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**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In The Matter Of

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT,

Petitioner,

VS.

CHIQUITA CANYON, LLC, a Delaware
Corporation,
[Facility ID No. 119219]

Respondent.

Case No. 6177-4

CHIQUITA'S OPPOSITION TO MOTION TO QUASH SUBPOENA DUCES TECUM

Health and Safety Code § 41700, and District Rules 402, 431.1, 3002, 203, 1150

Hearing Date: January 29, 2026
Time: 9:30 am
Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

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1 **I. INTRODUCTION**

2 The Hearing Board needs the best data and evidence to fulfill its responsibility for protecting air
3 quality around the Chiquita Canyon Landfill. The addresses and descriptions contained in odor
4 complaints held by the South Coast Air Quality Management District (“South Coast AQMD” or the
5 “District”) are foundational facts that will provide the Board the tools to better evaluate and decide the
6 issues before it, including the identification and mitigation of odors. The laws and regulations governing
7 proceedings before the Hearing Board provide for full access to evidence, both to assist the Board and
8 protect the rights of parties before the Board. The District’s Motion to Quash seeks to block highly
9 relevant, material, and lawful evidence, and should be denied.

10 Odor complaints have served as the foundation for over two years’ worth of South Coast
11 AQMD’s advocacy before this Hearing Board regarding this Stipulated Order for Abatement. At every
12 hearing, Supervising Air Quality Inspector Laurance Israel provides an update on the total number of
13 odor complaints received regarding odors allegedly originating from the Landfill. Chiquita now seeks
14 basic information about the complaints that provide the basis for the Stipulated Order, the same type of
15 information that the District has willingly provided to other agencies where it could be used against
16 Chiquita Canyon, LLC (“Chiquita”). While 27 months of this information is already publicly available,
17 the District refuses to provide the information to Chiquita on an ongoing basis and has moved to quash
18 Chiquita’s December 2, 2025, subpoena.

19 The Motion to Quash is unfounded and should be denied so that this Board makes its important
20 decisions on a full and fair record. The data Chiquita seeks will inform how this Hearing Board
21 addresses odors and abatement at the Landfill moving forward, and there is no legitimate government
22 objective to be served by cloaking this foundational evidence in secrecy any longer. As Hearing Board
23 member Mr. Mohan Balagopalan stated, such data is “*critical*” and “*will help in further analysis*” in
24 these proceedings. (J. Duginski Decl. at ¶ 2, Ex. B [June 24, 2025, Hearing Transcript], at pp. 208:13–
25 209:19.) Complete odor complaint data will improve wind direction analyses, permit the parties to
26 correlate community odor complaints against odor surveillance and air monitoring data, and allow for
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1 the visualization of potential off-site impacts through heat maps, cluster maps, and other analytical tools.
2 Address information will shed light on whether certain complained-of odors originated from the
3 Landfill. All these analyses will provide the Hearing Board a more complete picture of potential impacts
4 in areas surrounding the Landfill and will inform new and modified conditions in the Stipulated Order.

5 Despite the obvious advantages to having more of this critical data, the District claims that (1)
6 the address information is not material to these proceedings, (2) the address information is privileged,
7 and (3) compliance with the subpoena would be an undue burden. None of these arguments have
8 merit—odor complaints are at the core of these proceedings, the public interest in disclosure is not
9 outweighed by the interest in keeping addresses secret, and there is no burden in requiring the District to
10 disclose data it already collects. Accordingly, South Coast AQMD’s motion to quash should be denied.
11 (See Hearing Board Rule 9(a)(4)(A–C).)

12 South Coast AQMD’s legal arguments for cloaking this data fail, so it pivots to allegations that
13 Chiquita’s use of publicly available address data in a prior hearing violated a protective order, and that
14 Chiquita will use this data to “target” community members. These allegations are false and unsupported.
15 For starters, the District **permitted Chiquita to use the data** during the hearing in the manner that it
16 did—that this same use could violate a protective order borders on frivolous. Second, Chiquita has never
17 and will not “target” community members with this data and the District has no basis to suggest
18 otherwise. Third, the address data is already publicly available, having been filed by the County of Los
19 Angeles in a public docket in federal court, and thus any potential privilege over that data has been
20 waived. (J. Duginski Decl. at ¶ 5.) As is standard, Chiquita will gladly stipulate to limits on its use of the
21 data.

22 In short, Chiquita’s request for odor nuisance complaint addresses and descriptions of the
23 complained-of odors is relevant and material to these proceedings, narrowly tailored to avoid any
24 disclosure of personally identifying information, and appropriate under the circumstances. South Coast
25 AQMD’s attempt to shield this data from disclosure would only serve to prevent the Hearing Board
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1 from fully understanding the scope of the complained-of odors. This Hearing Board should order the
2 District to promptly provide the data.

3 **II. ARGUMENT**

4 **A. Odor complaint addresses and descriptions are relevant and material to these
5 proceedings and pose no undue burden on the District.**

6 South Coast AQMD is seeking to bar access to evidence and has the burden on its Motion to
7 Quash. It must show that the information is not relevant or material to the Board's decision-making, that
8 the information is privileged, or that compliance with the subpoena would impose an undue burden on
9 South Coast AQMD. (See Hearing Board Rule 9(a)(4)(A–C).) The District cannot meet any of these
10 criteria, and the subpoena is valid.

11 Chiquita's subpoena seeks records of complaints submitted to South Coast AQMD from
12 September 5, 2025 through the present regarding the Landfill, including the full address of the location
13 of each complainant.¹ Chiquita also seeks for the District to provide this information going forward on a
14 quarterly basis. South Coast AQMD does not dispute that the odor nuisance complaints and the
15 associated addresses and odor descriptions are relevant to these proceedings. (Mot., at pp. 6–9.) Instead,
16 the District only argues that the address information is not material and that producing descriptions of
17 the complained-of odors would be an undue burden. (Mot., at pp. 6–9 & 14–15.) Not so. The odor
18 complaint data—including full addresses and the complainants' descriptions of the purported odors—are
19 obviously both “relevant and material” to these proceedings. Nor is there any significant burden in
20 providing the complainants' own descriptions of the odors. Chiquita is not asking for any additional
21 work product from South Coast AQMD, only the data existing in the District's files regarding the exact
22 location and details of the complaints.

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¹ Chiquita qualified its request for associated GIS data “to the extent such data exists.” It does not seek to compel production
27 of nonexistent data.

1 **1. *The complaint addresses will provide the Hearing Board with critical***
2 ***information that will strengthen the Board's work and decisions.***

3 Since these proceedings started in 2023, South Coast AQMD has relied primarily on the volume
4 of odor nuisance complaints to support its arguments regarding the alleged odor issues resulting from
5 the reaction at the Chiquita Canyon Landfill. At each hearing, South Coast AQMD inspector Laurance
6 Israel references the total number of complaints received to date that allege the Landfill as the odor
7 source, including the number of complaints in recent months, then testifies about the types of
8 complained-of odors and the neighborhoods from which the District is receiving complaints. (J.
9 Duginski Decl. at ¶ 3, Ex. D [Israel Decl. May 30, 2025], at ¶¶ 7–8; *id.* at ¶ 2, Ex. A [August 17, 2024
10 Hearing Transcript], at pp. 126:7–127:2.)

11 The Hearing Board is well acquainted with the highly technical nature of the issues it must
12 decide, including the nature of odors, where they originate from, and most importantly, where and to
13 what degree they disperse. Knowing the addresses and nature of odor complaints will allow the parties,
14 the witnesses, and the Hearing Board to understand much better and decide the complex issues of how to
15 identify, control, and mitigate odors, which is the Board's core duty. The data sought will inform
16 whether the alleged odors impact hundreds of people across varying neighborhoods at various times of
17 day, or if the alleged odors are experienced by a specific neighborhood at specific times of day. It will
18 also give the Hearing Board a sense of scope.

19 For example, in December 2025, Mr. Patrick Sullivan, BCES, CPP, REPA, testified based on his
20 preliminary analysis of complaints with complete address information:

21 • The “top 1 percent” or “31 addresses” accounted for “28 percent of the total
22 complaints,”
23 • “99 addresses” or about three percent of total addresses “contributed about half of the
24 total complaints;” and
25 • 20 addresses accounted for “half of the [verified] complaints that resulted in an NOV
26 being issued” to Chiquita.

27 (J. Duginski Decl. at ¶ 2, Ex. C [December 9, 2025, Hearing Transcript], at pp. 66:24–67:17.)
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1 These types of insights were previously unavailable to the Hearing Board and will materially
2 assist the Board in deciding how any alleged odors should be addressed. Mr. Sullivan's accompanying
3 declaration provides more detail on what Chiquita has done and can accomplish if the District produces
4 complete odor complaint data. (P. Sullivan Decl. at ¶¶ 4–10.)

5 **a. Complete address information will improve meteorological data
6 analyses.**

7 Complete address information will support and greatly improve Chiquita's ongoing wind
8 direction analyses, which will provide the Board the best possible evidence. (*Id.* at ¶¶ 5–6.) The Board
9 knows well the varied topography and micro climates around the Landfill, and correlating the exact
10 location of odor impacts with wind direction will allow the parties and the Hearing Board to better
11 understand *when* the Landfill is upwind of the complainants' locations. (*Id.* at ¶¶ 5–6.) The District's
12 current approach—providing only the street from which the complaint was made—significantly limits
13 the utility and accuracy of wind direction analyses. (*Id.* at ¶¶ 5–6.) Importantly, as the Board knows,
14 Chiquita has transparently provided analysis on wind and odor data even when it may be unfavorable to
15 Chiquita's position. (J. Duginski Decl. at ¶ 2, Ex. C [December 9, 2025, Hearing Transcript], at pp.
16 66:15–66:23.)

17 **b. Complainant addresses will enable better analysis of the scope of
18 odors and possible mitigation.**

19 Complete complaint address data will also allow Chiquita to correlate odor complaints against
20 odor surveillance and air monitoring data, providing higher quality analyses and context for
21 interpretation of all data before the Board. (P. Sullivan Decl. at ¶¶ 7–8.) As mandated by Stipulated
22 Order Condition 1(b), Chiquita conducts odor surveillance at 40 designated locations surrounding the
23 Landfill. As recently as the December 9, 2025, proceedings, South Coast AQMD stipulated to removal
24 of seven of those odor surveillance stops. Chiquita's trained third-party odor inspectors objectively
25 survey each location and log whether odors are present—and the observed severity of any odors
26 detected. (*Id.* at ¶ 7.) With complete address data, Chiquita can correlate the real-time odors against any
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1 odor complaints lodged in geographical and temporal proximity to the odor surveillance. (*Id.* at ¶ 8.) Co-
2 locating the surveillance data with odor complaint data will provide the Hearing Board with a clear,
3 tangible understanding of whether, where, and when there might be offsite odors. Co-locating the data in
4 this way will provide a more complete picture of potential community impacts that cannot be seen from
5 odor complaint data alone.

6 Full address information will allow for comparison of odor complaint data against air monitoring
7 data to determine what constituents, if any, may be in the air at the time and location of the complaint.
8 For those odor complaints coming from locations immediately adjacent to Chiquita's seven off-site air
9 monitoring stations, Chiquita will be able to analyze and determine what constituents are where and
10 which may be causing the alleged odors. (*Id.*) The parties and the Board can then determine whether
11 certain constituents are worthy of more scrutiny and tailored mitigation measures.

12 Chiquita will also be able to correlate odor complaint locations against unexpected downtime of
13 equipment on site, enabling an assessment of which localized areas may experience certain impacts
14 during such events. (*Id.* at ¶ 9.) With a clearer understanding of how an upset event links to air
15 monitoring data and odor complaints, Chiquita can better implement targeted mitigation measures.

16 **c. Visual aids using address information will help the Hearing Board
17 understand the geographic scope of alleged odors.**

18 Complaint address data will allow for geographical analysis and the creation of heat maps,
19 cluster maps, and other technical aids to inform new or modified abatement measures that will provide
20 the most mitigation benefit. (*Id.*) Such mapping could yield particularly useful information: if there are
21 consistent impacts in specific geographic areas, Chiquita will be able to conduct further analyses to
22 determine if topography, proximity, wind direction, or some other environmental factor is leading to a
23 concentration of impacts in certain locations. (*Id.* at ¶ 10.) These maps can then be used to determine
24 where specific abatement measures may be most needed.

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d. Better data will lead to better decision-making regarding mitigation at the Landfill.

In sum, with complete address information for all relevant time periods, geographical, temporal, directional, and environmental analyses will be vastly improved. The data will afford Chiquita the capacity to provide the Hearing Board with a superior picture of purported offsite impacts with the intention of maximizing the success of Chiquita's ongoing mitigation. This in turn will enable the Hearing Board to make fair decisions based on the best information and evidence, which of course is the Board's goal. The requested odor description data will allow Chiquita to better understand what type of odors the community may be experiencing, allowing Chiquita to further refine the necessary mitigation measures based on the type of odors complainants describe. This data is plainly relevant and material to the issues before this Hearing Board.

2. *South Coast AQMD's arguments to keep complainant address data secret are unconvincing.*

The District ignores the obvious benefits of more robust complaint data and instead insists that the complainant’s addresses somehow are not material to these proceedings. Relying on an overly technical and cramped legal interpretation of this Hearing Board’s role, South Coast AQMD argues that, because proceedings to date have ended in stipulated agreement, the Hearing Board has not been required to “make the Rule 806(a) findings” and the address information is therefore not material to the Board’s “limited analysis.” (Mot., at p. 7.) This argument misstates the Board’s role and responsibilities. The parties’ previous stipulations in no way undercut the materiality of better evidence. Indeed, access to the complete odor complaint information—and subsequent analyses—may substantially change the parties’ positions, as well as the Hearing Board’s understanding, as to whether new and modified conditions are ripe for stipulation.

Nor is there any guarantee that future hearings will always be stipulated, and as the Board knows, stipulations are often reached after witness testimony is presented. More importantly, the procedural posture is irrelevant—this Hearing Board is entitled to have a full understanding of the issues

1 it is addressing, including the most basic information about *where the complaints are coming from*.
2 With complete complaint information, it may become clear that certain conditions are no longer relevant
3 or productive, or that future conditions are not supported by the data. Chiquita and the Board cannot
4 know that until the complete dataset is produced and Chiquita has an opportunity to continue conducting
5 these more detailed analyses moving forward.

6 The District also argues that the data cannot be material because Chiquita has had a portion of
7 the address information for a “couple months” but has not presented “any material analysis.” (*Id.*) To the
8 contrary, in the limited time available to Chiquita’s witnesses, Chiquita presented and the Board learned
9 for the first time that only **20 addresses** were responsible for half the verified complaints leading to a
10 notice of violation. This paints a much different picture than the tens of thousands of undifferentiated
11 complaints South Coast AQMD presents upon at every hearing. Moreover, Mr. Sullivan provided
12 analysis showing that approximately “20 percent” of the *verified* odor complaints were upwind from the
13 Landfill and were therefore based on odors that were unlikely to have originated from the Landfill. (J.
14 Duginski Decl. at ¶ 2, Ex. C [December 9, 2025, Hearing Transcript], at pp. 65:25–66:11.) As shown
15 above, the limited analysis provided by Mr. Sullivan at the previous hearing is just the tip of the iceberg,
16 but it alone disclosed more about the odor complaints lodged against Chiquita than the District has ever
17 attempted.

18 Finally, South Coast AQMD contends that “none of the stipulated conditions have been
19 predicated on odors reaching a particular household.” (Mot., at p. 9.) How could they? South Coast
20 AQMD has never disclosed such information to the Hearing Board. This argument also misses the
21 point—the conditions to date have been predicated on the assumption that all odors are going
22 everywhere all of the time—address information will allow for more focused, and likely successful,
23 mitigation efforts.

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3. *It is not unduly burdensome for South Coast AQMD to produce the odor descriptions provided by complainants.*

South Coast AQMD claims that providing the complainant’s description of the odors they experience would be unduly burdensome. It is not. The District collects such information, for example, through the online odor complaint system, with a clearly delineated “description” section for odors.² Indeed, the District’s Complaint Reporting System provides instructions on submitting odor descriptions, including telling complainants to include detail of odor intensity, odor persistence, odor type, and odor frequency. To the extent that complaints are made via phone call and odor descriptors are not separately logged, Chiquita is willing to forego that information in the documents sought to be produced by the subpoena.

B. Odor complainant addresses are not privileged.

South Coast AQMD cannot block the Hearing Board and Chiquita from important complaint address information based on alleged privileges. The District must show that “[d]isclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.” (*California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 832.) This is a high bar—the California Court of Appeals has held that a party objecting to disclosure must provide evidence displaying “a clear overbalance on the side of confidentiality.” (*Id.* at p. 831.) The District cannot meet its burden. Having complainant addresses would benefit the public interest by more fully informing this Hearing Board’s decisions and, on balance, overcome any potential confidentiality protections.

Instead of providing evidence that complainant addresses should be protected, South Coast AQMD disparages Chiquita by speculating that it will use the complaint data to “target” the community simply because Chiquita previously sent out a mailer. (Mot. at 12.) Nonsense. These materials were sent to all community members within Chiquita’s former Community Relief Fund area without regard to any possible connection or knowledge of complainants’ addresses. South Coast AQMD also points to no

² (See South Coast AQMD Complaint Reporting System <<https://xappp.aqmd.gov/complaints/NewComplaint.aspx>> [as of Jan. 16, 2026].)

1 evidence suggesting that Chiquita would take such steps in the future. This baseless allegation of ill
2 motive cannot support “a clear overbalance on the side of confidentiality,” the standard set by the
3 California Supreme Court. (*Michaelis, Montanari & Johnson v. Superior Court* (2006) 38 Cal.4th 1065,
4 1071.)

5 Furthermore, contrary to the District’s insinuation that the mailers contained “misinformation,”
6 these mailers were entirely accurate. (See Mot., at p. 12.) They highlighted that no study has shown any
7 health impacts resulting from air quality around the Landfill, a fact that is uncontestedly true.
8 Regardless, whether Chiquita has access to the requested data is entirely unrelated and immaterial to
9 Chiquita’s ability to send future informational flyers out to the community. It is also irrelevant. For
10 disclosure under the Evidence Code, the motive of the particular requester doesn’t matter; the question
11 instead is whether disclosure serves the public interest. (*State Bd. of Equalization v. Superior Court*
12 (1992) 10 Cal.App.4th 1177, 1190 [“[t]he Public Records Act does not differentiate among those who
13 seek access to public information”].) South Coast AQMD’s gross mischaracterization of Chiquita’s
14 efforts at information dissemination is not a new tactic. The California Court of Appeal has observed
15 that “[c]ourts must be alert to contentions by government entities that exaggerate the interest in
16 nondisclosure, lest they be used as a pretext for keeping information secret for improper reasons, such as
17 to avoid embarrassment over mistakes, incompetence, or wrongdoing.” (*Los Angeles Unified School*
18 *Dist. v. Superior Court* (2014) 228 Cal.App.4th 222, 250.)

19 What is relevant is whether the public will be served by allowing the Hearing Board to review
20 the complete complaint data, in part through thorough data analysis provided by Chiquita. (See
21 *American Civil Liberties Union Foundation v. Superior Court* (2017) 3 Cal.5th 1032, 1043.) The answer
22 to that question is unquestionably “yes,” as noted above, given the data analyses’ relevancy to the
23 proceedings. The case cited by the District for the proposition that the public interest requires
24 nondisclosure, *City of San Jose*, is not applicable here. At issue in *City of San Jose* were noise
25 complaints submitted by the public regarding municipal airport noise. (*City of San Jose v. Superior*
26 *Court* (1999) 74 Cal.App.4th 1008.) The Court of Appeal did not compel disclosure of the names and
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1 addresses of noise complainants as there was a possible chilling effect that could reduce the number of
2 complaints. (*Id.* at pp. 1023–1024.) Unlike in *City of San Jose*, address information here **has already**
3 **been disclosed for an approximately six-month period** and Chiquita is not requesting the release of the
4 complainants’ names. The risk of harm to the public interest and possible chilling effect is greatly
5 diminished.³

6 South Coast AQMD attempts to underplay the public interest in releasing the requested address
7 information by implying that Mr. Sullivan’s testimony revealed that the addresses are actually
8 unimportant. (Mot., at p. 11.) As discussed above, that is simply not true—having the address
9 information will greatly improve this Hearing Board’s understanding of the scope and intensity of odors
10 alleged by the community. It also flatly mischaracterizes Mr. Sullivan’s testimony. Mr. Sullivan stated
11 unequivocally that the address information is indeed quite valuable, and that it “makes all of our
12 analyses that rely on complaint location more accurate.” (J. Duginski Decl. at ¶ 2, Ex. C [December 9,
13 2025, Hearing Transcript], at pp. 66:15–66:23.)

14 As the District acknowledges, it has previously shared three different datasets that it seeks to
15 protect as privileged here. Once allegedly confidential information has been disclosed to the public, it
16 loses any potential confidentiality protection as “records are completely public or completely
17 confidential.” (*Black Panther Party v. Kehoe* (1974) 42 Cal.App.3d 645, 657.) The District shared the
18 datasets with the County on March 18, March 21, and September 10, 2025. (Mot., at p. 3.)⁴ Although
19 this address information was previously subject to a protective order (*Id.* at pp. 3–4), it has now become
20 public information because it was included by the County of Los Angeles in a public filing in federal
21 court (J. Duginski Decl. at ¶ 5). South Coast AQMD has never tried to have this information removed
22 from the public docket. Accordingly, any potential protection from disclosure has been waived. (86
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25 ³ Chiquita will agree to not publicly disclose the requested information, as it has done in the past for the December 2025
hearing in this case.

26 ⁴ While South Coast AQMD continues to assert that this information is confidential, the County’s lead counsel did not seem
27 to agree: “AQMD considers these documents confidential … I don’t believe they rise to that level....” (J. Duginski Decl. at
¶4, Ex. E [Case 2:24-cv-10819 MEMF-MAR, Dkt. No. 140, Hearing Transcript], at p. 123:2-17.)

1 Ops.Cal.Atty.Gen. 132, 137 (2003) [“[d]isclosure to one member of the public would constitute a waiver
2 of the exemption (§ 6254.5), requiring disclosure to any other person who requests a copy”].)

3 **III. CONCLUSION**

4 South Coast AQMD’s Motion to Quash is without merit. It seeks to prevent this Hearing Board
5 from learning facts on the ground, prevent better technical analysis from both sides, and deny Chiquita
6 its ability to mount a full defense. Granting the District’s motion would deprive Chiquita of evidence
7 and violate its due process rights under the California and United States constitutions. The odor nuisance
8 complaint addresses and odor descriptions are relevant and material to these proceedings and do not
9 impose any undue burden on South Coast AQMD to produce. In any event, Los Angeles County has
10 made this data public, and the District’s objections are now moot. Chiquita requests the Hearing Board
11 deny the District’s Motion, issue Chiquita’s subpoena, and require South Coast AQMD to produce prior
12 odor nuisance complaint data, and henceforth produce it to Chiquita going forward.

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15 Respectfully Submitted,

16 Dated: January 16, 2026

17
18 BEVERIDGE & DIAMOND, P.C.

19 By: _____

20 Jacob P. Duginski
21 Megan L. Morgan
22 Leigh S. Barton
23 *Atorneys for Chiquita Canyon, LLC*

PROOF OF SERVICE

South Coast Air Quality Management District v. Chiquita Canyon, LLC
Hearing Board of the South Coast Air Quality Management District, Case No. 6177-4

At the time of this service, I was over 18 years of age and not a party to this action. I am employed in the District of Columbia. My business address is 1900 N St NW, Suite 100, Washington, DC 20036.

On January 16, 2026, I served true copies of the following document(s) as described:

- **CHIQUITA'S OPPOSITION TO MOTION TO QUASH SUBPOENA DUCES TECUM**

on the interested parties in this action as follows:

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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused the above document(s) to be sent from e-mail address lbarton@bdlaw.com to the persons at the email addresses listed above.

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

Executed on January 16, 2026, at Washington, District of Columbia.

Leigh Barton

Leigh S. Barton