. In the last six years alone, the Oil Companies injected the 1.9 billion gallons of salt
22 water into or near the aquifer as shown above in the cross-sectional map of the aquifer in the San
23 Joaquin Valley.

24 26. The Oil Companies obtained permits to inject salt water into these old wells *without*
25 providing any notice to Palla Farms.

26 27. They also did not comply with regulations to ensure confinement of the salt water.
27 The mishandling of salt water by these Oil Companies is polluting fresh water needed by these
28 farmers. High amounts of chloride (a component of salt) and boron in the water injected by the

Oil Companies underground makes the fresh water unsuitable for irrigation.

28. Palla Farms is just beginning to experience the detrimental impact as they attempt to pump clean water from the aquifer to grow the trees in their remaining orchards. The Palla family must now decide whether to continue farming in a valley once so natural for farming because of the unique Mediterranean climate and abundant fresh water.

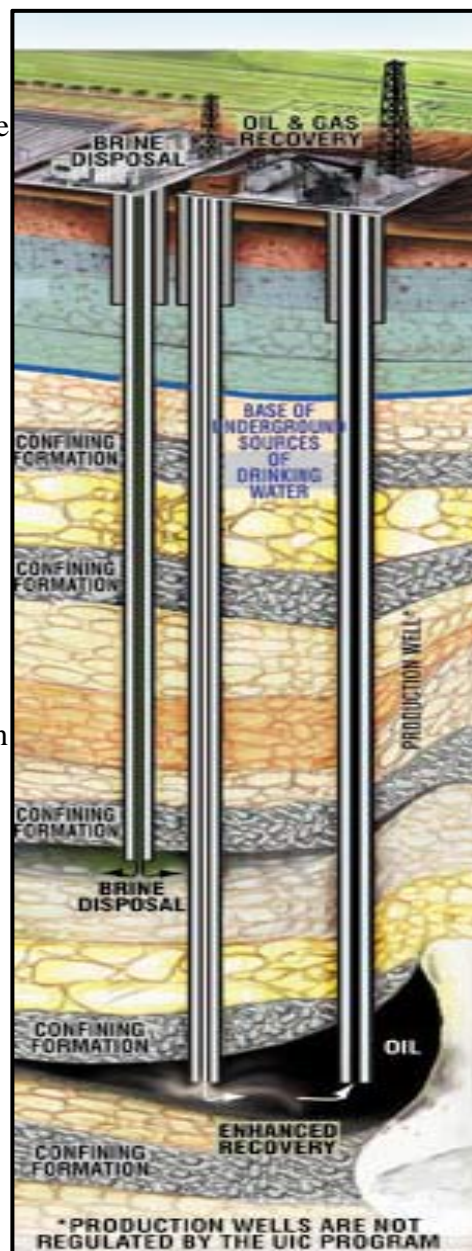
29. Palla Farms brings this lawsuit to recover costs paid for, and to be paid for, the remediation of environmental damage caused by the Oil Companies during the oil production and waste disposal processes and for damages to Palla's land, crops, and trees. The Oil Companies should comply with the regulations to confine the salt water or clean it before injecting it so close to the aquifer. Palla Farms further seeks to restrain the Oil Companies from further violations of the law and disgorgement of their associated profits. This case seeks to abate environmental harm and prevent future harm to all farmers in the San Joaquin Valley and to the 25 million people who depend on water from the California Aqueduct for drinking.

II. OIL PRODUCTION

30. The Division of Oil, Gas, and Geothermal Resources ("DOGGR") supervises "the drilling, operation, maintenance, and plugging and abandonment of . . . oil, gas, and geothermal wells" in California.

31. In that capacity, DOGGR adopts regulations to "prevent[] damage to: (1) life, health, property, and natural resources; (2) underground and surface waters suitable for irrigation or domestic use; and (3) oil, gas, and geothermal reservoirs."

32. Most oil production in California comes from traditional oil wells that are made by first drilling a hole (called a



1 wellbore). After drilling the hole, the oil company inserts a metal pipe (called casing), and
2 cement is pumped down the casing. “When the cement hardens, it forms a bond between the
3 walls of the wellbore and the outside of the casing. This bond protects groundwater . . . from
4 contamination.” Holes (called perforations) are made at the bottom of the well casing allowing
5 oil “to move into the casing, and up to the surface.”⁴ Surface casing is also industry standard for
6 oil wells to provide an additional protection for all fresh water like that below Palla Farms.

7 33. Oil production results in the creation of hazardous waste products that must be
8 disposed of properly to prevent pollution to soil, air, and water.

9 34. Near the Palla orchard, oil production activities create the following waste that must
10 be disposed of properly to prevent pollution of the underground water supplies:

- 11 ○ **Salt water (also called “brine“ or “produced water”)**: Petroleum is often created
12 at the site of ancient seas. As a result, petroleum deposits often exist in areas with
13 salt water. Other naturally occurring chemicals are often present too. The salt
14 water and many naturally occurring chemicals get pulled up during the oil
15 production process. At the surface, formation water and oil are separated, and salt
16 water is pumped through pipelines to disposal wells like those near Palla Farms.
- 17 ○ **Drilling mud and drill cuttings**: Oil companies lubricate drill bits with drilling
18 mud, leaving behind a mixture of drilling mud (clay, water, and chemicals) and drill
19 cuttings that come up during the drilling process.
- 20 ○ **Hydraulic flowback** consists of fluids and chemicals used for hydraulic fracturing
21 mixed with naturally occurring chemicals and fluids that flow back to the surface
22 during and after the completion of hydraulic fracturing.

23 35. The Oil Companies dispose of some or all of these waste products by re-injecting
24 them underground in old oil wells that are converted into waste disposal wells.

25 **III. PROTECTING WATER**

26 36. To prevent damage to fresh water, DOGGR adopted regulations requiring the Oil
27 Companies to provide the following information to obtain an injection well permit (including a
28

⁴ See, <http://www.conservation.ca.gov/dog/faqs/Pages/Index.aspx>.

1 permit for wells used to dispose of salt water):

- 2 ○ **Geological studies surrounding the proposed injection well to show confinement**
- 3 **of the salt water and protection of fresh water.** 14 CCR 1724.7(b).
- 4 ○ **Engineering study & casing diagrams** to show that the project will “not . . . cause
- 5 damage to life, health, property, or natural resources.” 14 CCR 1724.7(a)(4).
- 6 ○ **Casing tests, called mechanical integrity tests,** to confirm there are no leaks in the
- 7 casing. 14 CCR 1724.10(j).
- 8 ○ **Pressure controls** to limit the “maximum allowable pressure” and to ensure the
- 9 injection pressure is not high enough to fracture rock or well casings. 14 CCR
- 10 1724.10(i).

11 37. These regulations apply to all waste disposal wells used by the Oil Companies when

12 disposing of salt water that may pollute fresh water. In all other respects, injection wells are

13 structurally the same as oil or gas wells.

14 38. The Oil Companies in this action

15 converted old oil wells into waste disposal wells.

16 Most of the wells are over 40 years old, some

17 over 70 years old. The conversion of older wells

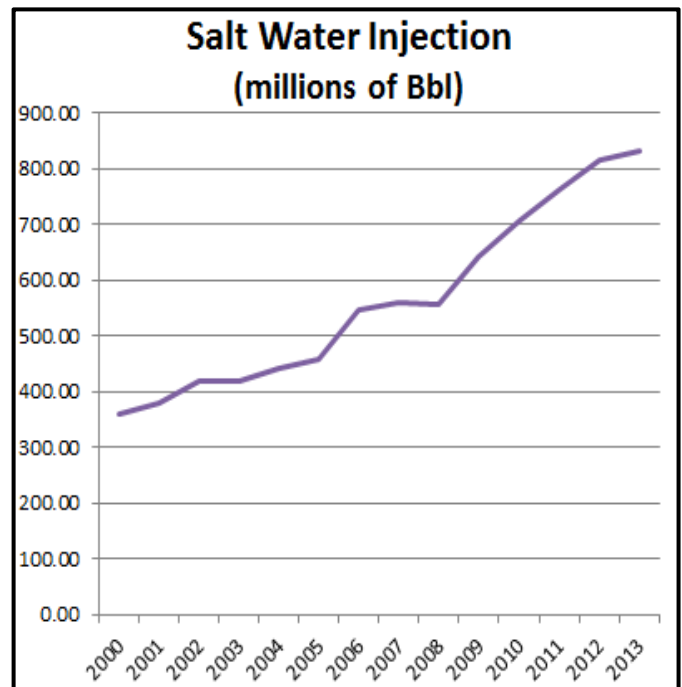
18 presents a number of potential concerns including

19 the following:

- 20 ○ These wells have older casings near
- 21 the end of their life.
- 22 ○ The casings are made out of less
- 23 resilient materials than what is
- 24 available today.
- 25 ○ There are typically a large number
- 26 of perforations and even damage to the casing that have required repair over the
- 27 years.

28 39. Injection well activities have substantially increased in the last ten years according to

DOGGR, and the volume of salt water injected into waste disposal wells doubled. (See chart



1 showing waste in millions of barrels). In 2013, the total amount of salt water injected
2 underground was 832 million barrels.

3 **IV. INJECTION WELLS NEAR PALLA FARMS**

4 40. When receiving permits to inject salt water near or under Palla Farms, the Oil
5 Companies did *not* comply with the regulations adopted by DOGGR to protect water in
6 California. See, e.g., 14 CCR 1724.7-10.

7 41. *The Oil Companies did not comply with the pressure tests* (required by 14 CCR
8 1724.10(f)-(j)). Injecting salt water at a high pressure will: (1) increase the distance the salt
9 water travels; (2) shorten the life of an injection well; and (3) likely crack the rock or sand,
10 creating openings for migration of the injected salt water into fresh water. There is an absence of
11 any compliance by the Oil Companies in this action. For example:

- 12 ○ Dole Enterprises failed to provide *any* injection pressure data for the three wells
13 near the Palla farm and failed to conduct several annual mechanical integrity tests.
- 14 ○ Crimson failed to properly report injection pressure in at least 15 of the 18 waste
15 disposal wells it operates. Crimson, moreover, reported pressures that were often at
16 or above 1200 psi with the highest injecting at 1320, 1375, and 1379. *These*
17 *pressures not only part the “sands,” Crimson increased the distance the salt water*
18 *travels by injection at such high pressures.*

19 42. *The Oil Companies did not conduct an area of review* (as required by 14 CCR
20 1724.7(a)(4)) to ensure that there were no idle wells near the salt water injection wells. This
21 review is needed to ensure that there are no wells that would serve as conduits (similar to straws)
22 drawing the salt water from the deep water aquifer up to the top part of the aquifer.⁵

- 23 ○ There are three idle wells, including one idle injection well, within 200 feet of Palla
24 Farms. There are upwards of 20 idle wells within 2 miles. Most of these wells are
25 old, with outdated and deteriorated casings. They were not plugged or abandoned.

27 ⁵ A July 1989 study of the Government Accountability Office entitled “*Drinking Water: Safeguards are not*
28 *Preventing Contamination from Injected Oil and Gas Wastes*” determined that in the known cases of water
contamination, injected brine generally travelled up into improperly plugged abandoned wells and entered into
drinking water through cracks in these old wells. See, <http://www.gao.gov/assets/150/147952.pdf>

1 o Thus, there is an increased risk of salt water moving into and up the idle wells near
2 Palla Farms.

3 43. *The Oil Companies did not provide an injection plan indicating treatment, or*
4 *cleaning, of any of the injected salt water as required by 14 CCR 1724.7(c)(6).*

5 44. *The Oil Companies did not provide a chemical analysis of the injection liquid*
6 *disposed of under Palla Farms as required by 14 CCR 1724.7(c)(7).*

7 45. *The Oil Companies did not prepare any geological studies* (required by CCR
8 1724.7(b)) *to confirm where the base of fresh water is in comparison to where this salt water was*
9 *ejected. Indeed, the Oil Companies injected most of the salt water on the east side of one the*
10 *deepest points of the aquifer, and there is no evidence of any barrier to protect the water.*

11 46. In the last six years, the Oil Companies injected over 1.9 billion gallons of salt water
12 into these wells in the Rosedale oil fields: 1,402,216,368 gallons injected by Crimson;
13 31,359,720 gallons injected by Dole; 430,807,235 gallons injected by E&B; 65,820,342 gallons
14 injected by San Joaquin. The 1.9 billion gallons of salt water injected by the Oil Companies is
15 *eleven times greater* than the 176 million gallons of oil that spilled into the Gulf of Mexico after
16 the BP oil spill.

17 47. *Fresh water under Palla Farms is at least 2,900 feet below the surface and up to or*
18 *greater than 3,400.*⁶ The Oil Companies in this action injected at the following depths near the
19 base of fresh water used by Palla Farms:

- 20 ▪ 1 well injects salt water at 2,900 to 3,099 feet,
- 21 ▪ 5 wells inject salt water at 3,100 to 3,299 feet,
- 22 ▪ 8 wells inject salt water at 3,300 to 3,499 feet,
- 23 ▪ 6 wells inject salt water at 3,500 to 3,699 feet,
- 2 wells inject salt water at 3,700 to 3,899 feet, and
- 4 wells inject salt water at 4,000 to 4,199 feet.

24 48. Not one of the Oil Companies injected into waste disposal wells with surface casing
25 protecting the entire base of fresh water. Most surface casings on their salt water disposal wells
26 go 200 to 500 feet below the surface, leaving a single layer of casing to protect fresh water.

27
28

⁶ See, Field Rules at: ftp://ftp.consrv.ca.gov/pub/oil/Field_Rules/Rosedale_North_Stevens_407_0049.pdf;
ftp://ftp.consrv.ca.gov/pub/oil/Field_Rules/Rosedale_South_Stevens_407_0050.pdf.

1 49. Defendant Crimson also uses injections near Palla Farms to stimulate well
2 production through a process known as hydraulic fracturing. One of those wells, Crimson well,
3 API 03048729, is located in the middle of waste disposal wells near Palla Farms.

4 50. In sum, the Oil Companies are injecting salt water around the Palla orchard in
5 damaged oil wells without following any of the regulations designed to ensure the confinement of
6 salt water and safety of underground water relied upon by Palla Farms and other farmers in the
7 San Joaquin Valley.

8 **V. IMPACT ON THE ORCHARDS OWNED BY PALLA FARMS**

9 51. Salt water is now reaching the Palla orchard. The chloride from the salt water was
10 absorbed by cherry tree roots and accumulated in the plant leaves and fruit. The toxic levels of
11 chloride caused leaf scorch and resulted in a drought-like environment for the trees even though
12 soil moisture was plentiful. In 2013, Palla Farms had to remove all of their cherry trees.

13 52. The Palla's almond orchard has also seen considerable decline in fruit production
14 due to high concentrations of salt (TDS, chloride, and sodium) and boron in the water supply.
15 Chloride toxicity impacts foliar growth, carbohydrates needed for nut production, and ultimately
16 tree health and production potential. Moreover, high boron is affecting the development of new
17 shoots which will affect future growth, flowering, and nut development.

18 53. The water pollution forced Palla Farms to stop using the irrigation well near the
19 orchard and instead to obtain water from a neighbor to continue farming. That water well is now
20 showing signs of pollution.

21 **PARTIES**

22 54. Plaintiff Palla Farms, LLC ("Palla") is a limited liability company duly organized
23 and existing under the laws of the State of California. Palla's headquarters are located in Kern
24 County, California.

25 55. Defendant Crimson Resource Management Corp. ("Crimson") is a corporation duly
26 organized and existing under the laws of the State of Colorado and having a principal place of
27 business of 410 17th Street, Suite 1010, Denver, Colorado 80202.

28 *////*

1 56. Defendant Dole Enterprises, Inc., (“Dole”) is a corporation organized and existing
2 under the laws of the State of California and having a principal place of business at 12850 Allen
3 Lane, Bakersfield, California 93312.

4 57. Defendant E & B Natural Resources Management, (“E&B”) is a corporation
5 organized and existing under the laws of the State of California and having a principal place of
6 business at 695 Rotterdam Industrial Park, Schenectady, New York 12306.

7 58. Defendant San Joaquin Facilities Management, Inc., (“San Joaquin”) is a corporation
8 organized and existing under the laws of the State of California and having a principal place of
9 business at 4250 California Avenue, Suite 300, Bakersfield, CA 93309.

10 59. Does 1 through 50, inclusive are the partners, agents, employees or principals, and
11 the co-conspirators of the named defendants, and of each other; that the named defendants and
12 Does 1 through 50, inclusive, performed the acts and conduct herein alleged, aided and abetted
13 the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such
14 acts and conduct; and that therefore Does 1 through 50, inclusive, are liable to Palla Farms to the
15 extent of the liability of the named Defendants.

16 60. Does 1 through 50, Crimson, Dole, E&B, and San Joaquin (collectively “The Oil
17 Companies” or “Defendants”), and each of them, were in some manner responsible for the acts
18 alleged herein and the harm, losses and damages suffered by Palla Farms as alleged hereinafter.
19 Palla Farms is also informed and believes that, while participating in such acts, each Defendant
20 was the agent, servant, alter ego, conspirator, or aider and abettor of the other Defendants and was
21 acting in the course and scope of such agency and acted with the permission, consent,
22 authorization or ratification of other Defendants.

23 61. All of the Oil Companies are responsible for the harm caused because all of them
24 knew, or should have known, of a 2011 EPA audit finding that there was a lack of compliance
25 with the regulations designed to protect underground water supplies. The Oil Companies also
26 knew that the lack of compliance would ultimately cause the migration of pollutants into the fresh
27 water used by many in the community, including Palla Farms.

28 // //

FIRST CLAIM FOR RELIEF
NEGLIGENCE / NEGLIGENCE PER SE (CALIFORNIA LAW)

CALIFORNIA EVIDENCE CODE § 669

AS TO ALL DEFENDANTS

62. Palla Farms incorporates by reference each of the preceding paragraphs as though fully set forth herein.

63. Palla Farms owns an orchard within a short distance of the storage tanks, pipelines, and waste disposal wells used by these Oil Companies. The Oil Companies have a duty to use reasonable care in the transporting of the salt water, and in the construction, drilling, operation, maintenance, and abandonment of all operations. The Oil Companies, however, built their waste disposal wells in violation of the underground injection regulations.

64. The Oil Companies also breached their duty by negligently and carelessly constructing, drilling, operating, maintaining and/or abandoning underground injection wells, pipelines, and storage tanks, and thus they caused releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial/hazardous wastes on the Palla orchard (either directly from surface activities or leakage from pipelines or wells or through subsurface trespass).

65. This breach directly increased the concentration of chemicals, like chloride, in Palla's water to such an extent that trees in Palla's orchard are being injured, and fruit production is diminishing. Palla Farms was forced to remove fruit trees that could not withstand the high levels of chloride.

66. At all times herein mentioned, the Oil Companies had an obligation to follow the law with respect to construction, drilling, operation, and maintenance of waste disposal wells. The Oil Companies, however, violated and continue to violate several California laws, including:

- Water Code section 13260, *et seq.* (Waste Discharge Requirements),
- Public Resources Code section 3200, *et seq.* (Regulation of Operations),
- 14 CCR section 1722.2 (Casing Program),
- 14 CCR section 1722.3 (Casing Requirements),
- 14 CCR section 1724.4 (Testing and Inspection of Safety Devices),

- 1 ▪ 14 CCR section 1724.6 (Approval of Underground Injection and Disposal),
- 2 ▪ 14 CCR section 1724.7 (Project Data Requirements),
- 3 ▪ 14 CCR section 1724.8 (Steam Injection Project Approval),
- 4 ▪ 14 CCR section 1724.10 (Filing, Notification, Operating, and Testing
- 5 Requirements for Underground Injection Projects),
- 6 ▪ Health & Safety Code section 25150, *et seq.* (Hazardous Waste Control),
- 7 and
- 8 ▪ Other applicable laws, statutes, and regulations.

9 67. Palla Farms is within the class of persons the above statutes and regulations are
10 designed to protect, and Palla Farms' injuries are the type of harm these statutes are designed to
11 prevent.

12 68. As a direct result of this wrongful conduct, Palla Farms suffered and will suffer
13 economic damages including, but not limited to, costs for remediation and clean-up of the
14 pollution on Palla Farms' property and to the groundwater, lost and/or diminished use of the
15 property, loss of earning capacity of the property, loss of the investment placed into the cherry
16 orchard, and loss of past and future income from the cherry orchard.

17 69. The actions by the Oil Companies injured hundreds of cherry and almond trees, and
18 Palla Farms should be awarded double or treble damages under Code of Civil Procedure section
19 733 and Civil Code section 3346 and attorney's fees and costs under Code of Civil Procedure
20 section 1021.9.

21 70. As a further legal result of this wrongful conduct, Palla Farms suffered, and will
22 continue to suffer the loss of the quiet use and enjoyment of its property in addition to all of Palla
23 Farms' general damages in an amount to be set forth according to proof at trial.

24 71. In addition, Palla Farms should be awarded attorney's fees under Code of Civil
25 Procedure section 1021.5 because the successful prosecution of this action will confer a
26 significant benefit both pecuniary and non-pecuniary on the general public and a large class of
27 persons by abating environmental harm and preventing future harm in the San Joaquin Valley.
28 Further, the necessity and financial burden of private enforcement makes such an award

1 appropriate as the litigation is not economically feasible or viable for Palla Farms to pursue on its
2 own at its own expense, and such fees should not in the interest of justice be paid out of the
3 recovery, if any.

4 **SECOND CLAIM FOR RELIEF**
5 **TRESPASS (CALIFORNIA LAW)**

6 CALIFORNIA CIVIL CODE § 3334

7 AS TO ALL DEFENDANTS

8 72. Palla Farms incorporates by reference each of the preceding paragraphs as though
9 fully set forth herein.

10 73. In the construction, operation, maintenance and/or abandonment of underground
11 injection wells, production wells, storage tanks, and pipelines, the Oil Companies intentionally,
12 recklessly, willfully, and/or negligently caused, and continue to cause, toxic and/or hazardous
13 substances (including, but not limited to salt water and hazardous chemicals) to enter the Palla
14 Farms' orchard by spills, releases, and migration from the Oil Companies' underground injection
15 wells, production wells, storage tanks, and pipelines.

16 74. Palla Farms did not consent to this entry.

17 75. As a direct and legal result of said wrongful conduct, Palla Farms suffered or will
18 suffer economic damages including, but not limited to, costs for remediation and clean-up of the
19 pollution on Palla Farms' property and to the groundwater, lost and/or diminished use of the
20 property, loss of earning capacity of the property, loss of the investment placed into the cherry
21 orchard, and loss of past and future income from the cherry orchard.

22 76. The Oil Companies' actions were a substantial factor in causing the harm to Palla
23 Farms.

24 77. The Oil Companies took actions that were willful and malicious including the
25 following:

- 26 ○ The Oil Companies failed to conduct the review needed to confirm that when they
27 injected salt water underground, it would be confined to geological levels well
28 below the fresh water.

////

- 1 ○ The Oil Companies used pressures sufficient to force the salt water through the well
- 2 perforations and into the sand. The pressure utilized by the Oil Companies to inject
- 3 salt water into the sand greatly exceeded the maximum pressure allowed by law.
- 4 ○ Over the last six years, the Oil Companies injected 1.9 billion gallons of salt water.
- 5 ○ The Oil Companies failed to prepare the casing diagrams and failed to check nearby
- 6 wells to confirm that they could withstand the pressure and were free of any leaks.
- 7 ○ The waste disposal wells used by the Oil Companies and the nearby abandoned or
- 8 idle wells have steel and cement casings that are often 50-70 years old. These wells
- 9 have been damaged by years of subsidence. There was little reason to believe these
- 10 wells could safely transfer the salt water – *especially given the prolonged exposure*
- 11 *under pressure to massive amounts of salt water.*

12 78. The failure of the Oil Companies to comply with the California Code of Regulations
13 resulted in the pollution of one of the aquifers in the San Joaquin Valley used to pump water for
14 farms and used for drinking water by many Californians. The Oil Companies took these actions
15 with a willful and knowing disregard of the rights and safety of the community. Palla Farms
16 should, therefore, be awarded punitive and exemplary damages under Civil Code section 3294
17 sufficient to punish the Oil Companies for engaging in this conduct and to deter similar conduct
18 in the future.

19 79. The actions by the Oil Companies injured hundreds of cherry and almond trees, and
20 Palla Farms should be awarded double or treble damages under Code of Civil Procedure section
21 733 and Civil Code section 3346 and attorney's fees and costs under Code of Civil Procedure
22 section 1021.9.

23 80. As a further result of this wrongful conduct, Palla Farms suffered, and will continue
24 to suffer, the loss of the quiet use and enjoyment of its property in addition to all of Palla Farms'
25 general damages in an amount to be set forth according to proof at trial.

26 81. In addition, Palla Farms should be awarded attorney's fees under Code of Civil
27 Procedure section 1021.5 because the successful prosecution of this action will confer a
28 significant benefit both pecuniary and non-pecuniary on the general public and a large class of

1 persons by abating environmental harm and preventing future harm in the San Joaquin Valley.
2 Further, the necessity and financial burden of private enforcement makes such an award
3 appropriate as the litigation is not economically feasible or viable for Palla Farms to pursue on its
4 own at its own expense, and such fees should not in the interest of justice be paid out of the
5 recovery, if any.

6 **THIRD CLAIM FOR RELIEF**
7 **PRIVATE NUISANCE (CALIFORNIA LAW)**

8 CALIFORNIA CIVIL CODE § 3479

9 AS TO ALL DEFENDANTS

10 82. Palla Farms incorporates by reference each of the preceding paragraphs as though
11 fully set forth herein.

12 83. The Oil Companies failed to exercise reasonable care in the course of constructing,
13 drilling, operating, maintaining, and/or abandoning oil production wells, storage tanks, pipelines,
14 and underground injection wells. The Oil Companies continue to allow spills, release, and /or
15 migration of pollutants to the surrounding area including Palla's orchard. The Oil Companies
16 have created a condition that is harmful to the Palla's health and free use of the property so as to
17 seriously interfere with comfortable enjoyment of their life and property. Palla suffers from the
18 threat of continued spills, release, and /or migration of pollutants to the surrounding area
19 including Palla's orchard.

20 84. The continuing condition created by the Oil Companies harmed Palla. This harm
21 includes exposure to an array of pollutants and to chloride, a component of salt, in the water and
22 on the property owned by Palla Farms.

23 85. Palla Farms did not consent to the Oil Companies' conduct.

24 86. An ordinary person of reasonable sensibility would reasonably be annoyed and/or
25 disturbed by the condition created by the Oil Companies.

26 87. The Oil Companies' aforementioned conduct constitutes a nuisance within the
27 meaning of section 3749 of the Civil Code in that it is injurious to health and/or offensive to the
28 senses of Palla Farms and/or unreasonably interferes with the comfortable enjoyment of their
orchard and/or the free and customary use of Palla's property.

1 88. As a direct and legal result of said wrongful conduct, Palla suffered, and will
2 continue to suffer, economic damages including, but not limited to lost and/or diminished use of
3 its property, and the diminished fair market value of the property due to the stigma associated
4 with the pollution of the property.

5 89. The actions by the Oil Companies injured hundreds of cherry and almond trees, and
6 Palla Farms should be awarded double or treble damages under Code of Civil Procedure section
7 733 and Civil Code section 3346 and attorney's fees and costs under Code of Civil Procedure
8 section 1021.9.

9 90. As a further legal result of this wrongful conduct, Palla Farms suffered, and will
10 continue to suffer, the loss of the quiet use and enjoyment of its property in addition to all of Palla
11 Farms' general damages in an amount to be set forth according to proof at trial.

12 91. The seriousness of the Oil Companies' wrongful conduct referenced above
13 outweighs the public benefits of the Oil Companies' oil and gas production because separation of
14 the salt water from oil, transporting of salt water in pipelines, and injection of salt water deprives
15 communities of peaceful enjoyment of their properties, diminishes the value of surrounding
16 properties and neighborhoods, causes pollution to homes, farms and local water supplies, and are
17 out of character for Palla's locality and land. In comparison, the social value and primary purpose
18 of the transportation of salt water and injection underground in this community is the
19 maximization of profit with no incentive to take the necessary precautions to avoid the loss of
20 property values, nor to ensure the safety and environmental integrity of the disposal of salt water
21 in short term injection wells.

22 92. Palla Farms has no speedy, plain, or adequate remedy of law for the injuries
23 presently being suffered or for the aggravation of such injuries. Unless the nuisance created by the
24 Oil Companies is restrained by a preliminary or permanent injunction, Palla will suffer great and
25 irreparable injury in that toxic waste, gas, salt water, and hazardous chemicals will continue to
26 emanate from the Oil Companies' oil production activities and injection wells. The Oil
27 Companies will continue to pollute the air, Palla's orchard, and water wells, and release chloride
28 that continues to damage Palla's ability to farm if not enjoined.

1 93. The Oil Companies took actions that were willful and malicious including the
2 following:

- 3 ○ The Oil Companies failed to conduct the review needed to confirm that when they
4 injected salt water underground, it would be confined to geological levels well
5 below the fresh water.
- 6 ○ The Oil Companies used pressures sufficient to force the salt water through the well
7 perforations and into the sand. The pressure utilized by the Oil Companies to inject
8 salt water into the sand greatly exceeded the maximum pressure allowed by law.
- 9 ○ Over the last six years, the Oil Companies injected 1.9 billion gallons of salt water.
- 10 ○ The Oil Companies failed to prepare the casing diagrams and failed to check nearby
11 wells to confirm that they could withstand the pressure and were free of any leaks.
- 12 ○ The waste disposal wells used by the Oil Companies and the nearby abandoned or
13 idle wells have steel and cement casings that are often 50-70 years old. These wells
14 have been damaged by years of subsidence. There was little reason to believe these
15 wells could safely transfer the salt water – *especially given the prolonged exposure*
16 *under pressure to massive amounts of salt water.*

17 94. In sum, the failure of the Oil Companies to comply with the California Code of
18 Regulations resulted in their pollution of one of the aquifers in the San Joaquin Valley used to
19 pump water for farms and used for drinking water by Californians. The Oil Companies took these
20 actions with a willful and knowing disregard of the rights and safety of the community. Palla
21 Farms should, therefore, be awarded punitive and exemplary damages under Civil Code section
22 3294 sufficient to punish the Oil Companies for engaging in this conduct and to deter similar
23 conduct in the future.

24 95. In addition, Palla Farms should be awarded attorney's fees under Code of Civil
25 Procedure section 1021.5 because the successful prosecution of this action will confer a
26 significant benefit both pecuniary and non-pecuniary on the general public and a large class of
27 persons by abating environmental harm and preventing future harm in the San Joaquin Valley.
28 Further, the necessity and financial burden of private enforcement makes such an award

1 appropriate as the litigation is not economically feasible or viable for Palla Farms to pursue on its
2 own at its own expense, and such fees should not in the interest of justice be paid out of the
3 recovery, if any.

4 **FOURTH CLAIM FOR RELIEF**
5 **PUBLIC NUISANCE (CALIFORNIA LAW)**

6 CALIFORNIA CIVIL CODE § 3480

7 AS TO ALL DEFENDANTS

8 96. Palla Farms incorporates by reference each of the preceding paragraphs as though
9 fully set forth herein.

10 97. The Oil Companies failed to exercise reasonable care in the course of constructing,
11 drilling, operating, maintaining, and/or abandoning oil wells, pipelines, and injection wells, and
12 the Oil Companies continue to allow toxic waste, gas, salt water, and hazardous chemicals to be
13 released, spill, or migrate to the surrounding areas including Palla's orchard and water wells. The
14 Oil Companies created a continuing condition that is harmful to Palla's health and free use of the
15 orchard so as to seriously interfere with comfortable enjoyment of their life and property.

16 98. The continuing conditions created by the Oil Companies harmed residents and farms
17 in Rosedale. The harmful conditions included significant decrease in the value of Palla Farms,
18 and pollution of Palla Farms and water wells from toxic waste, gas, and water emanating or
19 migrating from the Oil Companies' injection wells. This includes the pollution of Palla's water
20 wells, resulting in elevated chloride levels in the soil and water used for farming at levels that
21 exceed the secondary maximum contaminant levels.

22 99. Palla Farms did not consent to the Oil Companies' conduct.

23 100. The Oil Companies aforementioned conduct constitutes a nuisance under section
24 3749 of the Civil Code because it is injurious to health or offensive to the senses of Palla Farms.
25 It also unreasonably interferes with the comfortable enjoyment of Palla's properties and the free
26 use, in the customary manner, of Palla's property.

27 101. As a result of the Oil Companies conduct, Palla Farms suffered a type of harm that
28 is different from the type of harm suffered by the general public. As a direct and legal result of
said wrongful conduct, Palla Farms suffered and will suffer economic damages including, but not

1 limited to lost and/or diminished use of its property, and the diminished fair market value of the
2 property due to the stigma associated with the pollution of the property.

3 102. The actions by the Oil Companies injured hundreds of cherry and almond trees,
4 and Palla Farms should be awarded double or treble damages under Code of Civil Procedure
5 section 733 and Civil Code section 3346 and attorney's fees and costs under Code of Civil
6 Procedure section 1021.9.

7 103. As a further legal result of this wrongful conduct, Palla Farms suffered, and will
8 continue to suffer, the loss of the quiet use and enjoyment of its property in addition to all of Palla
9 Farms' general damages in an amount to be set forth according to proof at trial.

10 104. An ordinary person of reasonable sensibilities would be reasonably annoyed and/or
11 disturbed by the condition created by the Oil Companies.

12 105. The seriousness of the Oil Companies' wrongful conduct referenced above
13 outweighs the public benefits of the Oil Companies' oil and gas production because separation of
14 the salt water from oil, transporting of salt water in pipelines, and injection of salt water deprives
15 communities of peaceful enjoyment of their properties, diminishes the value of surrounding
16 properties and neighborhoods, causes pollution to homes, farms and local water supplies, and are
17 out of character for Palla's locality and land. In comparison, the social value and primary purpose
18 of the transportation of salt water and injection underground in this community is the
19 maximization of profit with no incentive to take the necessary precautions to avoid the loss of
20 property values, nor to ensure the safety and environmental integrity of the disposal of salt water
21 in short term injection wells.

22 106. The Oil Companies' conduct, including constructing, drilling, operating,
23 maintaining, and/or abandoning of oil wells, pipelines, and waste disposal wells, were all
24 substantial factors in causing the diminution of value to Palla Farms' property and in causing
25 probable continuing damage from pollution. Further, the likelihood of continuing harm remains
26 due to the potential pollution of Palla Farms' property and the underlying aquifers.

27 107. Palla Farms further alleges that as a consequence of Oil Companies' acts and/or
28 failures to act, this public nuisance must be abated.

1 108. Palla Farms has no speedy, plain, or adequate remedy of law for the injuries
2 presently being suffered or for the aggravation of such injuries. Unless the nuisance created by the
3 Oil Companies is restrained by a preliminary and permanent injunction, Palla Farms will suffer
4 great and irreparable injury in that pollutants will continue to emanate from the Oil Companies'
5 wells, polluting the air, land, and water and discharging chloride levels polluting the water.

6 109. The Oil Companies took actions that were willful and malicious including the
7 following:

- 8 ○ The Oil Companies failed to conduct the review needed to confirm that when they
9 injected salt water underground, it would be confined to geological levels well
10 below the fresh water.
- 11 ○ The Oil Companies used pressures sufficient to force the salt water through the well
12 perforations and into the sand. The pressure utilized by the Oil Companies to inject
13 salt water into the sand greatly exceeded the maximum pressure allowed by law.
- 14 ○ Over the last six years, the Oil Companies injected 1.9 billion gallons of salt water.
- 15 ○ The Oil Companies failed to prepare the casing diagrams and failed to check nearby
16 wells to confirm that they could withstand the pressure and were free of any leaks.
- 17 ○ The waste disposal wells used by the Oil Companies and the nearby abandoned or
18 idle wells have steel and cement casings that are often 50-70 years old. These wells
19 have been damaged by years of subsidence. There was little reason to believe these
20 wells could safely transfer the salt water – *especially given the prolonged exposure*
21 *under pressure to massive amounts of salt water.*

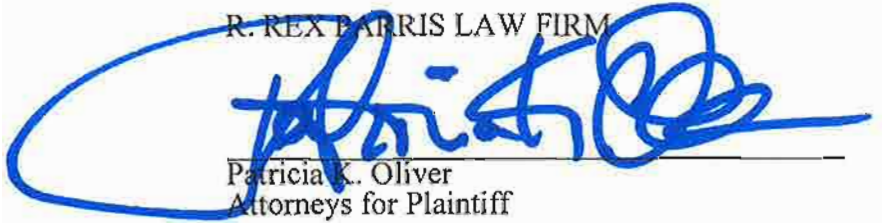
22 110. In sum, the failure of the Oil Companies to comply with the California Code of
23 Regulations resulted in their pollution of one of the aquifers in the Central Valley used to pump
24 water for farms in the most significant agricultural area of the world. The Oil Companies took
25 these actions with a willful and knowing disregard of the rights and safety of the community.
26 Palla Farms should, therefore, be awarded punitive and exemplary damages under Civil Code
27 section 3294 sufficient to punish the Oil Companies for engaging in this conduct and to deter
28 similar conduct in the future.

JURY DEMAND

Palla Farms hereby demands trial by jury on all issues triable of right by jury.

DATE: September 15, 2014

R. REX PARRIS LAW FIRM



Patricia K. Oliver
Attorneys for Plaintiff

Additional Counsel:

David S. Casey, Jr., Esq. (SBN 060768)

dcasey@cglaw.com

Gayle M. Blatt, Esq. (SBN 122048)

gmb@cglaw.com

Mitch Olson, Esq. (SBN 82566)

Molson@cglaw.com

Jeremy Robinson, Esq. (SBN 188325)

jrobinson@cglaw.com

Jason C. Evans, Esq. (SBN 272932)

jevans@cglaw.com

CASEY, GERRY, REDD, SCHENK,

FRANCAVILLA, BLATT & PENFIELD, LLP

110 Laurel Street

San Diego, California 92101

Telephone: (619) 238-1811

Facsimile: (619) 544-9232

Frank M. Pitre, Esq. (SBN 100077)

fpitre@cpmlegal.com

Robert B. Hutchinson, Esq. (SBN 045367)

rhutchinson@cpmlegal.com

Ara R. Jabaghourian, Esq. (SBN 205777)

ajabaghourian@cpmlegal.com

COTCHETT, PITRE & McCARTHY, LLP

San Francisco Airport Office Center

840 Malcolm Road, Suite 200

Burlingame, California 94010

Telephone: (650) 697-6000

Facsimile: (650) 697-0577

Don Ernst, Esq. (SBN 065726)

de@ernstlawgroup.com

Terry Kilpatrick, Esq. (SBN 163197)

tk@ernstlawgroup.com

ERNST LAW GROUP

1020 Palm Street

San Luis Obispo, California 93401

Telephone: (805) 541-0300

Facsimile: (805) 541-5177