

No. 20-1376

In the Supreme Court of the United States

MICHAEL ABATTI AND MIKE ABATTI FARMS, LLC,
Petitioners,

v.
IMPERIAL IRRIGATION DISTRICT,
Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE CALIFORNIA COURT OF APPEAL,
FOURTH APPELLATE DISTRICT**

**BRIEF FOR CALIFORNIA FARM BUREAU,
IMPERIAL COUNTY FARM BUREAU,
IMPERIAL VALLEY WATER, DON BARONI,
JR., HOWARD ELMORE, RICHARD ELMORE,
MIKE MORGAN, AND DOUG
WESTMORELAND, AS *AMICI CURIAE*
IN SUPPORT OF PETITIONERS**

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INTEREST OF *AMICI CURIAE*¹

Amici curiae are organizations and individuals who have a strong interest in protecting the property rights of farmers in the Imperial Valley and ensuring an adequate supply of water for the Valley's critical agriculture industry. *Amici* submit this brief to underscore the importance of this case to the Imperial Valley, the State of California, and the food supply chain throughout the United States.

The California Farm Bureau is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. The California Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing approximately 31,000 members in 56 counties. The California Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

¹ Pursuant to this Court's Rule 37.6, counsel for *amici curiae* certifies that this brief was not authored in whole or in part by counsel for any party and that no person or entity other than *amici curiae* or their counsel has made a monetary contribution to the preparation or submission of this brief. Counsel of record for all parties received timely notice of the intent of *amici curiae* to file this brief and consented to its filing.

Imperial County Farm Bureau is a non-government, non-profit, voluntary membership organization, whose purpose is to protect and promote agricultural interests in Imperial County, California, as well as the state and nation, through public relations, education, and advocacy in order to support the economic advancement of agriculture balanced with appropriate management of natural resources. Farm Bureau has 504 agricultural members and 182 associate members, representing about 437,200 acres of the Imperial Valley's 471,682 farmable acres (about 93%). Its members are a combination of both landowners and lessee farmers. Farm Bureau strives to protect and improve the abilities of farmers and ranchers to provide a safe and reliable supply of food and fiber through responsible stewardship of natural resources. Farm Bureau was founded in 1912 and has since continued to be the leading voice for the Imperial Valley agriculture industry for over a century.

Imperial Valley Water ("IVH2O") is a 501(c)(5) nonprofit, voluntary membership organization established to represent and protect Imperial Valley's water rights. The organization's goal is to maintain a viable agricultural industry through the proactive representation of Imperial Valley's water rights. IVH2O advocates the importance of Imperial Valley's water rights and participates in policy discussions regarding those rights at the local, state, and national level on behalf of more than one hundred members. IVH2O maintains two forms of membership. Voting members are any person or business who owns 35 or more acres of farmland in Imperial County California which is used for

commercial agriculture and is connected to a district water distribution system. IVH2O voting membership currently consists of 90 landowners representing approximately 80,000 acres. IVH2O also has nearly a dozen associate members representing agriculture-associated businesses such as trucking or agricultural processing companies. Associate members are non-voting members of IVH2O who do not qualify for voting membership but are water users in Imperial County or others that have a bona fide interest in the mission of the organization.

Don Barioni, Jr., Howard Elmore, Richard Elmore, Mike Morgan, and Doug Westmoreland are farmers who currently farm a significant number of acres in the Imperial Valley utilizing the water at issue in this matter.

INTRODUCTION AND SUMMARY OF ARGUMENT

This Court’s review is needed to prevent significant harms to the numerous agricultural operations in California’s Imperial Valley. The independent irrigation district that delivers water in the Valley, the Imperial Irrigation District (“IID”), attempted to abrogate the longstanding, historic water rights of Imperial Valley farmers through its so-called “Equitable Distribution Plan” (“EDP”). This marked a dramatic reversal from its longstanding position that the IID is merely the trustee of the farmers’ vested water rights—rights that are appurtenant to the land and constitutionally protected. The California Court of Appeal then

approved the IID’s destruction of these property rights, holding that the IID’s allocation of water was henceforth subject to its mere “discretion and policy,” and “not [farmers’] rights,” App. 39a, thus reversing the trial court’s order invalidating the EDP. That decision is an astonishing usurpation of private property rights, in direct contravention of federal statutes, this Court’s precedent, and the IID’s own prior representations. Petitioner ably explains the many reasons why the decision below is untenable.

Amici submit this brief to underscore the practical harms that would result if that decision is allowed to stand. It is difficult to overstate the negative impact that the IID’s and the appellate court’s destruction of farmers’ appurtenant water rights will cause, both for the Valley and the businesses and consumers throughout the country who rely on California’s and the Valley’s agricultural output. The lower court’s decision also fundamentally threatens the long-term certainty of agricultural water rights in the West, replacing them with the whim of district managers, without any objective limit or standard of basic accountability to the owners of reclaimed and irrigated farmlands.

Because the decision nullifies the original water rights of the landowners, farmers who have been cultivating land for over a century in reliance on the existence of those rights now have no objective defense against present or future reductions in water supply based solely on the “discretion and policy” of the IID. App. 39a. The IID’s newfound power to make these arbitrary reductions

poses a significant threat to the farmers' businesses and would likely force them to underutilize or even fallow their lands. Major uncertainty about the availability of water going forward would also diminish farmers' economic incentives to continue investing in their operations and their land.

The consequences of these reductions would be felt throughout the Valley. Farm workers would face layoffs or reductions in wages, jeopardizing their health and ability to provide for their families. The local economy, which is already suffering, would further contract, harming not just those in the agricultural sector but also Imperial Valley residents who are employed in other industries. And the under-supply and maldistribution of water would harm the environment, damaging soil and air quality. If California regulators outside of the Imperial Valley apply this decision, then numerous other California farming regions would suffer the same impact.

Allowing the decision below to stand would also have serious negative consequences for the national food supply chain. California farmland, especially the Imperial Valley, is a critical source of fresh fruit and vegetables throughout the year, but especially during the winter, thanks to the Valley's unique climate, growing conditions, and the water resources Imperial Valley farmers have had for a century. Interruptions in the water supply of this critical region, now made possible under the Court of Appeal's decision, threaten to reduce output and raise the cost of food for American families.

In short, this case has profound consequences for the Imperial Valley, California farming, irrigated agriculture in the West, and the U.S. agriculture sector as a whole. The importance of this issue plainly warrants granting certiorari or summarily reversing the decision below.

ARGUMENT

I. The IID’s abrogation of farmers’ historic property rights betrays Congress’ promise to the pioneers who created a thriving agricultural sector in the Imperial Valley.

When pioneer farmers first arrived in the Imperial Valley in the late 1800s, it was a natural desert incapable of agricultural production. *See* Cal. Dep’t of Fish and Wildlife, *A History of the Imperial Valley*, bit.ly/3efUbe9. Those farmers, by diverting water from the Colorado River, irrigating the land, and cultivating it to productive use, turned a barren landscape into an American breadbasket. *Id.* They persevered in this hard, expensive work in part because they knew they would one day reap a return on their investment. *See id.* Petitioner, for example, descends from a family of farmers who patiently irrigated and farmed the Imperial Valley for over a century. *See* App. 7a. Their labor and investment transformed unclaimed desert land into a farming industry that now produces nearly \$3 billion in annual agricultural output and billions more in indirect economic value. *See* Cal. Imperial Cnty. Agric. Comm’r, *Industry Ranking Table* (2016), bit.ly/32fPR9a.

Because they and countless other families toiled over this Imperial Valley land, as of 2018, there are now 471,682 acres of farmable land receiving or eligible to receive IID water in Imperial Valley, of which 444,098 acres are irrigated for crops. *See Imperial Irrigation Dist., Service Area Plan 2020* at 20 (2020), bit.ly/3uMCXLZ. Imperial Valley farmland receiving or eligible to receive IID water is now almost two-thirds the size of the State of Rhode Island.

Imperial Valley farmers accomplished this feat because they could rely on property rights in the water they diverted, thereby ensuring that they could plan their investments and operations in reliance on a steady supply of water. *See* Appellant’s Amended Appendix (“AA”) 1016. In fact, those farmers could not even take title to the land under the Desert Land Act and federal homestead laws unless they had “proof of acquisition of a water right under state law by bona fide prior appropriation.” *Id.*

From the beginning of its regulation of the Imperial Valley, the federal government has honored farmers’ water rights. The first federal statute regulating the Valley’s water supply made clear that “[t]he right to the use of water acquired under the provisions of this Act shall be appurtenant to the land irrigated” 43 U.S.C. §372. Since then, the IID, the Interior Department, and this Court have all recognized that federal law protects farmers’ private water rights. *See, e.g.* Brief for Pet’r Imperial Irrigation District, *Bryant v. Yellen*, No. 79-435, 1980 WL 672720, at *19 (1980) (“[T]he District is merely the trustee of water rights for the

landowners, who are the beneficial owners, and their beneficial interest is a constitutionally protected property right which is appurtenant to the land irrigated.”); *Bryant v. Yellen*, 447 U.S. 352, 362 (1980) (“These lands, having already a water right, are entitled to have such vested right recognized without regard to the acreage limitation mentioned.” (quoting Interior Secretary Ray Lyman)); *id.* at 371 (holding that Imperial Valley water rights are “equitably owned by the beneficiaries to whom the [Imperial Irrigation] District [is] obligated to deliver water”).

That has now changed. In the proceedings below, the IID defended its distribution plan by arguing “that the farmers possess a right to water service, but not to specific amounts of water,” and the lower court agreed. App. 3-5a. This subversion of the law is a broken promise to those farmers whose labor and investments built the Valley’s agricultural economy. And it directly contradicts the IID’s own positions—even those it took in the recent past. For example, in 2018 the IID stated that “the right to receive water for beneficial use, and apply it to beneficial use, is *vested in persons who are actually using it* for purposes deemed beneficial, such as agriculture . . . *Were it otherwise, no one would invest the capital necessary to develop a farm, an industry or a town.*” IID, *Law of the River Resource Guide* at 7 (Jan. 2018), bit.ly/2QOQMe2 (emphasis added). And before this very Court the IID declared that “the equitable ownership of the present perfected [water] rights . . . is *vested in the landowners, not in the District.*” Brief for Pet’r Imperial Irrigation Dist., *Bryant v. Yellen*, No. 79-435, 1980 WL 672720, at

*33 (1980) (emphasis added). As Petitioner ably explains, the IID's unlawful actions violate federal statutes, flout this Court's precedent, contradict the IID's own past representations, and conflict with the decisions of other state and federal courts and regulatory bodies.

II. The IID's abrogation of farmers' property rights will have significant detrimental consequences for agriculture and public health.

A. The IID's abrogation of farmers' property rights threatens the businesses and livelihoods of farmers in the Imperial Valley and throughout the state of California.

The IID's nullification of farmers' property rights in their water endangers the businesses and livelihoods of farmers in the Imperial Valley and threatens to disrupt this critical sector of the American economy.

First, the IID's nullification of water rights ignores agronomic realities and deprives farmers of any reasonable assurance that they will receive necessary allocations of water. *See AA* 2215. Farmers who do not receive enough water will be constrained to purchase water through a clearinghouse from others who received excess water allocations. *See id.* at 2217. However, no farmer is guaranteed sufficient water to cultivate their land and to plan and produce the crop yields necessary to meet on-going financial, legal, and contractual

obligations *See id.* at 2217-18. Moreover, whatever they can obtain through the IID’s clearinghouse will be sold at a market premium. *See AA 1038-39; AQUAOSO, How to Value Water Rights in Agriculture Investing* (Dec. 17, 2020), bit.ly/3uY3Tsk. Having to procure water in this manner, according to the IID’s “discretion and policy” and “not [their] rights,” App. 39a, would jeopardize many agricultural operations and inevitably force farmers to underutilize or even fallow their land, downsize their operations, and forgo local hiring and other investments.

These concerns are not just speculation but are well documented in an extensive record filed before the IID and the state courts. For example, Petitioner Michael Abatti explained that, under the EDP, the Imperial Irrigation District established an allocation of water for 2018 that did not “secure a sufficient allocation of water to . . . meet [his anticipated] beneficial irrigation uses.” AA 2215. Moreover, there was no guarantee that Mr. Abatti could obtain the necessary water through the IID’s clearinghouse. *Id.* at 2217. This lowered the value of Mr. Abatti’s crops, undermining his other financial dealings. Before the EDP, Mr. Abatti had “entered into financing arrangements for farmland, equipment and an operating line of credit,” and had “purchase[d] certain farmland,” generating “nearly \$8,000,000” in financial commitments. *Id.* at 2217-18. Before the District announced its intention to reduce Mr. Abatti’s allocation of water in 2018, he had entered into contracts “to deliver to certain buyers in multiple countries” certain quantities of crops. *Id.* A reduction in water supply threatened to

reduce Mr. Abatti's crop yield, endangering these relationships that were critical to "the success of [his] farming operations in the long run." *Id.*

Because of the Court of Appeal's nullification of water rights, other farmers in the IID and elsewhere will inevitably face the same consequences. *See, e.g.*, AA 897, 900, 980, 1015. Already, after decades of work and investment to reach a certain scale of production, farmers found the IID abruptly disregarding their reliance on their water rights and reallocating that water to other land that received priority under the IID's new policies. *See id.* Farmers informed the agency that this "would injure many of the district's water users." Administrative Record 25225. They explained that "lands with 'light soils' needed more water than 'heavy soils' . . . and that a reduction of water to these lands would adversely impact farming." *Id.* And they emphasized to the IID the fact that the clearinghouse was "no guarantee" of an adequate water supply. *Id.* at 25226. Despite those well-documented concerns, the IID forged ahead with the EDP, giving no reasonable protection to farmers' ongoing expectations based on their vested water rights. *See id.* This Court should not tolerate the IID's regulatory bait-and-switch and destruction of longstanding property rights.

Second, the destruction of water rights will deprive all farmers, even those who do not immediately see a reduction in water, of their economic reliance on *future* water use. Before the IID's change in position and the Court of Appeal's decision, farmers had a vested right in the beneficial

use of water, allowing them to rely on a predictable future supply of water. *See, e.g., Bryant*, 447 U.S. at 371; 43 U.S.C. §372. But now, stripped of their water rights, farmers can no longer predict the amount of water they will receive in future years, having no guarantee as to the level, adequacy, reliability, or stability of water allocations over time. Such uncertainty in future water supply will cause farmers to reduce their investment and future output.

This is also evident in the record. After many years of distributing water according to one type of allocation, the IID suddenly changed their allocation of the amount of water distributed to farmers each year. AA 1035-38, 2217, 2229, 2247. This unexpected shift, which was made possible by the IID's destruction of farmers' water rights, had immediate negative repercussions for farmers. As Mr. Abatti explained to the lower courts, in 2017, he received a water allocation from the IID for 2018 that was "less than . . . [what he] needed to farm the land under [his] control," consistent with the characteristics of his property and the unique needs of his operation. AA 2217. This required him to "apply for water under the [EDP] clearinghouse," where there was "no guarantee that the water will be made available to meet [his] needs." *Id.* Accordingly, having no water rights, there was "no guarantee that [his] water needs will be met in the future by the IID." *Id.* Henceforth his allocation would be determined by the IID's "discretion and policy, not [his] rights." App. 39a.

Faced hereafter with this kind of uncertainty, farmers in the Imperial Valley can no longer invest confidently in the future. *See* IID, *Law of the River Resource Guide* at 7 (Jan. 2018), bit.ly/2QOQMe2 (recognizing that, without water rights, “no one would invest the capital necessary to develop a farm, an industry or a town”). As Justice Story observed long ago, it is “common sense” to avoid investments where the government formally recognizes a property right but reserves the right to later “supplant you, divide, destroy your profits, and annihilate your [contracts],” without compensation for the initial investment costs. *Proprietors of Charles River Bridge v. Proprietors of Warren Bridge*, 36 U.S. 420, 615 (1837) (Story, J., dissenting). The destruction of property rights today undermines yesterday’s investments and tomorrow’s economic development, since it broadcasts to those who would undertake economic risks that there is no reliable expectation of reward. *See id.*

Third, with no water rights and therefore no way to predict their water allocation, farmers cannot plan or develop their farms in ways that will avoid substantial misallocations of water. Some farms in the Imperial Valley contain looser soil than others that require more water. *See* AA 2215, 2245. And some crops are more resilient than others. Sugarbeets, for example, require 10% more water than standard grass, while citrus fruits require 30% less water than standard grass. U.N. Food and Agric. Org., *Irrigation Water Management: Irrigation Water Needs Training Manual* at 2.2.1 (1986), bit.ly/3dnbbBm. Without clearly defined rights in their water, farmers have no assurance that IID’s

method of water allocation will allow farmers to continue operating in any feasible and productive manner. *See AA 2215-17.*

In sum, the consequences for the Imperial Valley of the IID's actions and the state-court decisions upholding those actions cannot be overstated. Farmers in the Valley and throughout California built a thriving agricultural sector through hard work, massive investments, and ingenuity, yet the IID now seeks to take away the established rights on which this entire economic sector was built.

B. The IID's destruction of property rights will reduce crop yields and raise prices, thereby harming U.S. consumers and the food supply chain.

By eliminating farmers' water rights and thus restricting farmers' water supply, the IID and the decision below will do more than just hurt the Valley's farmers. It will also endanger the Imperial Valley's prodigious agricultural output. Its farmland currently grows a substantial number of greens, vegetables, and other crops, which in 2019 included over 35,000 acres of lettuce, 25,000 acres of sugarbeets, 14,000 acres of carrots, 6,000 acres of melons, 8,000 acres of spinach, 7,000 acres of citrus, and 2,500 acres of dates. Cal. Imperial Cnty., *Agricultural Crop & Livestock Report* at 12-13 (2019), bit.ly/3digwZd. Of America's 2019 crop harvest, the County of Imperial accounted for about 19% of all carrots, 13% of all lettuce, 16% of all

dates, and 12% of all spinach nationwide. *Compare id. with* U.S. Dep't of Agric., *Statistics by Subject*, bit.ly/3twUaIV. The Valley also invests in healthy, organic, and natural crops that are beneficial to the public health of the entire country.

The Valley's production is especially critical in the winter months when farming is not feasible in colder climates. It is estimated that Imperial County "produces about 80 percent of the nation's winter vegetables," *see* Krissy Clark, *Fighting For Water In Arid Imperial Valley*, NPR (Feb. 10, 2011), n.pr/3dBcxqV, and generates as much as \$3 billion from agriculture each year, Cal. Imperial Cnty. Agric. Comm'r, *Industry Ranking Table* (2016), bit.ly/32fPR9a. Imperial Valley crops are transported across the United States and exported to the European Union, Canada, Japan, Korea, Mexico, India, and Taiwan, among many other nations. Cal. Imperial Cnty., *Agricultural Crop & Livestock Report* at 19 (2019), bit.ly/3digwZd.

As one of the key engines of American agricultural production, an economic shock in this region caused by a sudden reallocation of farmers' water rights would have ripple effects far beyond Southern California. Costs suffered by farmers would be passed on to consumers across the county, and any underproduction would lead to price increases in groceries. *See, e.g.*, Tony C. Dreibus, et al., *Food Prices Surge as Drought Exacts a High Toll on Crops*, The Wall Street Journal (Mar. 18, 2014), on.wsj.com/3ttFHH2. Those price hikes would fall heavily on the most vulnerable people in our society—the indigent, the elderly, and those relying

on savings and fixed incomes. *See, e.g.,* Patricia Barnes, *Rising Food Prices, Price Gouging, Hurt Older Americans On Fixed Incomes*, Forbes (Apr. 8, 2020), bit.ly/32lZpzi; Annie Lowrey & Ron Nixon, *Severe Drought Seen as Driving Cost of Food Up*, The New York Times (July 25, 2012), nyti.ms/3sqiI4X.

The Valley's agricultural output is also essential to ensuring that U.S. consumers have access to healthy produce year-round. The Valley is the United States' primary producer of lettuce, broccoli, cauliflower, cabbage, and carrots throughout the year and especially during the winter months, thereby ensuring that consumers have access to these essential foods throughout the year. *See* Krissy Clark, *Fighting For Water In Arid Imperial Valley*, NPR (Feb. 10, 2011), n.pr/3dBcxqV.

C. The IID's destruction of property rights poses significant threats to the Valley's local economy.

The destruction of water rights would have far-reaching consequences for the Valley that extend beyond just its impact on farmers and the food supply. Imperial County farmland is comprised of approximately 400 farms that employ over 8,000 farm laborers, at least 13% of whom are migrant workers. *See* U.S. Dep't of Agric., *2017 Census of Agriculture County Profile: Imperial County California*, bit.ly/3abHdgh; U.S. Dep't of Agric., *Hired Farm Labor – Workers and Payroll: 2017*, bit.ly/3abHIqF. In 2016, the total number of agricultural employees in both production and

processing was 12,916—making agriculture the largest source of private employment in Imperial County. *See* Cal. Imperial Cnty. Agric. Comm'r, *Industry Ranking Table* (2016), bit.ly/32fPR9a. An additional 11,513 jobs were attributable to expenditures by agriculture companies and their employees. *See id.* Any disruption of the water supply that restricts agricultural output would inevitably result in job losses or lower wages for the thousands of workers who support this critical sector.

But the economic toll would not stop with them. The entire Imperial County economy survives on agriculture. In 2016, the economic output of Imperial County's agricultural sector was nearly \$3 billion—more than the output of federal, state, and local governments combined, and \$2 billion more than the second most productive private industry (health and social services). *See* Cal. Imperial Cnty. Agric. Comm'r, *Industry Ranking Table* (2016), bit.ly/32fPR9a. Simply put, Imperial County is dependent on the continued prosperity of farming in the Imperial Valley.

And Imperial County is already struggling. It has a high unemployment rate that hovers around 16%, which is 2.5 times larger than the current national unemployment rate. *Compare* Fed. Reserve Bank of St. Louis, *Unemployment Rate in Imperial County, CA*, bit.ly/2ORkMW8 (citing BLS data) *with* U.S. Dep't of Labor Bureau of Labor Statistics, *The Employment Situation — March 2021* (Apr. 2, 2021), bit.ly/3tjeYU9. In addition, nearly a quarter of all its residents, including over 32% of all children, fall

below the poverty line, almost double the national average. See U.S. Census Bureau, *Imperial County, California*, bit.ly/3uQ6rIH. And the District has forecast a population growth in Imperial County of about 80,000 people over the next 20 years. Imperial Irrigation Dist., *Service Area Plan 2020* at 25 (2020), bit.ly/3uMCXLZ. Any interruptions of the water supply to the agricultural sector would reduce the number of jobs available to the Valley's growing population and limit the growth potential of the entire region.

D. The IID's destruction of property rights will harm the Imperial Valley's soil, air quality, and natural environment.

In addition to its human toll and impact on the economy, the lower court's nullification of water rights will have deleterious effects on the environment as well. The Imperial Valley is a natural desert. As Petitioner explained below, "A significant portion of the 7,000 acres that I farm has sandy, or light, soil." AA 2215, 2245. The destruction of reliable water rights and redistribution of water away from this kind of land poses long-term environmental dangers. By depriving farmers of their necessary water supply, the lower court's decision could lead to underirrigation and drought, resulting in erosion of valuable topsoil that could be blown into the air by desert winds, thereby worsening the region's air quality and exasperating its already alarming asthma rates. See Frank R. Freedman, et al., *Spatial Particulate Fields during High Winds in the Imperial Valley, California*,

Atmosphere (2020), bit.ly/3v07RjZ; *see also* Joseph Romm, *The next dust bowl*, 478 Nature 450 (2011), go.nature.com/3tt3PjL. Imperial Valley farmers also contribute to environmental improvements such as carbon sequestration, which will be frustrated by reductions in water. *See, e.g.*, Kristian M. Salgado, *Imperial Valley farmers bring home over \$1 million in CDFA Healthy Soil grants*, Univ. of Cal. Agric. and Nat. Res. (June 12, 2020), bit.ly/2RXBu7s. In short, maldistribution of water due to the elimination of private property rights is not only economically inefficient, but ecologically detrimental as well.

CONCLUSION

The IID’s actions, and the decision below affirming those actions, pose a grave threat to the Imperial Valley economy and its farmers’ ability to supply the nation with fresh produce when crops cannot be grown elsewhere. The importance of the questions presented in this case for the Valley’s agricultural sector—as well as its economy more generally—cannot be overstated. The Court should grant the petition for certiorari and reverse the decision below.

Respectfully submitted,

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