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12 **UNITED STATES DISTRICT COURT**
 13 **EASTERN DISTRICT OF CALIFORNIA**
 14 **SACRAMENTO DIVISION**

14 SUNRISE FOODS INTERNATIONAL)
 15 INC.,)

16 Plaintiff,)

17 v.)

18 SONNY PERDUE, in his official capacity)
 19 as Secretary of Agriculture, *et al.*,)

20 Defendants.)

Case No. 2:18-cv-00688-JAM-EFB

21) **DECLARATION OF DICKINS CHUN IN**
 22) **SUPPORT OF DEFENDANTS'**
 23) **OPPOSITION TO PLAINTIFF'S**
 24) **MOTION FOR TEMPORARY**
 25) **RESTRAINING ORDER**

DECLARATION OF DICKINS CHUN

1
2
3 I, Dickins Chun, hereby declare and certify as follows:

4 1. I am a Chief Supervisory Agriculture Specialist with the Area Port of San
5 Francisco, Office of Field Operations (OFO), U.S. Customs and Border Protection (CBP),
6 United States Department of Homeland Security (DHS). CBP is responsible for certain
7 agricultural import and entry inspection functions. I have been employed by DHS, CBP, OFO
8 since June 1979 and have been in my current position since December 2005. I currently provide
9 oversight to agricultural inspections for the Trade Division with the San Francisco, California
10 Port of Entry.

11 2. I make this declaration in support of CBP, one of the defendants in this lawsuit.

12 3. This declaration is based upon my personal knowledge and experience and
13 information provided to me in my official capacity.

14 4. When commodities are imported, a sampling is conducted prior to entry into the
15 United States to ensure that they comply with United States law. CBP and United States
16 Department of Agriculture (USDA) work collaboratively to ensure that agricultural imports are
17 safe and legal to allow into the country.

18 5. On April 6, 2018, CBP Office of Chief Counsel received a request from
19 Quarantine Policy, Analysis and Support (QPAS), Animal and Plant Health Inspection Service
20 (APHIS), USDA, to coordinate on further testing of the corn samples from four holds of the MV
21 Mountpark provided to CBP in late February 2018. From April 6 to April 2018, USDA and CBP
22 made the necessary arrangements to conduct further testing.

23 6. On April 9, 2018, I was designated as the CBP, Port Point of Contact, for this
24 further testing.

25 7. On April 9, 2018, I contacted Mr. Norman Mullaly, USDA, APHIS, PPQ State
26 Operations Coordinator, California, and he provided guidance on how to proceed with obtaining
27 a suitable subsample for statistical evaluation of the corn.
28

1 8. On April 9, 2018, 32oz. (1 Quart) of corn was measured using a tabletop digital
2 scale (OHAUS CS Series) and was extracted from the corn samples taken from each vessel hold.
3 This amount is described as the inspectional unit outlined in Table 2-8 of the USDA, Seeds Not
4 for Planting Manual. With each Quart subsample (four subsamples total representing one from
5 each vessel hold), CBP Agriculture Specialists were able to separate 29 whole corn kernels.
6 USDA, APHIS, PPQ, Plant Health Safeguarding Specialists, Marilyn Tomkins and Shauna
7 Gallant were present to confirm the accuracy and condition of the whole kernels.

8 9. On April 10, 2018, CBP Agriculture Specialists continued in performing an
9 inspection of the Quart subsamples, separating whole kernels from milled product. An average
10 of over 2000 whole kernels were present in each of all four Quart subsamples.

11 10. Specifically, testing of a Quart subsample from hold H1 established 17.7 oz. of
12 whole corn and approximately 2160 whole kernels (55%); testing of a Quart subsample from
13 hold H2 established 18.05 oz. of whole corn and approximately 2178 whole kernels (56%);
14 testing of a Quart subsample from hold H3 established 17.6 oz. of whole corn and approximately
15 2327 whole kernels (55%); and testing of a Quart subsample from hold H5 established 14.65 oz.
16 of whole corn and approximately 1786 whole kernels (46%).

17 11. I declare under penalty of perjury under the laws of the United States of America
18 that the foregoing is true and correct.

19
20 Executed on the 11 day of April, 2018.

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22 _____
23 Dickins Chun
24 Chief Supervisory Agricultural Specialist
25 Area Port of San Francisco
26 Office of Field Operations (OFO)
27 U.S. Customs and Border Protection (CBP)
28 United States Department of Homeland Security