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6 Attorneys for Cross-Defendant  
 7 **AGR BREEDING, INC.**

8  
 9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 10 **FOR THE COUNTY OF LOS ANGELES, COMPLEX CIVIL DIVISION**

11 SANTA BARBARA CHANNELKEEPER, a  
 12 California non-profit corporation,

13 Petitioner,

14 v.

15 STATE WATER RESOURCES CONTROL  
 BOARD, a California State Agency;  
 16 CITY OF SAN BUENAVENTURA, a California  
 municipal corporation, incorrectly named as  
 17 CITY OF BUENAVENTURA,

18 Respondents.

19 CITY OF SAN BUENAVENTURA, a California  
 municipal corporation,

20 Cross-Complainant,

21 v.

22 DUNCAN ABBOTT, an individual, et al.,

23 Cross-Defendants.  
 24  
 25  
 26  
 27  
 28

Case No. 19STCP01176

[Transferred to Los Angeles Superior Court,  
 Complex Civil Division, and assigned for all  
 purposes to Hon. William F. Highberger per  
 Minute Order dated May 15, 2019]

**CROSS-DEFENDANT AGR BREEDING,  
 INC.'S INITIAL DISCLOSURES (CCP § 842)**

Complaint Filed: September 19, 2014

First Amended  
 Complaint Filed: September 7, 2018

1 **INTRODUCTION**

2 Cross-Defendant AGR Breeding, Inc. (“AGR”), pursuant to Code of Civil Procedure Code of  
3 Civil Procedure section 842(a), hereby submits its initial disclosures. AGR reserves the right to  
4 supplement this disclosure, where appropriate, at a future date. (Code of Civ. Proc. § 842, subd. (d)(1)-  
5 (3).)

6 **DISLCOSURES**

7 **(1) The name, address, telephone number, and email address of the party and, if**  
8 **applicable, the party’s attorney.**

9 Response:

10 Party Information: AGR Breeding, Inc.  
11 Judy Ovitz and Michael Dreyer  
12 355 South Grand Avenue #1710, Los Angeles, CA 90071  
13 Telephone: 213-683-8790  
14 Email: [JOvitz@agrbreeding.com](mailto:JOvitz@agrbreeding.com); [Mike.Dreyer@hcv.t.com](mailto:Mike.Dreyer@hcv.t.com)

15  
16 Party Attorney Information: Edward J. Casey and Clynton Namuo  
17 ALSTON & BIRD LLP  
18 333 South Hope St., 16th Floor, Los Angeles, CA 90071-1410  
19 Telephone: 213-576-1000  
20 Emails: [ed.casey@alston.com](mailto:ed.casey@alston.com); [clynton.namuo@alston.com](mailto:clynton.namuo@alston.com)

21  
22 **(2) The quantity of any groundwater extracted from the basin by the party and the**  
23 **method of measurement used by the party or the party’s predecessor in interest for each of the**  
24 **previous 10 years preceding the filing of the complaint.**

25 Response: Groundwater extracted by AGR has been measured by a meter installed in 2014.  
26 Prior to the installation of a meter, groundwater extraction is estimated based on the number of horses  
27 maintained on the property in a given year. Table A, below, expresses in acre feet the estimated total  
28 groundwater extracted on an annual basis during the ten (10) year period preceding the commencement

1 of this Adjudication. (Code of Civ. Proc. § 842, subd. (a)(2).)

2 Table A:

3

Total Extractions Per Year (Acre Feet)									
2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
8.60	8.60	8.60	8.60	8.60	7.35	7.35	7.35	7.35	4.69

4

5

6

7 **(3) The type of water right or rights claimed by the party for the extraction of**  
8 **groundwater.**

9 Response: AGR asserts overlying water rights for the extraction of groundwater. AGR also  
10 asserts a right to use groundwater under the self-help doctrine, in the event that prescriptive rights to  
11 extract water from the basin are determined.

12

13 **(4) A general description of the purpose to which the groundwater has been put.**

14 Response: The groundwater extracted has been used for livestock in the daily operation of  
15 AGR's horse breeding and training business, in the running and use of three homes and two barns, for  
16 landscaping around the three homes and along the driveway, and for three small personal vegetable  
17 gardens. AGR has housed up to 80 horses at a time, which consume an average of approximately 1  
18 acre feet of water per year for livestock drinking water alone.

19

20 **(5) The location of each well or other source through which groundwater has been**  
21 **extracted.**

22 Response: AGR has one well, located at assessor's parcel number (APN) 030-130-255, well  
23 permit # 04N22W09N02S, State ID # 7043.

24

25 **(6) The area in which the groundwater has been used.**

26 Response: AGR's operation span five parcels across which groundwater is used as described  
27 above. The five parcels constitute a total of 177.71 acres.

28 The APNs for the property are:

- 1 • 030-0-130-235
- 2 • 030-0-130-245
- 3 • 030-0-130-255
- 4 • 030-0-130-265
- 5 • 030-0-130-275

6

7 **(7) Any claims for increased or future use of groundwater.**

8 Response: AGR Breeding Inc. is an American Quarter Horse breeding company/farm. AGR's  
9 operations utilize water for drinking (10 gallons a day per horse on average), to disinfect foaling stalls,  
10 wash mares for breeding and foaling, general animal husbandry, and farm/housing maintenance.  
11 Currently AGR's pastures are not irrigated (although an irrigation system is in place), and the number  
12 of horses on the property is low. AGR reserves the right to increase the number of horses, to utilize  
13 the irrigation system installed to irrigate the pastures, add landscaping, and or build future barns and  
14 homes on its 177.71 acres, thereby increasing our water usage. In the past, AGR has housed up to 80  
15 horses at a time, which consume an average of approximately 1 acre feet of water per year for livestock  
16 drinking water alone, but additional training programs may significantly increase this need per horse,  
17 both in consumption and bathing needs. AGR reserves the right to increase the number of horses it  
18 houses and to implement additional training and exercise programs for such horses, which would  
19 require the use of additional groundwater.

20

21 **(8) The quantity of any beneficial use of any alternative water use that the party**  
22 **claims as its use of groundwater under any applicable law, including, but not limited to, Section**  
23 **1005.1, 1005.2, or 1005.4 of the Water Code.**

24 Response: AGR reserves the right to additional water use pursuant to Water Code Sections  
25 1005.1, 1005.2 and 1005.4 as a result of its groundwater conservation practices, including but not  
26 limited to, the purchasing of water, the use of surface water, and the reduction of groundwater  
27 pumping. In the operation of a breeding program, the premises and horses must be kept in sanitary  
28 condition to prevent illness/infection. Mares are washed regularly during the times that they are

1 checked by a veterinarian for breeding, right before their foals are born, and directly after giving birth.  
2 Their stalls are scrubbed clean right before giving birth and all supplies used are kept in sanitary  
3 conditions. An average horse drinks 10 gallons of water a day but there is a slight increase in the  
4 amount when in labor/foaling for milk production and when in heavy physical work. AGR has housed  
5 up to 80 horses, which drank an average of approximately 1 acre feet of water per year. However,  
6 AGR is aware of the need to conserve water and has maintained the practice of conservation in all  
7 aspects of the operation of its business. In the interest of conservation AGR has chosen not to irrigate  
8 its pastures at this time (despite the fact that keeping horses on green pasture is a much more cost-  
9 effective way to house the animals) and has reduced the number of horses kept on its property.  
10 Moreover, AGR Breeding Inc. has rights to surface water, the use of which constitutes an alternative  
11 source of water.

12  
13 **(9) Identification of all surface water rights and contracts that the party claims**  
14 **provides the basis for its water right claims in the comprehensive adjudication.**

15 Response: AGR has surface water rights for the pond located on the property. (See permit  
16 #001718 / License # 002768, attached hereto as **Exhibit A.**) This gives AGR Breeding Inc. the right  
17 to use 127 acre-feet of water from this source per year, however AGR has not utilized this right as  
18 there has been no significant amount of water in the pond during the time which use has been  
19 permitted.

20  
21 **(10) The quantity of any replenishment of water to the basin that augmented the**  
22 **basin's native water supply, resulting from the intentional storage of imported or non-native**  
23 **water in the basin, managed recharge of surface water, or return flows resulting from the use of**  
24 **imported water or non-native water on lands overlying the basin by the party, or the party's**  
25 **representative or agent, during each of the 10 calendar years immediately preceding the filing**  
26 **of the complaint.**

27 Response: AGR asserts no replenishment of water to the basin that augmented the basin's  
28 native water supply, aside from the conservation measures noted above, during the 10 calendar years

1 immediately preceding the filing of the complaint in this action.

2  
3 **(11) The names, addresses, telephone numbers, and email addresses of all persons**  
4 **possessing information that supports the party's disclosures.**

5 Response: **Michael Dreyer and Judy Ovitz**

6 Mr. Dreyer and Ms. Ovitz may be contacted through their attorneys of record, Edward J. Casey  
7 and Clynton Namuo, of Alston & Bird LLP:

8 333 South Hope St., 16th Floor, Los Angeles, CA 90071-1410

9 Telephone: 213-576-1000

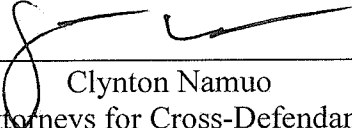
10 Emails: [ed.casey@alston.com](mailto:ed.casey@alston.com); [clynton.namuo@alston.com](mailto:clynton.namuo@alston.com)

11  
12 **(12) Any other facts that tend to prove the party's claimed water right.**

13 Response: Animal husbandry and breeding operations have been in continuous operation on  
14 this property since 2000. AGR's water needs have a direct correlation to operation and maintenance  
15 of its business and use of its property. AGR reserves the right to supplement this disclosure, where  
16 appropriate, at a future date. (Code of Civ. Proc. § 842, subd. (d)(1)-(3).)

17  
18  
19 DATED: October 22, 2019

EDWARD J. CASEY  
CLYNTON NAMUO  
ALSTON & BIRD LLP

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22 \_\_\_\_\_  
Clynton Namuo  
Attorneys for Cross-Defendant  
23 **AGR BREEDING, INC.**

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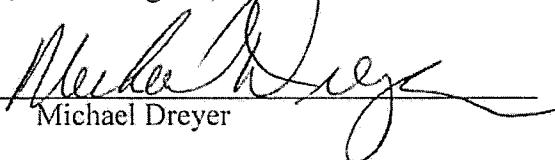
VERIFICATION

I, Michael Dreyer, declare as follows:

I am the Secretary and Treasurer of AGR Breeding, Inc., Cross-Defendant in the above-entitled action, and as such make this verification on its behalf. I have reviewed the foregoing CROSS-DEFENDANT AGR BREEDING, INC.'S INITIAL DISCLOSURES (CCP § 842) and know the contents thereof. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 21<sup>st</sup> day of October, 2019, at Los Angeles, California.

  
\_\_\_\_\_  
Michael Dreyer

# **EXHIBIT A**





STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES  
STATE ENGINEER

License for Diversion and Use of Water

LICENSE 2748

PERMIT 1718

APPLICATION 3766

THIS IS TO CERTIFY, That The Denison Ranch Company,  
Ojai, California

Notice of Assignment (Over)

has made proof as of June 26, 1944  
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the waters of  
Idea Canyon Creek in Ventura County  
tributary to San Antonio Creek

for the purpose of irrigation use  
under Permit 1718 of the Department of Public Works and that said right to the use of said waters has  
been perfected in accordance with the laws of California, the rules and regulations of the Department of Public Works  
and the terms of the said permit; that the priority of the right herein confirmed dates from December 20, 1923

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited  
to the amount actually beneficially used for said purposes and shall not exceed one (1) cubic foot per second  
by direct diversion from about March 1 to about May 1 of each season and sixty (60)  
acre-feet per annum by storage to be collected from about December 15 to about  
May 1 of each season.

In case of rotation the equivalent of such continuous flow allowance for any  
thirty day period may be diverted in a shorter time if there be no interference with  
other vested rights.

This license is based on storage collected during the 1943-44 season and use  
thereof, and also on use of water by direct diversion without storage during the year  
1944 which was the year of maximum use by direct diversion within the three year  
period immediately preceding the date of inspection.

The points of diversion of such water are located as follows:

No. 1, North thirty eight degrees, four minutes East (N. 38° 04' E.) thirty  
three hundred twenty and four tenths (3320.4) feet; No. 2, North forty three degrees  
fifty eight minutes East (N. 43° 58' E.) thirty eight hundred thirty seven (3837.0)  
feet from corner "O-No. 11" Rancho Ojai, being within No. 1, SW<sup>1</sup> of NE<sup>1</sup> of projected  
Section 8 and No. 2, SW<sup>1</sup> of SW<sup>1</sup> of projected Section 9, T & N, R 22 W, S. B. N. & E.

A description of the lands or the place where such water is put to beneficial use is as follows:

2 acres within SW <sup>1</sup> of NE <sup>1</sup> of Proj. Sec. 8	31 acres within NW <sup>1</sup> of NE <sup>1</sup> of proj. Sec. 16
3 " " SW <sup>1</sup> of NE <sup>1</sup> " " " 9	31 " " NE <sup>1</sup> of NW <sup>1</sup> " " " "
3 " " SE <sup>1</sup> of NW <sup>1</sup> " " " 9	10 " " SW <sup>1</sup> of NW <sup>1</sup> " " " "
7 " " NW <sup>1</sup> of SW <sup>1</sup> " " " 9	3 " " SW <sup>1</sup> of NW <sup>1</sup> " " " "
15 " " NE <sup>1</sup> of SW <sup>1</sup> " " " 9	5 " " NE <sup>1</sup> of SW <sup>1</sup> " " " "
7 " " SW <sup>1</sup> of SW <sup>1</sup> " " " 9	
8 " " NE <sup>1</sup> of SW <sup>1</sup> " " " 9	
<b>127 Acres Total in T &amp; N, R 22 W, S. B. N. &amp; E.</b>	

All rights and privileges under this license including method of diversion, method of use and quantity of water  
diverted are subject to the continuing authority of the Department acting through the State Engineer in accordance  
with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or  
unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from  
time to time by the State Engineer.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion  
herein specified and to the lands or place of use herein described.

1

This license is granted and licensee accepts all rights herein conferred subject to the following provisions of the Water Code:

Section 1623. Each license shall be in such form and contain such terms as may be prescribed by the Department.

Section 1624. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the processor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

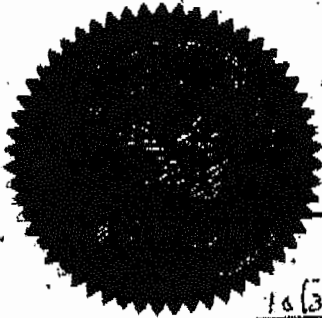
Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Witness my hand and the seal of the Department of Public Works of the State of California, this 13th day of March, 1935

EDWARD HYATT, State Engineer

[SEAL]

By: Donald Cordalera Deputy State Engineer



10/22/33 Name changed to Ojai Flying H Ranch

10/26/39 RECEIVED NOTICE OF ASSIGNMENT TO Partial Grace H. Smith

10/31/65 RECEIVED NOTICE OF ASSIGNMENT TO Donald H. Smith

3-8-71 RECEIVED NOTICE OF ASSIGNMENT TO Joe Feible

1-27-76 ASGO TO JAMES F. DANNON

LICENSE 2764

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES  
STATE ENGINEER

LICENSE  
TO APPROPRIATE WATER

ISSUED TO: The Bealeton Ranch Company

DATED: March 13, 1935

STATE ENGINEER'S OFFICE

2