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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN JOAQUIN

**THE PEOPLE OF THE STATE OF CALIFORNIA** ex rel. **VAL DOLCINI**,  
**Director of the California Department of Pesticide Regulation, and XAVIER BECERRA**, Attorney General of California,  
  
Plaintiffs,  
  
v.  
  
**ALPINE HELICOPTER SERVICE, INC., a California corporation; JOEL C. DOZHIER; WILLIAM C. HEPPE II; CHARLES HEPPE; and DOES 1 through 20, inclusive,**  
  
Defendants.  
  
**AND CONSOLIDATED ACTIONS.**

*Exempt from filing fees under Government Code § 6103*

Lead Case No. STK-CV-UEJ-2016-4746

[Consolidated w.: STK-CV-UBT-2020-7717; STK-CV-UCC-2020-9229]

**[PROPOSED] STATEMENT OF DECISION ON LIABILITY**

Date: February 18, 2022  
Time: 9:00 a.m.  
Dept: 10D  
Judge: Hon. Barbara A. Kronlund

Trial Date: August 30, 2021  
Action Filed: October 30, 2020

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1 **STATEMENT OF DECISION**

2 The Court has considered the evidence presented during 12 days of trial, written Closing  
3 Argument and Rebuttal briefs filed herein, and oral closing arguments by the parties. The Court  
4 adopts the factual recitations in the briefs filed by the California Attorney General, California  
5 Department of Pesticide Regulation, and the San Joaquin County DA's Office (People) for all  
6 five pesticide drift incidents, which reference the trial record as accurate and comport with the  
7 Court's recollection of the testimony and documentary evidence admitted. The Court finds there  
8 was substantial evidence presented at trial, and the People have met their burden as to each cause  
9 of action alleged in the People's Complaints by a preponderance of the evidence as established at  
10 trial. For each and every one of the consolidated cases before the Court, Defendants Alpine  
11 Helicopter Service, Inc. (Alpine), Joel C. Dozhier, William C. Heppe II, Charles Heppe, and John  
12 Latham (collectively, Defendants) failed to exercise the due care required of aerial pesticide  
13 applicators. Credible testimony was presented by the People from numerous lay witnesses and  
14 expert witnesses which was not effectively controverted, establishing each violation as alleged in  
15 the Complaints. Defendants were either grossly negligent, or so careless that they were recklessly  
16 indifferent to the harm they were causing to people, property, and the environment by their  
17 unlawful offsite pesticide drifts. Defendants have had proper training to apply aerial pesticides,  
18 yet repeatedly acted irresponsibly in applying the harmful substances, despite knowing the law,  
19 rules, risks, and established protocols. At a minimum, Defendants failed to exercise reasonable  
20 due care during their aerial operations, causing substantial pesticide drift onto neighboring  
21 properties, and with the Isleton Incident, onto a person.

22 The People have proven that Defendants repeatedly failed to apply pesticides within the  
23 industry standards of care by: applying during windy conditions and/or temperature inversions in  
24 violation of the labels; not establishing buffer zones; flying over sensitive areas and releasing  
25 pesticides directly over sensitive sites; and failing to fly trim passes; all the while knowing of the  
26 reasonable likelihood of contaminating adjacent property, and endangering people, property, and  
27 the environment by causing substantial drift of pesticides off target.

28 For each incident, the Court recites some critical evidence that the Court relied on in

1 reaching its findings. This summary of evidence is not intended to exhaustively recount all of the  
2 evidence that the Court reviewed and considered over the course of this court trial and additional  
3 evidence may be found in the record, as summarized in the People’s briefing. The Court does  
4 hereby find and adjudicate that:

5 **Bouldin Island Incident (Application Dates: May 16, 2014, – May 27, 2014):**

6 Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier, Alpine’s Owner, were to  
7 eradicate all vegetation to facilitate a water-rights transfer. A mix of glyphosate and imazapyr  
8 was used in greater quantities than Defendants had ever used on any job before.

9 On May 16, 2014, when the spray operation began at 5:53 a.m., Defendant Joel C.  
10 Dozhier proceeded with pesticide spraying operations during a temperature inversion which  
11 formed during the previous night and was present through 8:00 a.m. Defendant Joel C. Dozhier  
12 sprayed pesticide on May 16 until 10:22 a.m. Wind speeds were high, with gusts reaching 13  
13 mph on May 16, with the label for the herbicide listing 10 mph as the threshold above which  
14 application is unsafe.

15 The next day, May 17, 2014, Defendant Joel C. Dozhier started the pesticide spraying  
16 operation at 5:43 a.m., again during a temperature inversion that was present until 7:00 a.m.  
17 Again, wind speeds were high, between 8-12 mph from 8:00 a.m.-10:00 a.m., with operations  
18 continuing until 9:57 a.m. Wind gusts exceeded 10 mph on May 21 after 9:00 a.m., with spray  
19 operations continuing until 2:45 p.m.

20 On May 22, 2014, pilot Kaythan Chamberlain, an employee of Alpine, commenced  
21 pesticide spraying operations at 6:17 a.m., during a temperature inversion. Spraying Bouldin  
22 Island during these temperature inversions caused small pesticide spray droplets to hang in the air  
23 for long periods of time, moving off-site. Spraying pesticide during a temperature inversion falls  
24 below the standard of care in the industry.

25 Shortly after Defendants’ pesticide spraying applications as described above, the San  
26 Joaquin Agricultural Commissioner’s Office received 139 reports of loss, whereas they usually  
27 only received 2 reports per year. The Commissioner’s biologists sampled affected crops  
28 (tomatoes, blueberries, corn, walnuts, asparagus, and other crops) and detected the same

1 chemicals which Defendants sprayed on Bouldin Island. A “classic drift” situation was  
2 discovered with the damage to various crops being typical for the damage one would expect to  
3 see from the Bouldin Island drift of chemicals.

4 In addition to the crop damage, at the Tower Park community, a dog required extensive  
5 veterinary treatment after the Bouldin Island spray application. Defendants ignored the product  
6 label warnings that drift potential is lowest between wind speeds of 3-10 mph. Defendant Joel C.  
7 Dozhier established an 8-mph self-imposed wind speed on his company operations. Defendant  
8 Alpine’s pilots ignored the label and their own company policy as far as spraying during windy  
9 conditions. Defendants failed to exercise reasonable care during the Bouldin Island pesticide  
10 applications in reckless disregard of the consequences. Defendants either knew or should have  
11 known that they were causing drift with the high likelihood of great damage therefrom. The  
12 evidence is overwhelming that Defendants caused the pesticide drift in violation of the standard  
13 of care in the industry.

14 Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier are liable for the  
15 following violations of statutes and regulations for causing substantial amounts of pesticide drift  
16 from the target site onto adjacent properties, in violation of the product labels:

- 17 1. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated Health and  
18 Safety Code section 41700 on or about May 16, 2014, through May 27, 2014. The  
19 harmful pesticides applied by Defendants fall within the meaning of “air contaminants or  
20 other material” as stated in section 41700. Thus, by discharging quantities of air  
21 contaminants or other material that caused detriment, nuisance, and annoyance to a  
22 considerable number of persons and the public and endangered the comfort, repose,  
23 health, and safety of any of those persons and the public, Defendants violated section  
24 41700. This violation was an act of unfair competition as defined in Business and  
25 Professions Code section 17200.
- 26 2. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated Food and  
27 Agricultural Code section 12972 on or about May 16, 2014, through May 17, 2014, by  
28 failing to use pesticides in a manner such as to prevent substantial drift to nontarget areas.

1 This violation was an act of unfair competition as defined in Business and Professions  
2 Code section 17200.

3 3. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated Food and  
4 Agricultural Code section 12973 on or about May 16, 2014, through May 27, 2014, by  
5 using a pesticide, in conflict with the labeling of that pesticide that was registered pursuant  
6 to chapter 2 of division 7 of the Food and Agricultural Code and delivered with the  
7 pesticide. This violation was an act of unfair competition as defined in Business and  
8 Professions Code section 17200.

9 4. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
10 of Regulations, title 3, section 6614, subdivision (b)(2), on or about May 16, 2014,  
11 through May 27, 2014, by making a pesticide application when there was a reasonable  
12 possibility of damage to nontarget crops and private property. This violation was an act of  
13 unfair competition as defined in Business and Professions Code section 17200.

14 5. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
15 of Regulations, title 3, section 6614, subdivision (b)(3), on or about May 16, 2014,  
16 through May 27, 2014, by making a pesticide application when there was a reasonable  
17 possibility of contamination of nontarget private property, preventing normal use of such  
18 property. This violation was an act of unfair competition as defined in Business and  
19 Professions Code section 17200.

20 6. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
21 of Regulations, title 3, section 6600, subdivision (b), on or about May 16, 2014, through  
22 May 27, 2014, by failing to use pesticides in a careful and effective manner. This  
23 violation was an act of unfair competition as defined in Business and Professions Code  
24 section 17200.

25 7. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
26 of Regulations, title 3, section 6600, subdivision (c), on or about May 16, 2014, through  
27 May 27, 2014, by failing to use only methods suitable to insure proper application of  
28 pesticides. This violation was an act of unfair competition as defined in Business and

1 Professions Code section 17200.

2 8. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
3 of Regulations, title 3, section 6600, subdivision (d), on or about May 16, 2014, through  
4 May 27, 2014, by failing to perform pest control under climatic conditions suitable to  
5 insure proper application of pesticides. This violation was an act of unfair competition as  
6 defined in Business and Professions Code section 17200.

7 9. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
8 of Regulations, title 3, section 6600, subdivision (e), on or about May 16, 2014, through  
9 May 27, 2014, by failing to exercise reasonable precautions to avoid contamination of the  
10 environment when performing pest control. This violation was an act of unfair  
11 competition as defined in Business and Professions Code section 17200.

12 **Turner School Incident (Application Date: April 22, 2017):**

13 On April 22, 2017, Defendant John Latham, an employee of Alpine, sprayed a 340-acre  
14 walnut orchard with pesticide Nu-Cop 50. The orchard was immediately adjacent to Turner  
15 Academy School for special education students. Nu-Cop 50 is a copper-based fungicide that is  
16 dangerous to humans and animals, causing corrosive and irreversible eye damage. It was  
17 uncontroverted at trial that Turner Academy is a very sensitive site by industry standards.  
18 Establishing appropriate buffer zones are standard in the industry when applying pesticides  
19 adjacent to a sensitive area.

20 Defendant Joel C. Dozhier acknowledged at trial that Alpine has a policy requiring pilots  
21 to always leave a buffer around a school since schools are such highly sensitive sites, even when  
22 children are not present. Defendant John Latham flew in an east/west pattern perpendicular to the  
23 school, making numerous turns over the school property and spraying pesticide onto the school  
24 grounds. During trial, Defendant John Latham acknowledged that his GPS data showed his flight  
25 path did not leave a buffer zone between the walnut orchard and Turner School.

26 On Monday morning after the application, school staff discovered blue chemical blotches  
27 on the school grounds, including the blacktop, playground equipment, picnic benches, and  
28 sidewalks. Once the blue chemical was detected, the staff kept the students and staff inside the

1 school for 2 days until the premises was power-washed. The Nu-Cop 50 label indicates that if the  
2 chemical comes into contact with skin or clothing, the person is to take off their contaminated  
3 clothing and rinse their skin immediately with plenty of water for 15-20 minutes. Chemical  
4 analysis confirmed that the spots on the school grounds matched the copper substance that was  
5 aerially sprayed onto the walnut orchard by Defendants, Nu-Cop 50 pesticide.

6 Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham failed to  
7 exercise reasonable care during the Turner School application in reckless disregard of the  
8 consequences. Defendants either knew or should have known that they were repeatedly spraying  
9 corrosive Nu-Cop 50 onto a sensitive site with the high likelihood of great damage therefrom to  
10 persons and/or property. The evidence is overwhelming that Defendants caused the improper  
11 application by not using a buffer zone in violation of the standard of care in the industry.

12 Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham are liable  
13 for the following violations of statutes and regulations for causing substantial amounts of  
14 pesticide drift from the target site onto adjacent properties, in violation of the product label:

- 15 1. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham violated  
16 Health and Safety Code section 41700 on April 22, 2017. The harmful pesticides applied  
17 by Defendants fall within the meaning of “air contaminants or other material” as stated in  
18 section 41700. Thus, by discharging quantities of air contaminants or other material that  
19 caused detriment, nuisance, and annoyance to a considerable number of persons and the  
20 public and endangered the comfort, repose, health, and safety of any of those persons and  
21 the public, Defendants violated section 41700. This violation was an act of unfair  
22 competition as defined in Business and Professions Code section 17200.
- 23 2. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham violated  
24 Food and Agricultural Code section 12972 on April 22, 2017, by failing to use pesticides  
25 in a manner such as to prevent substantial pesticide drift to nontarget areas. This  
26 violation was an act of unfair competition as defined in Business and Professions Code  
27 section 17200.
- 28 3. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham violated



1 Food and Agricultural Code section 12973 on April 22, 2017, by using a pesticide in  
2 conflict with the labeling of that pesticide that was registered pursuant to chapter 2 of  
3 division 7 of the Food and Agricultural Code and delivered with the pesticide. This  
4 violation was an act of unfair competition as defined in Business and Professions Code  
5 section 17200.

6 4. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham violated  
7 California Code of Regulations, title 3, section 6614, subdivision (b)(2), on April 22,  
8 2017, by making a pesticide application when there was a reasonable possibility of  
9 damage to public property. This violation was an act of unfair competition as defined in  
10 Business and Professions Code section 17200.

11 5. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham violated  
12 California Code of Regulations, title 3, section 6614, subdivision (b)(3), on April 22,  
13 2017, by making a pesticide application when there was a reasonable possibility of  
14 contamination of nontarget public property, preventing normal use of such property and  
15 creating a health hazard. This violation was an act of unfair competition as defined in  
16 Business and Professions Code section 17200.

17 6. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham violated  
18 California Code of Regulations, title 3, section 6600, subdivision (b), on April 22, 2017,  
19 by failing to perform pest control in a careful and effective manner. This violation was  
20 an act of unfair competition as defined in Business and Professions Code section 17200.

21 7. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham violated  
22 California Code of Regulations, title 3, section 6600, subdivision (c), on April 22, 2017,  
23 by failing to use only methods suitable to insure proper application of pesticides. This  
24 violation was an act of unfair competition as defined in Business and Professions Code  
25 section 17200.

26 8. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and John Latham violated  
27 California Code of Regulations, title 3, section 6600, subdivision (e), April 22, 2017, by  
28 failing to exercise reasonable precautions to avoid contamination of the environment

1 when performing pest control. This violation was an act of unfair competition as defined  
2 in Business and Professions Code section 17200.

3 **First Sports Complex Incident (Application Date: September 7, 2019):**

4 On September 7, 2019, Defendant William C. Heppe II applied Luna Sensation pesticide  
5 to a pumpkin field adjacent to the San Joaquin Regional Sports Complex (Sports Complex) in  
6 windy conditions resulting in drift of the pesticide onto the Sports Complex while several  
7 hundred people, many of whom were children, were present for a youth soccer tournament.  
8 Winds were above 11 mph, with gusts at more than 19 mph, blowing directly from the aerial  
9 application toward the Sports Complex.

10 It is uncontroverted that the Sports Complex was a sensitive site due to the presence of  
11 several hundred children and their families on site during the spray application. People at the  
12 Sports Complex smelled the strong odor of the pesticide being applied to the adjacent field during  
13 soccer games and experienced symptoms consistent with exposure to the pesticide.

14 Biologists confirmed the presence of Luna Sensation on the Sports Complex property.  
15 Witness Mr. Bogard testified that he had a headache following the spray application, and  
16 Ms. Gregory testified to having congestion and coughing later the same day after the incident  
17 requiring the use of her rescue inhaler. Neither Mr. Bogard nor Ms. Gregory had symptoms prior  
18 to the pesticide spray drift at the Sport Complex. People at the scene testified they could smell  
19 the odor of the pesticides during the aerial application.

20 Defendant William C. Heppe II failed to perform the pesticide spray application in a  
21 reasonable and competent manner, failed to leave an appropriate buffer zone and opted to spray  
22 pesticides next to a highly sensitive site in high winds when the operation should have been  
23 canceled in favor of another day. Given the very high winds during the application, the inevitable  
24 pesticide drift from the pumpkin field target site to the occupied Sports Complex was obvious.  
25 Thus, the pesticide drift was a known and foreseeable drift, or should have been with the exercise  
26 of reasonable care. The spraying of the pumpkin field should not have proceeded under such  
27 windy conditions in light of the nearby sensitive site, the occupied Sports Complex.

28 Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and William C. Heppe II are

1 liable for the following violations of statutes and regulations for causing substantial amounts of  
2 drift from the target site onto adjacent properties, in violation of the product label:

- 3 1. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and William C. Hepe II  
4 violated Food and Agricultural Code section 11791 by operating in a careless and  
5 negligent manner on September 7, 2019. This violation was an act of unfair competition  
6 as defined in Business and Professions Code section 17200.
- 7 2. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and William C. Hepe II  
8 violated Food and Agricultural Code section 12972 by failing to prevent substantial  
9 pesticide drift to nontarget areas on September 7, 2019. This violation was an act of  
10 unfair competition as defined in Business and Professions Code section 17200.
- 11 3. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and William C. Hepe II  
12 violated Food and Agricultural Code section 12973 by using a pesticide, in conflict with  
13 the labeling of that pesticide that was registered pursuant to chapter 2 of division 7 of the  
14 Food and Agricultural Code and delivered with the pesticide, on September 7, 2019. This  
15 violation was an act of unfair competition as defined in Business and Professions Code  
16 section 17200.
- 17 4. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and William C. Hepe II  
18 violated California Code of Regulations, title 3, section 6600, subdivision (b), by failing  
19 to perform pest control in a careful and effective manner on September 7, 2019. This  
20 violation was an act of unfair competition as defined in Business and Professions Code  
21 section 17200.
- 22 5. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and William C. Hepe II  
23 violated California Code of Regulations, title 3, section 6600, subdivision (d), by failing  
24 to perform pest control under climatic conditions suitable to ensure proper application of  
25 pesticides on September 7, 2019. This violation was an act of unfair competition as  
26 defined in Business and Professions Code section 17200.
- 27 6. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and William C. Hepe II  
28 violated California Code of Regulations, title 3, section 6600, subdivision (e), by failing to

1 exercise reasonable precautions to avoid contamination of the environment on September  
2 7, 2019. This violation was an act of unfair competition as defined in Business and  
3 Professions Code section 17200.

4 7. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and William C. Hepe II  
5 violated California Code of Regulations, title 3, section 6614, subdivision (b)(1), by  
6 making and continuing a pesticide application when there was a reasonable possibility of  
7 contamination of the bodies or clothing of persons not involved in the application process  
8 on September 7, 2019. This violation was an act of unfair competition as defined in  
9 Business and Professions Code section 17200.

10 8. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and William C. Hepe II  
11 violated Health and Safety Code section 41700. The harmful pesticides applied by  
12 Defendants fall within the meaning of “air contaminants or other material” as stated in  
13 section 41700. Thus, by discharging quantities of air contaminants or other material that  
14 caused detriment, nuisance, and annoyance to a considerable number of persons and the  
15 public and endangered the comfort, repose, health, and safety of any of those persons and  
16 the public on September 7, 2019, Defendants violated section 41700. This violation was  
17 an act of unfair competition as defined in Business and Professions Code section 17200.

18 **Second Sports Complex Incident (Application Date: September 17, 2019):**

19 Defendant Joel C. Dozhier applied Fulfill pesticide to a pumpkin field adjacent to the  
20 Sports Complex in windy conditions resulting in dropping a significant amount of the pesticide  
21 onto County Parks and Recreation employee Oscar Estoll’s parked vehicle within the Sports  
22 Complex. Wind speeds during the application were 8-12.7 mph, blowing from the field to the  
23 Sports Complex from 7:45 a.m.-9:00 a.m.

24 GPS data confirmed Defendant Joel C. Dozhier made 7 turns over the baseball fields at  
25 the Sports Complex during the application. Chemists confirmed that the pesticide Fulfill on Mr.  
26 Estoll’s vehicle matched that being applied to the pumpkin field by Defendant Joel C. Dozhier,  
27 and Dozhier acknowledged that the spray drops on Mr. Estoll’s vehicle came from his application  
28 of the pesticide. The ground and bleachers in the Sports Complex near Mr. Estoll’s vehicle

1 likewise were covered with the pesticide.

2 Defendant Joel C. Dozhier failed to use due care in the application of the pesticide on  
3 September 17, 2019, by flying directly over the Sports Complex, making the application in high-  
4 wind conditions, failing to maintain a buffer zone, in disregard to the adjacent Sports Complex  
5 being a sensitive site. Mr. Estoll was not the only person at the Sports Complex; resident  
6 caretaker Vance Jarnagin was also at the site during the aerial application. The evidence is clear  
7 that there were very high winds during the application and that the inevitable drift from the  
8 pumpkin field target site to the occupied Sports Complex was obvious. Therefore, the pesticide  
9 drift was a known and foreseeable drift, or should have been with the exercise of reasonable care.

10 Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier are liable for the  
11 following violations of statutes and regulations for causing substantial amounts of drift from the  
12 target site onto adjacent properties, in violation of the product label:

- 13 1. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated Food and  
14 Agricultural Code section 11791 by operating in a careless and negligent manner on  
15 September 17, 2019. This violation was an act of unfair competition as defined in  
16 Business and Professions Code section 17200.
- 17 2. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated Food and  
18 Agricultural Code section 12972 by failing to prevent substantial pesticide drift to  
19 nontarget areas on September 17, 2019. This violation was an act of unfair competition as  
20 defined in Business and Professions Code section 17200.
- 21 3. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated Food and  
22 Agricultural Code section 12973 by using a pesticide, in conflict with the labeling of that  
23 pesticide that was registered pursuant to chapter 2 of division 7 of the Food and  
24 Agricultural Code and delivered with the pesticide, on September 17, 2019. This  
25 violation was an act of unfair competition as defined in Business and Professions Code  
26 section 17200.
- 27 4. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
28 of Regulations, title 3, section 6600, subdivision (b), by failing to perform pest control in a

1 careful and effective manner on September 17, 2019. This violation was an act of unfair  
2 competition as defined in Business and Professions Code section 17200.

3 5. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
4 of Regulations, title 3, section 6600, subdivision (c), by failing to use only methods and  
5 equipment suitable to ensure proper application of pesticides on September 17, 2019.  
6 This violation was an act of unfair competition as defined in Business and Professions  
7 Code section 17200.

8 6. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
9 of Regulations, title 3, section 6600, subdivision (d), by failing to perform pest control  
10 under climatic conditions suitable to ensure proper application of pesticides on September  
11 17, 2019. This violation was an act of unfair competition as defined in Business and  
12 Professions Code section 17200.

13 7. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
14 of Regulations, title 3, section 6600, subdivision (e), by failing to exercise reasonable  
15 precautions to avoid contamination of the environment on September 17, 2019. This  
16 violation was an act of unfair competition as defined in Business and Professions Code  
17 section 17200.

18 8. Defendants Alpine Helicopter Service, Inc., and Joel C. Dozhier violated California Code  
19 of Regulations, title 3, section 6614, subdivision (b)(1), by making and continuing a  
20 pesticide application when there was a reasonable possibility of contamination of the  
21 bodies or clothing of persons not involved in the application process on September 17,  
22 2019. This violation was an act of unfair competition as defined in Business and  
23 Professions Code section 17200.

24 **Isleton Incident (Application Date: July 4, 2020):**

25 Defendant Charles Heppe applied Zeal to a field adjacent to Michelle Burke's property in  
26 Isleton. Defendant Charles Heppe's application resulted in drift onto Ms. Burke's body and onto  
27 her property, including her animals and her garden, and onto a reclamation ditch between the  
28 target field and Ms. Burke's property.

1 Flight data establishes that Defendant Charles Heppe made numerous turns outside of the  
2 target area directly over Ms. Burke's property during the application of Zeal, with photos taken of  
3 the actual spraying of Ms. Burke's property. Samples collected from Ms. Burke's hat and yellow  
4 tote confirmed pesticide drift from Defendant Charles Heppe's application to the adjacent  
5 property.

6 Uncontroverted evidence established that there was no buffer zone created by Defendants  
7 to protect the Burke property and her person from drift. And Defendant Charles Heppe failed to  
8 fly trim passes, which is standard in the industry considering the sensitive area of the Burke  
9 property next door. This application fell below the standard of care in the industry and  
10 establishes that Defendants caused substantial drift onto Ms. Burke's person and property.

11 The Court found Ms. Burke to be a particularly credible and compelling witness.

12 Zeal's label indicates that the product is hazardous to animals and humans, causing  
13 moderate eye irritations and that people should avoid breathing the dust and having contact with  
14 one's eyes, skin, and clothing. The pesticide is not supposed to be sprayed in a manner such that  
15 it can come into contact with water sources.

16 Defendants Alpine Helicopter Service Inc., Joel C. Dozhier, and Charles Heppe are liable  
17 for the following violations of statutes and regulations for causing substantial amounts of drift  
18 from the target site onto adjacent properties, in violation of the product label:

- 19 1. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and Charles Heppe violated  
20 Food and Agricultural Code section 11791 by operating in a careless and negligent  
21 manner on July 4, 2020. This violation was an act of unfair competition as defined in  
22 Business and Professions Code section 17200.
- 23 2. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and Charles Heppe violated  
24 Food and Agricultural Code section 12972 by failing to prevent substantial pesticide drift  
25 to nontarget areas on July 4, 2020. This violation was an act of unfair competition as  
26 defined in Business and Professions Code section 17200.
- 27 3. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and Charles Heppe violated  
28 Food and Agricultural Code section 12973 by using a pesticide, in conflict with the

1 labeling of that pesticide that was registered pursuant to chapter 2 of division 7 of the  
2 Food and Agricultural Code and delivered with the pesticide, on July 4, 2020. This  
3 violation was an act of unfair competition as defined in Business and Professions Code  
4 section 17200.

- 5 4. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and Charles Heppe violated  
6 California Code of Regulations, title 3, section 6600, subdivision (b), by failing to perform  
7 pest control in a careful and effective manner on July 4, 2020. This violation was an act  
8 of unfair competition as defined in Business and Professions Code section 17200.
- 9 5. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and Charles Heppe violated  
10 California Code of Regulations, title 3, section 6600, subdivision (c), by failing to use  
11 only methods and equipment suitable to ensure the proper application of pesticides on July  
12 4, 2020. This violation was an act of unfair competition as defined in Business and  
13 Professions Code section 17200.
- 14 6. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and Charles Heppe violated  
15 California Code of Regulations, title 3, section 6600, subdivision (e), by failing to exercise  
16 reasonable precautions to avoid contamination of the environment on July 4, 2020. This  
17 violation was an act of unfair competition as defined in Business and Professions Code  
18 section 17200.
- 19 7. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and Charles Heppe violated  
20 California Code of Regulations, title 3, section 6614, subdivision (b)(1), by making and  
21 continuing a pesticide application when there was a reasonable possibility of  
22 contamination of the bodies or clothing of persons not involved in the application process  
23 on July 4, 2020. This violation was an act of unfair competition as defined in Business  
24 and Professions Code section 17200.
- 25 8. Defendants Alpine Helicopter Service, Inc., Joel C. Dozhier, and Charles Heppe violated  
26 California Code of Regulations, title 3, section 6614, subdivision (b)(2), by making and  
27 continuing a pesticide application when there was a reasonable possibility of damage to  
28 nontarget crops, animals, and other public and private property on July 4, 2020. This



1 violation was an act of unfair competition as defined in Business and Professions Code  
2 section 17200.

3 **Right to Farm:**

4 Defendants argued that the San Joaquin County “Right to Farm” Notice (Ordinance Code of  
5 San Joaquin County, tit. 6, div. 9, ch. 1, § 6-9004) is of relevance to the Court’s liability  
6 determination because growers for whom Defendants performed their applications had a legal  
7 right to farm their crops and their “neighbors” must be prepared to deal with the inconvenience of  
8 agricultural activities and risk of potential pesticide exposure. The local ordinance is irrelevant  
9 because it applies to property owners claiming nuisance in an agricultural area, which is not at  
10 issue in this case. Assuming arguendo the intent of the ordinance is to allow pesticide drift onto  
11 nontarget persons or property without consequence, which was not established, it is preempted by  
12 Food and Agricultural Code section 11501.1, which provides that Food and Agricultural Code  
13 divisions 6 and 7 are of “statewide concern and occupy the whole field of regulation regarding the  
14 . . . use of pesticides to the exclusion of all local regulation. . . . [N]o ordinance or regulation . . .  
15 may prohibit or in any way attempt to regulate any matter relating to the . . . use of pesticides, and  
16 any of these ordinances, laws, or regulations are void . . . .”

17 **Conclusion:**

18 Based on the foregoing, Defendants are liable for civil penalties under Food and Agricultural  
19 Code sections 11893 and 12998, Health and Safety Code section 42402.1 et seq., and Business  
20 and Professions Code section 17206, in an amount to be determined during the phase two of the  
21 trial. Moreover, based upon these findings, the Court will consider the People’s request for a  
22 permanent injunction against Defendants during phase two of the trial.

23 **IT IS SO ORDERED.**

24  
25 DATED: 3/4/2022.

  
\_\_\_\_\_  
26 BARBARA A. KRONLUND  
27 JUDGE OF THE SUPERIOR COURT  
28

**DECLARATION OF SERVICE BY E-MAIL**

Case Name: **The People of the State of California ex rel. Val Dolcini and Xavier Becerra v. Alpine Helicopter Service, Inc., et al.**

No.: **STK-CV-UEJ-2016-4746**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter.

On February 23, 2022, I served the attached **[PROPOSED] STATEMENT OF DECISION ON LIABILITY** by transmitting a true copy via electronic mail, addressed as follows:

David M. Leath, Esq. Petrie Leath Larrivee & O'Rourke, LLP <b>E-mail addresses:</b> <a href="mailto:dleath@plllegal.com">dleath@plllegal.com</a> <a href="mailto:mdutra@plllegal.com">mdutra@plllegal.com</a> <i>Attorney for Defendants Alpine Helicopter Service, Inc. et al.</i>	Kelly McDaniel, Esq. San Joaquin County District Attorney <b>E-mail address:</b> <a href="mailto:Kelly.McDaniel@sjcda.org">Kelly.McDaniel@sjcda.org</a> <i>Attorney for Plaintiff People of the State of California</i>
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I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on February 23, 2022, at Sacramento, California.

\_\_\_\_\_  
Bella Cruz  
Declarant

\_\_\_\_\_  
*/s/ Bella Cruz*  
Signature