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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF CALIFORNIA;
EDMUND G. BROWN, JR., Governor
of the State of California, in his official
capacity; and CALIFORNIA STATE
LANDS COMMISSION, an agency of
the State of California,

Defendants.

No. _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1 Plaintiff United States of America alleges as follows:

2 **INTRODUCTION**

3 1. Recently enacted legislation known as 2017 California Senate Bill 50 (“SB 50”)
4 discriminates against the United States and delays and otherwise obstructs conveyances of real
5 property owned by the United States, including by creating a potential cloud on marketable title.
6 The State of California enacted and is attempting to implement this law even though the
7 Constitution grants the federal government exclusive “Power to dispose of . . . Property belonging
8 to the United States,” and even though California was admitted to the Union on the express
9 condition that it “shall pass no law and do no act whereby the title of the United States to, and right
10 to dispose of, [its lands] shall be impaired or questioned.” That discrimination and obstruction is
11 contrary to the Constitution and laws of the United States and is therefore invalid. The United
12 States brings this action against the State of California, its governor, and its State Lands
13 Commission (collectively, “Defendants”) for a judgment so declaring and for an injunction against
14 any implementation of SB 50.

15 **JURISDICTION**

16 2. This is a civil action brought by the United States under the Constitution of the
17 United States (Article IV, Section 3, Clause 2 and Article VI, Clause 2), as well as under the
18 numerous federal statutes set forth in Paragraph 21 below. The Court has subject matter
19 jurisdiction pursuant to 28 U.S.C. §§ 1331 (federal question) and 1345 (United States as plaintiff).

20 **VENUE**

21 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because (1) all
22 Defendants reside here, and (2) a substantial part of property that is the subject of the action is
23 situated in the City of Sacramento and elsewhere in this District. In addition, more than 16 million
24 acres of federal land is located in the District.

25 4. This action is properly commenced in the Sacramento Division because it arises in
26 (among other places) Sacramento County.

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PARTIES

5. Plaintiff is the United States of America, suing on its own behalf and on behalf of its executive departments and other subdivisions (hereinafter, “agencies” or “federal agencies”), including but not limited to those listed in Paragraphs 6 through 13 below.

6. The General Services Administration (“GSA”) is a federal agency charged by Congress with responsibilities related to the disposal of real property interests of the United States.

7. The Department of the Interior is a federal executive department charged by Congress with the responsibility to manage land owned by the United States and to dispose of some of those lands consistent with federal laws and regulations. The Department manages millions of acres of such land through its component bureaus, including the Bureau of Land Management, the National Park Service, the Fish and Wildlife Service, the Bureau of Indian Affairs, and the Bureau of Reclamation.

8. The Department of Defense is a federal executive department charged by Congress with the responsibility to manage military installations and other property owned by the United States through its components, including the Department of the Army, the Department of the Navy, and the Department of the Air Force.

9. The Department of Agriculture is a federal executive department charged by Congress with responsibilities that include managing lands owned by the United States, including management by the U.S. Forest Service of millions of acres of National Forest System lands.

10. The Department of Veterans Affairs (“VA”) is a federal executive department charged by Congress with the responsibility to provide healthcare, benefits, and memorial services to eligible veterans and others. VA is also charged by Congress with responsibilities related to hundreds of hospitals, clinics, cemeteries, and other real property owned by the United States, including the responsibility to grant easements and to lease or otherwise dispose of unneeded real property.

11. The Department of Homeland Security is a federal executive department charged by Congress with the responsibility to manage, through the United States Coast Guard, military installations and other property owned by the United States.

12. The United States Postal Service is an independent establishment of the Executive Branch of the Government of the United States charged by Congress — in part under its constitutional authority to “establish Post Offices and post Roads,” art. I, § 8, cl. 7 — with the responsibility of establishing and maintaining postal facilities; providing such postal facilities as it determines are needed; and holding, maintaining, selling, leasing, or otherwise disposing of such property or any interest therein.

13. The Department of Health and Human Services is a federal executive department charged by Congress in the McKinney-Vento Homeless Assistance Act with the responsibility to convey certain real property owned by the United States for public health uses and to assist the homeless.

14. Defendant State of California (“State”) is a state of the United States.

15. Defendant Edmund G. Brown, Jr., is the Governor of the State of California. He is sued in his official capacity.

16. Defendant California State Lands Commission (“SLC”) is an agency of the State of California, with responsibilities under state law to manage lands owned by the State.

GENERAL ALLEGATIONS

The Supremacy and Property Clauses of the Constitution

17. The Supremacy Clause of the Constitution provides: “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . , shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2.

18. The Property Clause of the Constitution provides that “Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” U.S. Const. art. IV, § 3, cl. 2. In our constitutional system, the “power over the public land thus entrusted to Congress is without limitation.” *United States v. City & County of San Francisco*, 310 U.S. 16, 29 (1940).

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The Act Admitting California into the Union

19. On September 9, 1850, Congress enacted “An Act for the Admission of the State of California into the Union,” ch. 50, 9 Stat. 452. Section 3 of the Act provides in relevant part that “the said State of California is admitted into the Union upon the express condition that the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned.” 9 Stat. at 452.

Federal Statutes Authorizing Conveyances Purportedly Subject to SB 50

20. Under the authority of the Property Clause, Congress has enacted a broad array of statutes that delegate to federal agencies authority to convey interests in real property owned by the United States, including by (but not limited to) conveying lands or interests in lands through sales, donations, or exchanges; by issuing leases; and by granting easements or rights of way. In these statutes, Congress has either specified, or charged federal agencies with the authority and responsibility to determine, when, to whom, for what purposes, and on what conditions such interests will be conveyed. Federal agencies effect these conveyances subject to specific conditions and limitations imposed by Congress and by the agencies themselves in their regulations implementing these statutes.

21. The statutes that authorize or otherwise govern conveyances of federal real property purportedly subject to SB 50 include (but are not limited to) the following:

- 10 U.S.C. §§ 2663(e), 2667-2668, 2688, 2878, 18240;
- 14 U.S.C. §§ 92-93, 685;
- 16 U.S.C. § 460d;
- General Exchange Act of 1922, 16 U.S.C. §§ 485-486;
- Small Tracts Act of 1983, 16 U.S.C. §§ 521d, 521e;
- National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. §§ 668dd-668ee;
- 23 U.S.C. §§ 107(d), 317;
- Workforce Innovation and Opportunity Act, 29 U.S.C. § 3249(b);

- 1 • Mining Law of 1872, 30 U.S.C. §§ 22-54;
- 2 • Mineral Leasing Act of 1920, 30 U.S.C. §§ 181-287;
- 3 • 33 U.S.C. § 558b;
- 4 • 38 U.S.C. §§ 2405, 2412, 8103, 8118, 8122, 8124, 8161-8169;
- 5 • Postal Reorganization Act of 1970, 39 U.S.C. §§ 401(5), 403(b)(3), 404(a)(3);
- 6 • 40 U.S.C. §§ 541-559, 581, 1314, 3304;
- 7 • McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11411-11412;
- 8 • Recreation and Public Purposes Act of 1926, 43 U.S.C. §§ 869 to 869-4;
- 9 • Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1713, 1716-1722, 1746,
- 10 1761;
- 11 • 49 U.S.C. §§ 47151-47153;
- 12 • 51 U.S.C. § 20145;
- 13 • Land and Water Conservation Fund Act of 1968, 54 U.S.C. § 102901;
- 14 • 54 U.S.C. §§ 305103-305104;
- 15 • Defense Base Closure and Realignment Act of 1990, Pub. L. No. 101-510, tit. XXIX, pt. A,
- 16 104 Stat. 1485, 1808-19 (1990), as amended;
- 17 • Military Construction Authorization Act for Fiscal Year 1991, Pub. L. No. 101-510, div. B,
- 18 § 2824, 104 Stat. 1485, 1790-91 (1990), as amended by Pub. L. No. 103-160, § 2834, 107
- 19 Stat. 1547, 1896 (1993);
- 20 • Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, div. H, § 412, 118 Stat. 2809,
- 21 3259 (2004);
- 22 • Water Resources Development Act of 2007, Pub. L. No. 110-114, § 3182(b), 121 Stat.
- 23 1041, 1165-66, as amended by Water Resources Reform and Development Act of 2014,
- 24 Pub. L. No. 113-121, § 6005(a), 128 Stat. 1193, 1357;
- 25 • National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, §§ 3005-
- 26 3006, 128 Stat. 3292, 3742-45 (2014);
- 27 • Coast Guard Authorization Act of 2015, Pub. L. No. 114-120, § 501, 130 Stat. 27, 67-68
- 28 (2016);

- 1 • West Los Angeles Leasing Act of 2016, Pub. L. No. 114-226, 130 Stat. 926; and
- 2 • Water Infrastructure Improvements for the Nation Act, Pub. L. No. 114-322, § 3607, 130
- 3 Stat. 1628, 1795-96 (2016).

4 **SB 50**

5 22. California Senate Bill No. 50, Chapter 535, was approved by Defendant Brown on

6 October 6, 2017. SB 50 became effective, as a matter of California law, on January 1, 2018. A

7 true and correct copy of SB 50 is attached hereto as Exhibit 1.

8 23. Section 4 of SB 50 added Section 8560 to the California Public Resources Code.

9 Section 8560(b)(1) makes it “the policy of the State of California to discourage conveyances that

10 transfer ownership of federal public lands in California from the federal government.”

11 24. Section 8560(a)(2) defines the “conveyance[s]” to which the legislation purports to

12 apply to include “any method, including sale, donation, or exchange, by which all or a portion of

13 the right, title, and interest of the United States in and to federal lands located in California is

14 transferred to another entity.” Section 8560(a)(3) defines the term “Federal public lands” to mean

15 “any land owned by the United States, including the surface estate, the subsurface estate, or any

16 improvements on those estates.”

17 25. Section 8560(b)(2)(A) states: “Except as provided in this chapter, conveyances of

18 federal public lands in California are void ab initio unless the [SLC] was provided with the right

19 of first refusal to the conveyance or the right to arrange for the transfer of the federal public land

20 to another entity.” The only conveyances exempted from this and other purported requirements

21 of SB 50 (by a new Section 8561 of the California Public Resources Code) are “sale[s] of real

22 property acquired by a federal agency through a foreclosure proceeding.”

23 26. Section 8560(b)(2)(B) provides that the SLC “may seek declaratory and injunctive

24 relief from a court of competent jurisdiction to contest conveyances made to any entity unless the

25 requirements of this paragraph are met.”

26 27. Section 8560(b)(2)(D)(i) provides: “Prior to the conveyance of federal public lands

27 in California, if the [SLC] was provided with the right of first refusal or the right to arrange for the

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1 transfer of the federal public lands to another entity, the [SLC] shall issue a certificate affirming
2 compliance with this section.”

3 28. Section 2 of SB 50 added Section 6223 to the California Government Code.
4 Section 6223(a) provides: “A person shall not knowingly present for recording or filing with a
5 county recorder a deed, instrument, or other document related to a conveyance subject to Section
6 8560 of the Public Resources Code unless it is accompanied by a certificate of compliance from
7 the [SLC]. A person who presents for recording or filing with a county recorder a deed, instrument,
8 or other document in violation of this section is liable for a civil penalty not to exceed five thousand
9 dollars (\$5,000).”

10 29. Section 3 of SB 50 added Section 27338 to the California Government Code.
11 Section 27338 provides: “A deed, instrument, or other document related to a conveyance that is
12 subject to Section 8560 of the Public Resources Code shall be titled ‘Federal Public Land Deed of
13 Conveyance’ and shall not be recorded without a certificate from the [SLC]. The federal agency
14 wishing to convey federal public lands shall ensure that the deed, instrument, or other conveyance
15 document is titled in the manner required by this section.”

16 30. None of these provisions applies to conveyances of land by citizens of California
17 or other persons. By its terms, SB 50 applies to conveyances of *federal* public lands alone.

18 31. The SLC does not intend to issue any certificate of compliance pursuant to
19 Section 8560(b)(2)(D) without first having evaluated on a case-by-case basis whether to exercise
20 or waive the rights purportedly granted to it by SB 50.

21 32. The SLC intends to evaluate whether to exercise or waive the rights purportedly
22 granted to it by SB 50 at its regularly scheduled meetings, which are held at two- to three-month
23 intervals.

24 33. No California statutes, regulations, or other legal requirements, including SB 50
25 itself, require the SLC to make a decision within a reasonable time or within any specified period
26 of time regarding whether to exercise the rights purportedly granted to it by SB 50.

27 34. No federal agency has offered the SLC a right of first refusal (or the right to arrange
28 for transfer to another entity) with respect to a conveyance purportedly subject to SB 50.

Examples of Specific Conveyances Purportedly Subject to SB 50

Corporate Way Pocket Parcel

35. Prior to January 1, 2018, the GSA posted on a public website information indicating that in January 2018, it would begin an auction soliciting competitive bids for a parcel of real property located between 1110 and 1120 Corporate Way, Sacramento, California. Although the parcel is owned by the Postal Service and is subject to the Postal Service's disposal authority, the GSA is auctioning the property pursuant to agreements with the Postal Service. This parcel is referred to as the "Corporate Way Pocket Parcel" and consists of approximately 1.7 acres of undeveloped land.

36. In late December 2017, the SLC sent the GSA a letter stating that under SB 50, the "GSA must provide the [SLC] with the right of first refusal or right to arrange for the transfer of the parcel to another entity in order to comply with State law and validly transfer the parcel." A true and correct copy of the SLC's letter to GSA is attached hereto as Exhibit 2.

37. The GSA received no bids on the Corporate Way Pocket Parcel. The auction was temporarily suspended in early March 2018, in part because of the potential cloud on marketable title resulting from SB 50. SB 50 has also created uncertainty regarding whether and how the GSA should proceed with other auctions that it had planned to initiate in the future, including within the next three months.

Admiral's Cove Property

38. Prior to January 1, 2018, the Department of the Navy entered into a contract under which it intended to convey to a developer, for a purchase price of approximately \$38 million, the fee simple interest in the "Admiral's Cove property," located in Alameda, California. The GSA serves as the Navy's agent in connection with this transaction, providing services under an interagency agreement.

39. This property was formerly used as housing for a military installation at the Naval Air Station Alameda. The Navy and a local redevelopment agency expended substantial resources over a period of many years, including in conducting environmental reviews, before the Navy decided to convey the property.

1 40. Although the conveyance of the Admiral's Cove property was originally scheduled
2 to close on January 31, 2018, the purchaser has repeatedly requested that the closing be delayed,
3 citing SB 50 (among other reasons). In the exercise of its discretion, GSA has thus far granted
4 these requests. The purchaser asked the SLC for an exemption from or waiver of the purported
5 requirements of SB 50. The SLC indicated it will consider the conveyance at a meeting scheduled
6 for April 19, 2018.

7 Arc Vineyards Parcel

8 41. Prior to January 1, 2018, the Department of the Interior, through the Bureau of Land
9 Management, proposed to sell the surface estate of a roughly 5.9-acre isolated parcel of public land
10 located in Santa Barbara County, California, to resolve an inadvertent trespass.

11 42. As part of its decision-making process, the Department of the Interior expended
12 resources over a period of years in amending a land use plan, carrying out environmental reviews,
13 and securing an appraisal to determine the fair market value of the parcel. The Department
14 provided timely opportunities for comment by the public, the SLC, and the State, including a 60-
15 day period of review by Defendant Brown. No agency or officer of the State of California objected
16 to the proposed sale.

17 43. On February 12, 2018, the SLC sent the Department a letter stating that the Arc
18 Vineyards conveyance is subject to SB 50 and demanding that the Department supply information
19 to allow the SLC to decide whether to exercise its purported rights under SB 50. A true and correct
20 copy of the SLC's letter to the Department is attached hereto as Exhibit 3.

21 City of Dublin, Alameda County, Property

22 44. Prior to January 1, 2018, the Department of the Army entered into a land exchange
23 agreement with a developer in connection with a multi-phase transaction involving exchanges of
24 real property located in the City of Dublin, Alameda County for construction of facilities at Camp
25 Parks, an Army military installation.

26 45. The planned conveyances, and prior conveyances under this agreement, were the
27 subject of careful planning, study, and environmental review conducted over a period of years.

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46. After the Army's transaction partner asked the SLC for an exemption from or waiver of SB 50's purported requirements, the SLC considered the federal conveyances at its February 27, 2018 meeting. In its own words, the SLC, "in its first instance considering federal property conveyance pursuant to SB 50, exercised its right of first refusal to consider acquiring about 78 acres of federal public lands in the City of Dublin." A true and correct copy of the "State Lands Commission February [2018] Meeting Highlights" issued by the SLC is attached hereto as Exhibit 4.

47. At that meeting, SLC exercised its purported right of first refusal by accepting the recommendation of its staff to “Find that it is not in the best interests of the State for the [SLC] to acquire 78.21 acres of land proposed for conveyance from the U.S. Army Corps of Engineers to Dublin Crossing, LLC, or to arrange for its transfer to another entity.” True and correct copies of the staff report regarding the subject conveyances and the resulting Certificate of Compliance dated March 2, 2018 are attached hereto as Exhibit 5 and Exhibit 6, respectively.

48. On March 13, 2018, the Army’s transaction partner requested that the Army approve a revised form of the deed for these conveyances that would include the title “Federal Public Land Deed of Conveyance” in order to comply with the purported requirements of Section 3 of SB 50 and to ensure the local recording office will record the deed.

Conveyance to Lloyd L. Fields

49. On December 16, 2016, Congress enacted the Water Infrastructure Improvements for the Nation Act. Section 3607 of the Act directs the Secretary of the Interior to convey to Lloyd L. Fields a patent for a 41.15-acre parcel of federal land, upon Fields' execution of a deed conveying certain property to the United States to be held in trust for the exclusive use and benefit of the Morongo Band of Mission Indians. Section 3607 further directs the Secretary to grant an easement over federal land to the City of Banning, California.

50. The Department of the Interior has made substantial preparations necessary to carry out the congressional mandate to issue a patent to Lloyd L. Fields. The Department intends to move forward with the transaction notwithstanding SB 50's purported requirements.

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West Los Angeles Campus

51. Prior to January 1, 2018, the VA made substantial progress towards finalizing and implementing a framework Draft Master Plan (publicly issued in January 2016) to revitalize its 388-acre West Los Angeles Campus. Pursuant to the Draft Master Plan, the VA contemplates leasing real property to other entities — in accordance with 38 U.S.C. §§ 8161-8169 and the West Los Angeles Leasing Act of 2016 — for the purpose of providing permanent supportive housing and related services for local veterans. The VA also contemplates issuing an easement to the City of Los Angeles in support of the planned Purple Line Metro Project. These actions would help restore the campus to a safe and welcoming community for veterans and help to reduce veteran homelessness in Los Angeles.

Other Conveyances

52. In 2018, federal agencies plan to carry out additional conveyances of real property purportedly subject to and restricted by SB 50. Federal agencies plan to carry out additional conveyances in 2019 and subsequent years, consistent with statutory and regulatory authorities.

Effects of SB 50

53. SB 50 purports to authorize the SLC to override the determinations of Congress or federal agencies or both regarding when, to whom, and for what purpose conveyances of federal interests in property located in California will be made, including determinations made by or under the federal statutes discussed in Paragraph 21 above and in connection with the specific examples of conveyances discussed in Paragraphs 35 through 51 above.

54. SB 50 creates a cloud on record and marketable title and, as a result, creates uncertainty, the significant potential for litigation and other expenditures of resources, and other burdens for the United States and those with whom it deals. This may result in a loss of opportunity to convey in a manner and at a price that best serves the United States' needs.

55. SB 50 delays (potentially indefinitely) and thereby obstructs conveyances of federal real property interests in California.

56. SB 50 interferes with federal agencies' ability to comply with obligations under binding agreements with transaction partners or other federal agencies, including agreements

1 entered into prior to January 1, 2018, and to comply with court orders. It is impossible for certain
2 federal agencies to offer a right of first refusal (or a right to arrange transfer to another entity) and
3 also comply with these obligations and orders.

4 57. As a result of uncertainty created by the enactment of SB 50 and the requirements
5 it purports to impose, federal conveyances have been, and will continue to be, delayed.

6 58. As a result of uncertainty created by the enactment of SB 50, federal agencies have
7 been, and will continue to be, unable to finalize conveyances that would have been finalized but
8 for the enactment of SB 50.

9 59. Unless and until the Court declares that SB 50 is unconstitutional and enjoins its
10 implementation, SB 50 will have the effect of increasing costs and reducing the revenues that flow
11 to the United States from conveyances of federal property.

12 60. Unless and until the Court declares that SB 50 is unconstitutional and enjoins its
13 implementation, SB 50 will disrupt the market for land owned by the United States in California,
14 in that fewer potential buyers are likely to submit bids in connection with competitive sales and
15 other transactions, or participate in negotiated transactions, regarding such land.

16 61. Unless and until the Court declares that SB 50 is unconstitutional and enjoins its
17 implementation, SB 50 will artificially depress the market value of land owned by the United
18 States in California, in that potential buyers of such land likely will be willing to pay relatively
19 less to the United States.

20 62. Unless and until the Court declares that SB 50 is unconstitutional and enjoins its
21 implementation, SB 50 will obstruct federal land exchange transactions, including exchanges
22 expressly directed by Congress, through which the United States seeks to acquire real property
23 interests to serve important purposes and further important objectives established by Congress.

24 63. SB 50 does not, and will not, have the aforementioned effects with respect to
25 conveyances of property by citizens of California or other persons.

26 **DECLARATORY RELIEF ALLEGATIONS**

27 64. There is an actual controversy between the United States and Defendants with
28 respect to the validity of SB 50.

1 65. The United States asserts that SB 50 is, on its face and as applied, contrary to the
2 Constitution and laws of the United States and is therefore invalid; and that SB 50 may not lawfully
3 be applied or enforced against the United States and those with whom it deals.

4 66. Defendants, by contrast, assert that SB 50 is valid, and they intend to apply and
5 enforce it against the United States and those with whom it deals.

6 67. Pursuant to 28 U.S.C. § 2201(a), this Court has the authority (and should exercise
7 the authority) to declare the legal rights and obligations of the parties with respect to SB 50 and its
8 application or enforcement.

9 **FIRST CLAIM FOR RELIEF**

10 **(Intergovernmental Immunity)**

11 68. The United States incorporates by reference the allegations in Paragraphs 1 to 67
12 above.

13 69. SB 50 discriminates against the United States and those with whom it deals because
14 it imposes restrictions on conveyances of property by the United States, and on recordation of
15 deeds and other instruments related to such conveyances, that the State does not impose on its own
16 citizens or on any other persons. Because the restrictions apply only to conveyances of federal
17 lands, SB 50 also discriminates against persons with whom the United States deals as transaction
18 partners and potential transaction partners, including various local public entities in California.

19 70. In so discriminating against the United States and those with whom it deals, SB 50
20 violates intergovernmental immunity and, consequently, violates the Supremacy Clause of the
21 Constitution.

22 71. Moreover, SB 50 purports to directly regulate the United States and those with
23 whom it deals by compelling federal agencies to uniquely title all conveyance documents and to
24 provide the SLC with a right of first refusal to conveyances of federal property interests or the
25 right to arrange for the transfer of the property interest to a different entity selected by the SLC.

26 72. SB 50 further purports to directly regulate the United States and those with whom
27 it deals by authorizing the SLC to delay (potentially indefinitely) and thereby obstruct conveyances
28 by federal agencies of federal interests in property located in California.

1 73. SB 50 further purports to directly regulate the United States and those with whom
2 it deals by authorizing the SLC to override the determinations of Congress or federal agencies or
3 both regarding when, to whom, and for what purpose federal interests in property will be conveyed.

4 74. SB 50 further purports to directly regulate the United States and those with whom
5 it deals by obstructing federal land exchange transactions, including those expressly directed by
6 Congress, through which the United States seeks to acquire real property interests to serve
7 important purposes and further important objectives established by Congress.

8 75. In so purporting to regulate the United States and those with whom it deals, SB 50
9 further violates intergovernmental immunity and, consequently, further violates the Supremacy
10 Clause of the Constitution.

11 **SECOND CLAIM FOR RELIEF**

12 **(Preemption)**

13 76. The United States incorporates by reference the allegations in Paragraphs 1 to 67
14 above.

15 77. SB 50 is in direct violation of the Act for the Admission of the State of California
16 into the Union, which states: “California is admitted into the Union upon the express condition
17 that the people of said State, through their legislature or otherwise, shall never interfere with the
18 primary disposal of the public lands within its limits, and shall pass no law and do no act whereby
19 the title of the United States to, and right to dispose of, the same shall be impaired or questioned.”
20 9 Stat. at 452.

21 78. The Property Clause, Act for the Admission of the State of California into the
22 Union, and the federal statutes listed in Paragraph 21 above, as well as other federal statutes and
23 implementing regulations governing federal conveyances of federal land, occupy the field with
24 respect to regulation of conveyances of federal interests in real property. These federal authorities
25 comprehensively regulate federal conveyances, leaving no room for SB 50 or other state
26 regulation. In addition, these federal authorities establish that the federal interest in conveyances
27 of federal interests in real property is “so dominant” that it should be assumed to preclude
28 enforcement of SB 50 or any other state regulation of these conveyances.

79. SB 50 conflicts with, and is therefore preempted by, these same federal authorities, because it stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress reflected in such authorities.

80. SB 50 further conflicts with, and is therefore preempted by these same federal authorities, because it is impossible for most federal agencies to comply with both SB 50 and these authorities.

PRAYER FOR RELIEF

81. Wherefore, Plaintiff United States of America prays that the Court enter judgment against Defendants and award the following relief:

(a) a declaration that SB 50 — including Sections 8560 and 8561 of the California Public Resources Code and Sections 6223 and 27338 of the California Government Code — is invalid under the Supremacy Clause of the United States Constitution, both on its face and as applied to the United States of America, its agencies, its officers, and those with whom it deals;

(b) preliminary and permanent injunctions against any application of SB 50 to the United States of America, its agencies, its officers, and those with whom it deals;

(c) costs of suit; and

(d) such other and further relief as the Court deems just and proper.

Dated: April 2, 2018.

Respectfully submitted,

/s/ Eric Grant

JEFFREY H. WOOD

Acting Assistant Attorney General

ERIC GRANT

Deputy Assistant Attorney General

JUSTIN HEMINGER

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Civil Chief, Assistant United States Attorney

Counsel for Plaintiff United States of America

INDEX OF EXHIBITS

1. California Senate Bill No. 50 (Oct. 6, 2017).
2. Letter from California State Lands Commission to U.S. General Services Administration (Dec. 23, 2017).
3. Letter from California State Lands Commission to BLM Bakersfield (Feb. 12, 2018).
4. State Lands Commission February Meeting Highlights (Feb. 27, 2018).
5. SLC Staff Report C86 (Feb. 27, 2018).
6. SLC Certificate of Compliance (Mar. 2, 2018).

Exhibit 1

Senate Bill No. 50

CHAPTER 535

An act to add Section 27338 to, to add Chapter 3.4 (commencing with Section 6223) to Division 7 of Title 1 of, and to repeal the heading of Chapter 3.4 (commencing with Section 6223) of Division 7 of Title 1 of, the Government Code, and to add Chapter 5 (commencing with Section 8560) to Part 4 of Division 6 of the Public Resources Code, relating to public lands.

[Approved by Governor October 6, 2017. Filed with
Secretary of State October 6, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 50, Allen. Federal public lands: conveyances.

Existing law vests the authority over public lands owned by the state with the State Lands Commission. Existing federal law authorizes federal agencies to convey federal public lands under certain circumstances.

This bill would establish, except as provided, a policy of the state to discourage conveyances of federal public lands in California from the federal government. The bill would, except as provided, specify that these conveyances are void ab initio unless the commission was provided with the right of first refusal or the right to arrange for the transfer of the federal public land to another entity. The bill would require the commission to issue a certificate of compliance if the commission was provided with the right of first refusal or the right to arrange for the transfer of the federal public land to another entity. The bill would require the commission to waive the right of first refusal or the right to arrange for the transfer of the federal public land to another entity for conveyances the commission deems to be routine, as specified. The bill would require the commission, the Wildlife Conservation Board, and the Department of Fish and Wildlife to enter into a memorandum of understanding establishing a state policy that they will undertake all feasible efforts to protect against future unauthorized conveyances of federal public lands or any change in federal public land designation. The bill would authorize the commission to seek declaratory and injunctive relief in a court of competent jurisdiction to contest these conveyances. The bill would, except as provided, prohibit a person from knowingly presenting for recording or filing with the county recorder a deed, instrument, or other document related to the conveyance of federal public lands unless it is accompanied by a certificate of compliance and would subject a person who violates this prohibition to a civil penalty not to exceed \$5,000. By increasing the duties of the county recorder's office, this bill would impose a state-mandated local program. The bill would provide that the state shall not be responsible for any costs associated with

conveyed federal public land that the commission did not accept, purchase, or arrange for the transfer of, as provided. The bill would require the commission to ensure, for any conveyed federal public land the commission accepts, purchases, or arranges for the transfer of, that future management of the conveyed federal public land is determined in a public process that gives consideration of past recognized and legal uses of those lands.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The heading of Chapter 3.4 (commencing with Section 6223) of Division 7 of Title 1 of the Government Code is repealed.

SEC. 2. Chapter 3.4 (commencing with Section 6223) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 3.4. RECORDING OF DOCUMENTS

6223. (a) A person shall not knowingly present for recording or filing with a county recorder a deed, instrument, or other document related to a conveyance subject to Section 8560 of the Public Resources Code unless it is accompanied by a certificate of compliance from the State Lands Commission. A person who presents for recording or filing with a county recorder a deed, instrument, or other document in violation of this section is liable for a civil penalty not to exceed five thousand dollars (\$5,000).

(b) Civil penalties collected pursuant to this section shall be deposited into the state General Fund.

SEC. 3. Section 27338 is added to the Government Code, to read:

27338. A deed, instrument, or other document related to a conveyance that is subject to Section 8560 of the Public Resources Code shall be titled "Federal Public Land Deed of Conveyance" and shall not be recorded without a certificate from the State Lands Commission. The federal agency wishing to convey federal public lands shall ensure that the deed, instrument, or other conveyance document is titled in the manner required by this section.

SEC. 4. Chapter 5 (commencing with Section 8560) is added to Part 4 of Division 6 of the Public Resources Code, to read:

CHAPTER 5. CONVEYANCE OF FEDERAL LANDS

8560. (a) For purposes of this chapter, the following terms apply:

(1) "Conservation plan" means a habitat conservation plan developed pursuant to Section 10 of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1539) and its implementing regulations, as the federal act and

regulations exist as of January 1, 2016, and an approved natural communities conservation plan developed pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code).

(2) “Conveyance” includes any method, including sale, donation, or exchange, by which all or a portion of the right, title, and interest of the United States in and to federal lands located in California is transferred to another entity.

(3) “Federal public land” means any land owned by the United States, including the surface estate, the subsurface estate, or any improvements on those estates.

(4) “Infrastructure” means any development or construction that is not on or appurtenant to the federal public land at the time of transfer.

(b) (1) Except as provided in Chapter 6 (commencing with Section 6441) of Part 1, it is the policy of the State of California to discourage conveyances that transfer ownership of federal public lands in California from the federal government.

(2) (A) Except as provided in this chapter, conveyances of federal public lands in California are void ab initio unless the commission was provided with the right of first refusal to the conveyance or the right to arrange for the transfer of the federal public land to another entity.

(B) The commission may seek declaratory and injunctive relief from a court of competent jurisdiction to contest conveyances made to any entity unless the requirements of this paragraph are met.

(C) The commission shall formally consider its right of first refusal or arrange for the transfer of federal public lands to a third party at a public hearing.

(D) (i) Prior to the conveyance of federal public lands in California, if the commission was provided with the right of first refusal or the right to arrange for the transfer of the federal public lands to another entity, the commission shall issue a certificate affirming compliance with this section.

(ii) The commission shall waive its right of first refusal or the right to arrange for the transfer of the federal public lands to another entity, and issue a certification of compliance affirming compliance with this section for a conveyance that is deemed by the commission to be routine. A conveyance deemed by the commission to be routine includes, but is not limited to, the exchange of lands of equal value between the federal government and a private entity. The commission may adopt regulations to establish a process and criteria for determining the types of conveyances it considers to be routine.

(E) The commission, the Wildlife Conservation Board, and the Department of Fish and Wildlife shall enter into a memorandum of understanding that establishes a state policy that all three agencies shall undertake all feasible efforts to protect against any future unauthorized conveyance or any change in federal public land designation, including, but not limited to, any change in use, classification, or legal status of any lands

designated as federal monuments pursuant to the federal Antiquities Act of 1906 (Public Law 59-209).

(c) The state shall not be responsible for any costs associated with conveyed federal public land that the commission did not accept, purchase, or arrange for the transfer of, pursuant to this section. Costs include, but are not limited to, management costs and infrastructure development costs.

(d) The commission may establish, through regulations or another appropriate method, a process for engaging with federal land managers and potential purchasers of federal public lands early in the conveyance process.

(e) The commission shall ensure, for any conveyed federal public land the commission accepts, purchases, or arranges for the transfer of, that future management of the conveyed federal public land is determined in a public process that gives consideration of past recognized and legal uses of those lands. At a minimum, the public process required by this subdivision shall include a noticed and open meeting as required by the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Division 3 of Title 2 of the Government Code).

(f) The commission shall waive its right of first refusal or the right to arrange for the transfer of the federal public lands to another entity, and issue a certification of compliance affirming compliance with this section for any of the following:

(1) The conveyance of federal public lands pursuant to a conservation plan.

(2) The renewal of a lease in existence as of January 1, 2017.

(3) The conveyance of federal public lands to a federally recognized Native American tribe or lands taken into or out of trust for a Native American tribe or individual Native American.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

8561. This chapter does not apply to the sale of real property acquired by a federal agency through a foreclosure proceeding.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Exhibit 2

STATE OF CALIFORNIA

EDMUND G. BROWN JR., Governor

**CALIFORNIA STATE
LANDS COMMISSION**



Established in 1938

EXECUTIVE OFFICE
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

JENNIFER LUCCHESI, *Executive Officer*
(916) 574-1800 Fax (916) 574-1810
California Relay Service TDD Phone 1-800-735-2929
Voice Phone 1-800-735-2922

December 23, 2017

David Haase
Director, Pacific Rim Region
U.S. General Services Administration
50 United Nations Plaza, Fourth Floor, Room 4341
San Francisco, CA 94102

Dear Director Haase:

On October 6, 2017, the Governor of California signed Senate Bill (SB) 50¹, which will take effect on January 1, 2018. SB 50 states that "conveyances of federal public lands in California are void ab initio unless the [California State Lands Commission] was provided with the right of first refusal to the conveyance or the right to arrange for the transfer of the federal public land to another entity." (Cal. Pub. Resources Code, § 8560, subd. (b)(2)(A).) Additionally, any:

deed, instrument, or other document related to a conveyance that is subject to Section 8560 of the Public Resources Code shall be titled "Federal Public Land Deed of Conveyance" and shall not be recorded without a certificate from the State Lands Commission. The federal agency wishing to convey federal public lands shall ensure that the deed, instrument, or other conveyance document is titled in the manner required by this section. (Cal. Gov't Code, § 27338.)

The certificate referenced in section 27338 is a "certificate of compliance," in which the State Lands Commission certifies that it was afforded the right of first refusal but determined to not acquire the subject federal public lands or arrange for their transfer to another entity. (See Cal. Pub. Resources Code, § 8560, subd. (b)(2)(D)(i).)

There is a listing on the U.S. General Services Administration's (GSA) website for the "Corporate Way Pocket Parcel."² This parcel, located in Sacramento, is subject to the requirements, discussed above, that will take effect on January 1, 2018. Although bidding for this parcel is scheduled to begin on January 8, 2018, GSA must provide the California State Lands Commission with the right of first refusal or right to arrange for the transfer of the parcel to another entity in order to comply with State law and validly transfer the parcel.

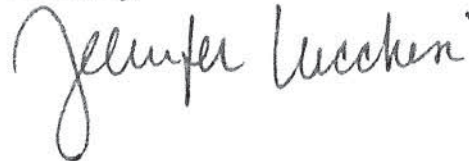
¹ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB50

² <https://disposal.gsa.gov/searchresults?state=CA&type=Land>

David Haase
December 23, 2017
Page 2

Please contact me at Jennifer.Lucchesi@slc.ca.gov or (916) 574-1800 to discuss the proposed disposal of the Corporate Way Pocket Parcel and the requirements under SB 50.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Lucchesi". The signature is written in a cursive, flowing style.

JENNIFER LUCCHESI
Executive Officer

Exhibit 3

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

JENNIFER LUCCHESI, Executive Officer
(916) 574-1800 Fax (916) 574-1810
California Relay Service TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1850

Contact Fax: (916) 574-1855

February 12, 2018

Sent Via Email to: blm_ca_bk_arcvinecomments@blm.gov

Ms. Serana Baker
BLM Bakersfield
3801 Pegasus Dr.
Bakersfield, CA 93308

Subject: ARC Vineyards Land Sale

Dear Ms. Baker:

On October 6, 2017, the Governor of California signed Senate Bill 50¹ into law. It took effect on January 1, 2018, and states that "conveyances of federal public lands in California are void ab initio unless the [California State Lands Commission] was provided with the right of first refusal to the conveyance or the right to arrange for the transfer of the federal public land to another entity." (Cal. Pub. Resources Code, § 8560, subd. (b)(2)(A).) Additionally, any:

deed, instrument, or other document related to a conveyance that is subject to Section 8560 of the Public Resources Code shall be titled "Federal Public Land Deed of Conveyance" and shall not be recorded without a certificate from the State Lands Commission. The federal agency wishing to convey federal public lands shall ensure that the deed, instrument, or other conveyance document is titled in the manner required by this section. (Cal. Gov. Code, § 27338.)

The certificate referenced in section 27338 is a "certificate of compliance," in which the California State Lands Commission (Commission) certifies that it was afforded the right of first refusal but determined not to acquire the subject federal public lands or arrange for their transfer to another entity. (See Cal. Pub. Resources Code, § 8560, subd. (b)(2)(D)(i).) The Commission must consider its right of first refusal at a public meeting. The Commission meets approximately every 2 to 3 months.

There is a listing on the Bureau of Land Management's (BLM) Bakersfield Office website for the sale of a 5.93-acre parcel near Santa Maria, California, to Arc Vineyards

¹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB50

LLC.² The conveyance of this parcel, located in Santa Barbara County, is subject to the requirements of SB 50. To comply with state law and validly transfer the parcel, BLM must provide the Commission with the right of first refusal or right to arrange for the transfer of the parcel to another entity. Otherwise, the Commission cannot issue a certificate of compliance. Without a certificate of compliance, Arc Vineyards will not be able to record the deed to the property.

In order for the Commission to proceed with the process of exercising its right of first refusal and, if refused, issuing a certificate of compliance, the Commission will need to consider information about the federal public land, including:

- The property location
- The assessor's parcel number
- A property description, including a vicinity map showing the general area and the property proposed for conveyance, detailed plot of the property, description of improvements on the property, the appraised value of the property, photographs of the property
- Information about any encumbrances on the property
- A detailed description of the proposed use of the property after conveyance
- Electronic copies of or website links to any environmental documents concerning the conveyance or proposed use (e.g. any environmental impact statement or environmental impact report or any other document prepared pursuant to the National Environmental Policy Act or the California Environmental Quality Act
- Descriptions of any natural or cultural resources on the property
- Information about local, state, and federal permits and other entitlements associated with the proposed use of the conveyed property

This list is not exhaustive, and Commission staff may require other information. Please coordinate with Commission staff and Arc Vineyards, LLC, to ensure that the Commission is able to consider all relevant information.

Please contact me at patrick.huber@slc.ca.gov or (916) 574-0728 to discuss the proposed sale of 5.93 acres near Santa Maria, California, to Arc Vineyards LLC and the requirements under SB 50 to avoid potential delay in the conveyance of this property.

Sincerely,


PATRICK HUBER
Attorney

cc: Arc Vineyards, LLC

² <https://www.blm.gov/press-release/blm-bakersfield-seeks-public-input-direct-land-sale-arc-vineyards>

Exhibit 4



Case 2:18-at-00406 Document 1-4 Filed 04/02/18 Page 2 of 3

State Lands Commission February Meeting Highlights

The Commission held its first meeting of the year in Oakland with a satellite location in the city of Rancho Palos Verdes. The Commission began the meeting with an update on implementation of its 2016-2020 strategic plan, including significant accomplishments in 2017 and initiatives that staff hopes to complete or make progress on in 2018.

Palos Verdes Marine Artificial Reef Project

The Commission adopted a Negative Declaration and authorized a lease for sovereign land offshore the Palos Verdes Peninsula for the construction, restoration, and enhancement of the Palos Verdes Marine Artificial Reef. The authorization included additional monitoring conditions. The project is funded by the Montrose Settlements Restoration Program and was developed to compensate for biological resource losses caused by contaminated sediments from the Palos Verdes Shelf Superfund Site. The project will benefit the Public Trust by expanding existing rocky-reef habitat, which in turn is expected to improve aquatic resources and functions by providing suitable habitat substrate and shelter for fish and other marine organisms such as kelp, bass, and California sheephead.

Lake Tahoe Benchmark Rental Rates

The Commission also considered approving benchmark rental rates for sovereign land in El Dorado, Placer, and Nevada counties—the 2018 Category 1 Lake Tahoe Berths, Category 1 Lake Tahoe Buoys, and Category 2 Lake Tahoe Non-WaterDependent Use Lake Tahoe Benchmarks. The Commission, acknowledging the calculation complexities and staffs extensive outreach and hard work, decided to defer action to revise the benchmarks and directed staff to explore funding options for a consultant to determine the most appropriate methodology.

Desert Renewable Energy Conservation Plan

The Commission adopted a [resolution](#) that opposes the U.S. Department of Interior's recent announcement to reopen the Desert Renewable Energy Conservation Plan to allow development in areas designated for conservation. The Commission registered its resolute opposition to opening the plan, noting that it would make it more difficult for California to achieve its ambitious renewable energy goals.

Oil and Gas Decommissioning Projects/ Sea-Level Rise GIS tool

There was a presentation on the status of three momentous oil and gas decommissioning projects the Commission is leading—Platform Holly, Rincon Island, and the Becker Onshore well. And the Commission delegated authority to its Executive Officer to negotiate and enter into agreements to access private uplands where necessary to facilitate decommissioning Rincon Island. There was also a staff presentation on the Commission's landmark sea-level rise GIS-based analytical tool, an interactive visualization tool to help the Commission make more informed, data-driven decisions. This tool, used for lease application review, is intended to provide a better understanding of sea-level rise, support staff in analyzing sea-level rise vulnerability, and facilitate interagency collaborations, among other things.

City of Burlingame Waterfront

After months of considering various proposals for an approximately 8.8-acre parcel owned by the Commission along the City of Burlingame's waterfront, the Commission directed staff to conduct a public trust needs assessment and authorized a temporary moratorium on lease applications for this property. The public trust needs assessment, a positive, proactive approach to determine the best use of the property, will be anchored on comprehensive and collaborative outreach to community stakeholders and will be integral to informing the Commission's future decisions about how to use these public trust lands.

Closed Session

The Commission reported out from closed session that it approved a [settlement agreement](#) in the litigation concerning the management of the state's public trust lands and San Francisco's Proposition B (California State Lands Commission v. City & County of San Francisco, Case No. CGC-14-540531). The Commission also waived its attorney-client privilege

concerning [legal advice](#) from the Attorney General's Office about the butane and propane storage tank facility that Rancho LPG operates near the Port of Los Angeles, and a nearby rail spur located on property that the port owns. The Commission's waiver of the attorney-client privilege applies solely to this advice letter. The Commission did not waive the attorney-client privilege, or confidentiality, for any other communications it has had with, or advice it has received from, the Attorney General's office.

OTHER MEETING HIGHLIGHTS

- **Item 65– Morro Bay Power Plant**

The Commission adopted a Mitigated Negative Declaration and approved a lease to authorize Dynergy Morro Bay LLC to decommission pipelines associated with an offshore marine terminal in San Luis Obispo County.

- **Item 75 – Marine Oil Terminals**

The Commission authorized its Executive Officer to execute an agreement with the California Polytechnic State University Affiliated Cal Poly Corporation to review and revise seismic design provisions in its Marine Oil Terminal Engineering and Maintenance Standards.

- **Item 77 – City of Sacramento**

The Commission approved a boundary line agreement between the Commission and the City of Sacramento to establish a common boundary line between State-owned sovereign land and City-owned land at Miller Park in Sacramento County.

- **Item 86 – Federal Conveyances; SB 50 (Allen, Chapter 535, Statutes of 2017)**

The Commission, in its first instance considering federal property conveyance pursuant to SB 50, exercised its right of first refusal to consider acquiring about 78 acres of federal public lands in the City of Dublin. The Commission waived its right of first refusal because the land does not possess a high value for environmental or natural resource conservation, preservation, tourism, scientific study or recreation, and because most of the larger project area is in an urban setting and has been developed under previous exchange agreements.

- **Item 95 – Environmental Justice**

The staff presented an update about the Commission's efforts to usher in a stronger Environmental Justice Policy and about staff's participation in the Government Alliance on Race and Equity, a year-long initiative to help state governments take a systemic approach to advancing racial equity. In the months ahead, the Commission will continue its outreach and continue to receive input from a focus group of environmental justice and social justice equity organizations.

Exhibit 5

**STAFF REPORT
C86**

A 16

02/27/18
S. Pemberton
P. Huber
E. Kennedy

S 7

**EXERCISE RIGHT OF FIRST REFUSAL TO CONSIDER ACQUISITION OF
FEDERAL PUBLIC LANDS OR RIGHT TO ARRANGE FOR THEIR TRANSFER TO
ANOTHER ENTITY IN THE CITY OF DUBLIN, ALAMEDA COUNTY**

APPLICANT:

Dublin Crossing, LLC

AREA, LAND TYPE, AND LOCATION:

78.21 acres of federal public lands within the exterior boundaries of the Parks Reserve Forces Training Area, Camps Parks Military Reservations, city of Dublin, Alameda County.

INTRODUCTION TO SB 50:

In October 2017, the Governor of California signed SB 50 (Allen, Chapter 535, Statutes of 2017) into law, which added sections 6223 and 27338 to the Government Code and section 8560 to the Public Resources Code. Section 8560 makes certain federal land conveyances void unless the Commission is provided with a right of first refusal or the right to arrange for the transfer of the land to another entity. The Commission must exercise its right of first refusal at a public meeting. If the Commission was provided with its right of first refusal and right to transfer to another entity but elects not to purchase or arrange for transfer, it must issue a certificate affirming compliance with the law. Section 6223 prohibits the recordation of a conveyance of federal public lands unless it is accompanied by a certificate of compliance. The right of first refusal does not apply to certain conveyances, including but not limited to, those associated with a habitat conservation plan, lands conveyed into or out of trust for a federally recognized Native American tribe, and certain land exchanges.

BACKGROUND:

The property proposed for conveyance includes 78.21 acres (Subject Federal Parcel) that is part of a larger, approximately 180-acre area. The 180-acre property is comprised of two parcels: one approximately 172-acre parcel that is part of the 2,485 acre U.S. Army Reserve's Camp Parks Reserve Forces Training Area and an adjacent approximately 8.5-acre parcel owned by the National Aeronautics and Space Administration (NASA).

STAFF REPORT **C86** (CONT'D)

In 2002, the U.S. Army requested an amendment to the City of Dublin's General Plan to change the land use designation covering the 180-acre property from public lands to a mix of commercial retail, office space, residential, and open space uses. In April 2003, the Dublin City Council authorized the commencement of a General Plan Amendment study to consider this change in land use designation covering the 180-acre area.

The transaction involving the Subject Federal Parcel, which was initiated in 2007, is an exchange with the U.S. Army Reserves and U.S. Army Corps of Engineers (USACE) conveying fee title to 180 acres in the city of Dublin to SunCal, predecessor-in-interest of Dublin Crossing, LLC, for private development. The development, known as the Dublin Crossing or Boulevard Project, includes residential units, commercial uses, parks, open space, and an elementary school.

In March 2008, the U.S. Army Reserves and USACE issued a Notice of Availability for a Request for Proposals for a Real Property Exchange, by which, in exchange for providing the U.S. Army Reserves with specific requested facilities, a developer would be granted the right to acquire the 180-acre property.

In March 2011, the Army entered into an Exchange Agreement with Dublin Crossing, LLC, to implement the Real Property Exchange. Since then, conveyances have been occurring in phases and several have already been completed. The Exchange Agreement calls for six distinct construction projects, called the MilCon Projects, in exchange for six subparcels of the 172-acre Army Reserve property. All six of the projects have commenced construction. Two are complete, and another two are expected to be complete in the coming weeks. All construction is scheduled to finish in 2018. Dublin Crossing, LLC, has already acquired, by quitclaim deeds, the NASA-owned parcel and several portions of the overall property. The Subject Federal Parcel has not yet been conveyed, and is depicted in Exhibit B as occurring in Phases 3A, 3B, 4C, 4D, 5A, and 5B. The area is to be developed in accordance with the Dublin Crossing Specific Plan approved by the Dublin City Council in 2013.

Dublin Crossing, LLC, now seeks to acquire the remaining Subject Federal Parcel from the USACE and has requested that the Commission issue a certificate of compliance. According to the Applicant, Dublin Crossing, LLC, is a joint venture of the California State Teachers' Retirement System, Brookfield Residential, and CalAtlantic Homes.

STAFF REPORT **C86** (CONT'D)

PROPERTY DESCRIPTION:

Appraised Value:

The Applicant submitted a land valuation of \$296,180,069 for the Subject Federal Parcel consisting of 78.21 acres (an average of \$3,787,072 per acre).

Existing Improvements:

Improvements on the Subject Federal Parcel include roads, parking lots, and approximately 10 small buildings used for equipment storage, vehicle repair, office space, and administrative services.

Natural and Cultural Resources:

Staff has reviewed the Environmental Impact Report (EIR) (State Clearinghouse No. 2012062009) for the Specific Plan prepared by the City of Dublin in 2013. Because Camp Parks was developed by the U.S. Army Reserve in the 1940s and the area was used for cattle grazing before then, natural resources are limited in the area. The Specific Plan is set in the middle of the city of Dublin with significant urban development bordering the south, east, and west sides of the area. The Specific Plan area with the federal conveyance parcels is approximately 180 acres. Over half the acreage (about 58 percent) is comprised of non-native grassland. Another 41 percent is developed or semi-developed (e.g., buildings, parking areas, storage areas, and roads), and 1 percent is comprised of emergent/seasonal wetlands and other waters, such as drainages/canals).

In 2017, the USACE issued a section 404 permit for filling and mitigating the wetlands as part of the Specific Plan build-out. The San Francisco Bay Regional Water Quality Control Board issued a section 401 Water Quality Certification, and the California Department of Fish and Wildlife (CDFW) issued a 1602 Streambed Alteration Agreement for the project. Impacts to special status species are mostly limited to burrowing owl (a state species of special concern) and Condgon's tarplant (a California Native Plant Society list 1B species) that are known to be present in the Specific Plan area. Mitigation for burrowing owl and Condgon's tarplant impacts is being coordinated with CDFW, and the impacts were determined to be less than significant.

Based on the EIR, the Specific Plan area does not have any significant cultural resources. The U.S. Army and the City of Dublin conducted many record and literature searches and surveys over the years, and no significant cultural resources are known to exist in the Specific Plan area. Mitigation has been incorporated into the project for any potential impacts to unanticipated archaeological or cultural artifacts discovered during ground disturbing activities. In 2013, the City of Dublin invited California Native American tribes to request formal consultation on the Specific Plan pursuant to SB 18. Following a 90-day

STAFF REPORT C86 (CONT'D)

review period, the City of Dublin did not receive any request for consultation from tribes.

Encumbrances:

The Subject Federal Parcel is subject to several encumbrances. A "Lease in Furtherance of Conveyance" was executed on January 22, 2015, with respect to the entire 180-acre overall property, authorizing Dublin Crossing, LLC, to begin development of the proposed project as described in the Exchange Agreement for a term of 15 years.

There is also an existing underground hydromodification storage vault with a 60-inch storm drain that discharges to Chabot Channel. It is located in the portion of the Subject Federal Parcel designated Phase 3A. This hydromodification storage vault is owned by the City and maintained by the HOA. An existing 18" water line also crosses the Phase 3A part of the parcel. The Dublin San Ramon Services District currently owns and operates two existing 12" sanitary sewer lines.

The Subject Federal Parcel is also encumbered by conservation easements entered into pursuant to agency permits with CDFW and the California Regional Water Quality Control Board. The easements run along Chabot Creek.

Part of the southwestern portion of the parcel is subject to land use controls imposed pursuant to the Army's Record of Decision for the final cleanup remedy for the site. Due to the presence of lead and dioxin contamination that will persist at levels that do not allow unrestricted land use, the land use controls prohibit use of the site for residential use, unless the site is further evaluated and other appropriate remedies are implemented.

Contamination:

Various locations throughout the Subject Federal Parcel are contaminated with hazardous or toxic substances, especially lead and dioxins. Despite remediation efforts, some of the property remains contaminated and is subject to land use controls.

APPLICANT'S INTENDED USE:

The Applicant intends to develop the property as a mixed-use development with residential units, commercial uses, retail, public parks, and a K-8 school.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005 and 8560 and Government Code section 6223.

STAFF REPORT **C86** (CONT'D)

State's Best Interests Analysis:

Section 8560 defines "federal public land" to mean "any land owned by the United States, including the surface estate, the subsurface estate, or any improvements on those estates." Although this definition is broad, the legislative history suggests that the Legislature intended for SB 50 to apply to federal public lands that provide environmental conservation or preservation, economic support from tourism, scientific study, or recreation. (See Assem. Com. on Natural Resources, report on SB 50 (2017-2018 Reg. Sess.), as amended May 26, 2017, pp. 3-4.; Sen. Com. on Natural Resources and Water, report on SB 50 (2017-2018 Reg. Sess.), Feb. 22, 2017 version, pp. 1-2.; Sen. Jud. Comm., report on SB 50 (2017-2018 Reg. Sess.), as amended March 20, 2017, pp. 3-4.) The Legislature was aware that President Trump ordered the Department of the Interior to review two dozen national monuments, six of which are in California. These references in the legislative history suggest that the Legislature sought to discourage conveyances of federal public lands that possess high value for environmental and natural resource conservation or preservation, tourism, scientific study, and recreation.

The Subject Federal Parcel proposed for conveyance to Dublin Crossing, LLC, does not possess high value for environmental or natural resource conservation or preservation, tourism, scientific study, or recreation. Most of the property area and surrounding lands have been developed. Staff believes, based on the past use as an Army Reserve training facility, the urban setting bordering the Specific Plan area in the city of Dublin, and the above information, that there are no natural or cultural resources with significant values within the Subject Federal Parcel. Because much of the Subject Federal Parcel has been developed, it does not provide valuable opportunities for tourism, scientific study, or recreation.

Additionally, the Applicant's intent to develop the Subject Federal Parcel according to the Specific Plan would provide substantial benefits to the surrounding communities, including a school, public parks, housing, and commercial uses in an area already disturbed by development.

The Applicant submitted information that it has spent over \$315 million on its development project to date, and that it has pre-existing contractual rights to the property as well as performance obligations under the contracts.

For all the above reasons, staff recommends that the Commission find it is not in the State's best interests to acquire the Subject Federal Parcel or to arrange for its transfer to another entity.

STAFF REPORT **C86** (CONT'D)

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. The Commission's finding that it is not in the State's best interests to acquire the Subject Federal Parcel, or to arrange for its transfer, or to issue a certificate of compliance are not projects as defined by the California Environmental Quality Act (CEQA) because they are administrative actions that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. **Finding that the acquisition or transfer to another entity is not in the State's best interests:** Staff recommends that the Commission also find that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The activity is exempt because CEQA does not apply to projects that a public agency rejects or disapproves.

Authority: Public Resources Code section 21080, subdivision (b)(5) and California Code of Regulations, title 14, section 15270, subdivision (a).

4. **Issuance of a certificate of compliance:** Staff recommends that the Commission also find that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The activity is exempt because CEQA does not apply to ministerial projects. After being provided with the right of first refusal or right to transfer to another entity, the Commission has no discretion whether to issue the certificate of compliance—it "shall issue a certificate of compliance."

Authority: Public Resources Code sections 21080, subdivision (b)(1) and California Code of Regulations, title 14, section 15268, subdivision (a).

EXHIBITS:

- A. Legal Descriptions
- B. Plat to Accompany Legal Descriptions
- C. Site and Location Map

STAFF REPORT **C86** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

1. **Finding that the acquisition or transfer to another entity is not in the State's best interests:** Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21080, subdivision (b)(5) and California Code of Regulations, title 14, section 15270, subdivision (a), projects that a public agency rejects or disapproves.
2. **Issuance of a certificate of compliance:** Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21080, subdivision (b)(1) and California Code of Regulations, title 14, section 15268, subdivision (a), ministerial projects.

STATE'S BEST INTERESTS FINDING:

Find that it is not in the best interests of the State for the Commission to acquire 78.21 acres of land proposed for conveyance from the U.S. Army Corps of Engineers to Dublin Crossing, LLC, or to arrange for its transfer to another entity.

AUTHORIZATION:

Authorize the Executive Officer, or her designee, to issue a certificate of compliance with Public Resources Code section 8560 for the conveyance of 78.21 acres of land from the U.S. Army Corps of Engineers to Dublin Crossing, LLC.

EXHIBIT A

LEGAL DESCRIPTION

**PHASE 3-A
PORTION (5132 O.R. 1)**

Real property situate in the City of Dublin, County of Alameda, State of California described as follows:

Being a portion of the lands described in the Final Judgement on the Declaration of Taking, and Second Amendment to Declaration of Taking entitled United States of America v. 3396 acres of land, Alameda and Contra Costa Counties, California, Ada Clement, et al, filed in District Court of the United States for the Northern District of California, Southern Division, Civil No. 22352-B, Judgement effective 27 August 1945, Civil No. 22352-R the Final Judgement of Record filed on July 21, 1947 and recorded in Book 5132 at Page 1, Official Records of Alameda County, same parcel being a portion of that 180.126 acre parcel of land shown on the Record of Survey, filed in Book 31 at Page 28 of Maps, Official Records of said Alameda County more particularly described as follows:

Beginning at the southwest corner of Parcel 3 as said parcel is described by Grant Deed to Dublin Crossing, LLC recorded on August 28, 2015 as Document No. 2015-0239931 of Official Records of Alameda County, same corner being on the north line of the 160 feet wide strip of land known as Dublin Boulevard as conveyed to the City of Dublin by Quitclaim Deed recorded on September 22, 1994 as Document No. 1994-312570 Official Records of said County;

thence along last said line North 88°46'31" West 388.28 feet to a point on the easterly line of the parcel of land described as Parcel 3 in a Quitclaim Deed to the County of Alameda recorded on January 31, 1986 as Document No. 1986-026014 Official Records of said County;

thence along last said line North 46°28'46" West 819.40 feet;

thence North 45°53'03" East 195.38 feet;

thence South 88°39'37" East 356.85 feet;

thence South 01°19'26" West 24.60 feet;

thence South 55°55'01" East 157.70 feet;

thence South 01°35'51" West 77.24 feet;

thence South 88°24'09" East 373.31 feet;

thence North 01°35'51" East 325.34 feet;

thence along a tangent curve to the right having a radius of 50.00 feet, a central angle of 90°00'00" and an arc length of 78.54 feet;

thence South 88°24'09" East 251.59 feet;

thence South 01°35'51" West 56.00 feet to the most northerly northwest corner of said Parcel 3, Document No. 2015-0239931;

thence along the generally westerly line of said Parcel 3 the following four (4) courses:

1. South 01°35'51" West 527.66 feet,

2. North 88°24'09" West 301.59 feet,

3. South 01°35'51" West 281.39 feet and

4. along a tangent curve to the right having a radius of 30.00 feet, a central angle of 19°47'26" and an arc length of 10.36 feet to the **Point of Beginning**.

Containing 608,253 Square Feet, more or less.

EXHIBIT B - Plat to Accompany Legal Description (1 Sheet) which is attached hereto and made a part hereof.

End of Description

This description and its accompanying plat were prepared by or under the direction of:


Alvin Leung, PLS

November 7, 2016
Date



EXHIBIT A
LEGAL DESCRIPTION
PHASE 3B
PORTION (5132 O.R.1)

Real property situate in the City of Dublin, County of Alameda, State of California, and being a portion of the lands described in the Final Judgment on the Declaration of Taking, Amendment to Declaration of Taking, and Second Amendment to Declaration of Taking entitled United States of America v. 3396 acres of land, Alameda and Contra Costa Counties, California, Ada Clement, et al, filed in the District Court of the United States for the Northern District of California, Southern Division, Civil No. 22352-B, Judgment effective 27 August 1945, Civil No. 22352-R the Final Judgment of Record filed on July 21, 1947 and recorded in Book 5132 at Page 1, Official Records of Alameda County, same parcel being a portion of that 180.126 acre parcel shown on that certain map entitled "Record of Survey No. 2031", filed on May 8, 2006 in Book 31 at Page 28 of Maps, Official Records of said County and being more particularly described as follows:

Beginning at the northeast corner of Parcel 3 described in a Grant Deed to Dublin Crossing, LLC recorded on August 28, 2015 under document number 2015-0239931 Official Records of said County; Thence crossing through the USA parcel for the following twenty seven (27) courses: (1) North 01°35'51" East 407.01 feet, (2) South 88°33'28" East 61.00 feet, (3) North 01°35'51" East 268.59 feet, (4) North 88°24'09" West 51.00 feet, (5) North 01°35'51" East 214.71 feet, (6) North 88°24'09" West 168.34 feet, (7) North 01°35'51" East 97.94 feet, (8) North 88°24'09" West 325.08 feet, (9)

North 01°35'51" East 112.96 feet, (10) North 88°24'09" West 68.50 feet to the beginning of a non-tangent curve to the left, from which point the center bears South 41°42'37" East, (11) in a southwesterly direction 64.05 feet along the arc of said curve to the left, having a radius of 620.00 feet and through the central angle of 05°55'08", (12) South 42°22'15" West 78.93 feet, to the beginning of a tangent curve to the right, (13) in a southwest direction 95.11 feet along the arc of said curve to the right, having a radius of 480.00 feet and through the central angle of 11°21'09", (14) North 35°49'19" West 62.00 feet to the beginning of a non-tangent curve to the left from which point the center bears North 36°20'39" West, (15) in a northeast direction 82.33 feet along the arc of said curve to the left, having a radius of 418.00 feet and through the central angle of 11°17'06", (16) North 42°22'15" East 78.93 feet to the beginning of a tangent curve to the right, (17) in a northeast direction 585.95 feet along the arc of said curve to the right, having a radius of 682.00 feet and through the central angle of 49°13'36", (18) South 88°24'09" East 310.34 feet, (19) South 01°35'51" West 67.00 feet, (20) South 88°24'09" East 518.19 feet to the beginning of a tangent curve to the right, (21) in a southerly direction 47.12 feet along the arc of said curve to the right, having a radius of 30.00 feet and through the central angle of 90°00'00", (22) South 01°35'51" West 406.17 feet, (23) South 88°24'09" East 213.65 feet, (24) South 01°35'51" West 87.94 feet, (25) South 88°24'09" East 58.99 feet, (26) North 01°35'51" East 206.06 feet and (27) South 88°24'09" East 141.97 feet to a point on the west line of Arnold Road; Thence along said west line for the following two (2) courses: (1) South 01°23'35" West 633.42 feet and (2) South 52°40'34" West 520.00 feet; Thence crossing through the USA parcel for the following three (3) courses: (1) North 88°33'53" West 341.76 feet, (2) North

01°35'51" East 15.01 feet and (3) North 88°33'27" West 402.43 feet to the **Point of Beginning.**

Containing 1,413,590 Square Feet of land area, more or less.

End of Description

Prepared By:



Alvin Leung, PLS 6630

November 16, 2016

Date



PHASE 4C – BOUNDARY LIMITS

Land Description of real property situate in the City of Dublin, County of Alameda, State of California, and being a portion of the lands described in the Final Judgment on the Declaration of Taking, Amendment to Declaration of Taking, and Second Amendment to Declaration of Taking entitled United States of America v. 3396 acres of land, Alameda and Contra Costa Counties, California, Ada Clement, et al, filed in the District Court of the United States for the Northern District of California, Southern Division, Civil No. 22352-B, Judgment effective 27 August 1945, Civil No. 22352-R the Final Judgment of Record filed on July 21, 1947 and recorded in Book 5132 at Page 1, Official Records of Alameda County, same parcel being a portion of that 180.126 acre parcel shown on that certain map entitled "Record of Survey No. 2031", filed on May 8, 2006 in Book 31 at Page 28 of Maps, Official Records of said County and being more particularly described as follows:

Commencing at a corner on the west line of Parcel 2B described in a deed to Dublin Crossing, LLC recorded on March 17, 2017 under document no. 2017-064517 Official Records of said County, same west corner being at the southern terminus of the course labeled "South 01° 35' 51" West - 424.80"; Thence across the USA parcel, North 88° 24' 09" West - 210.35 feet for the **Point of Beginning** hereof, also being at the beginning of a curve left; Thence crossing through the USA parcel for the following five (5) courses: (1) in a southwesterly direction 78.54 feet along the arc of said curve to the left, having a radius of 50.00 feet and through a central angle of 90° 00' 00", (2) South 01° 35' 51" West - 325.34 feet, (3) North 88° 24' 09" West – 366.49 feet, (4)

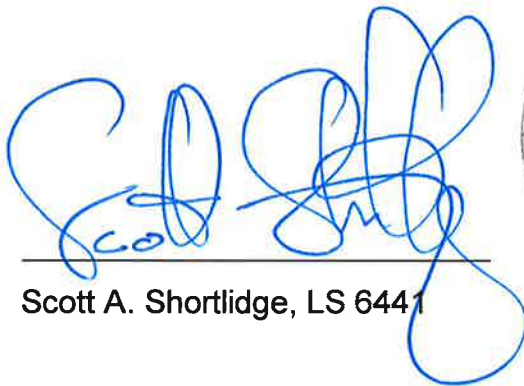
PHASE 4C – BOUNDARY LIMITS

North 22° 55' 53" East – 402.95 feet, and (5) South 88° 24' 09" East – 269.89 feet to the **Point of Beginning**.

Containing 110,580 Square Feet of land area, more or less.

End of Description

Prepared By:



Scott A. Shortlidge, LS 6441

1-24-2018
Date

PHASE 4D – BOUNDARY LIMITS

Land Description of real property situate in the City of Dublin, County of Alameda, State of California, and being a portion of the lands described in the Final Judgment on the Declaration of Taking, Amendment to Declaration of Taking, and Second Amendment to Declaration of Taking entitled United States of America v. 3396 acres of land, Alameda and Contra Costa Counties, California, Ada Clement, et al, filed in the District Court of the United States for the Northern District of California, Southern Division, Civil No. 22352-B, Judgment effective 27 August 1945, Civil No. 22352-R the Final Judgment of Record filed on July 21, 1947 and recorded in Book 5132 at Page 1, Official Records of Alameda County, same parcel being a portion of that 180.126 acre parcel shown on that certain map entitled "Record of Survey No. 2031", filed on May 8, 2006 in Book 31 at Page 28 of Maps, Official Records of said County and being more particularly described as follows:

Commencing at the northwest corner of Parcel 1 described in a deed to Dublin Crossing, LLC recorded on August 28, 2015, under document no. 2015-239931 Official Records of said County; Thence along the north line of Parcel 1, South 88° 26' 33" East – 731.53 feet for the **Point of Beginning** hereof; Thence crossing through the 180.126 acre parcel for the following three (3) courses: (1) North 01° 35' 51" East – 183.83 feet, (2) South 88° 26' 23" East – 382.00 feet, and (3) South 01° 35' 51" West – 179.52 feet for the beginning of a curve to the right, from which point the center bears North 05° 05' 40" West, (2) in a southeasterly direction 74.22 feet along the arc of said curve to the right, having a radius of 639.00 feet and through a central angle of 06° 39' 17" to a point on the north line of

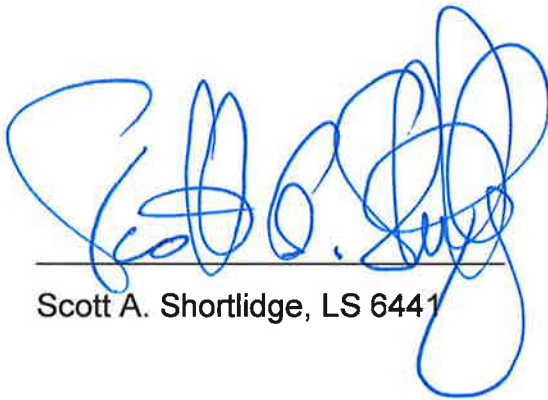
PHASE 4D – BOUNDARY LIMITS

Parcel 1; Thence along said north line, North 88° 26' 33" West – 307.95 feet to the **Point of Beginning**.

Containing 70,116 Square Feet of land area, more or less.

End of Description

Prepared By:



Scott A. Shortlidge, LS 6441

1-24-2018
Date

PHASE 5A & 5B BOUNDARY LIMITS

Land Description of real property situate in the City of Dublin, County of Alameda, State of California, and being portions of the lands described in the Final Judgment on the Declaration of Taking, Amendment to Declaration of Taking, and Second Amendment to Declaration of Taking entitled United States of America v. 3396 acres of land, Alameda and Contra Costa Counties, California, Ada Clement, et al, filed in the District Court of the United States for the Northern District of California, Southern Division, Civil No. 22352-B, Judgment effective 27 August 1945, Civil No. 22352-R the Final Judgment of Record filed on July 21, 1947 and recorded in Book 5132 at Page 1, Official Records of Alameda County, same parcel being a portion of that 180.126 acre parcel shown on that certain map entitled "Record of Survey No. 2031", filed on May 8, 2006 in Book 31 at Page 28 of Maps, Official Records of said County and being more particularly described as follows:

PHASE 5A:

Beginning at the northwest corner of the said 180.126 acre parcel, Thence along the north line of the 180.126 acre parcel, South 88° 24' 09" East - 1397.51 feet; Thence crossing through the said USA parcel, South 01° 35' 51" West - 667.85 feet to a point on the north line of Parcel 1 described in a deed to Dublin Crossing, LLC recorded on August 28, 2015, under document no. 2015-239931 Official Records of said County; Thence along said north line, North 88° 26' 23" West - 731.53 feet to the northwest corner of Parcel 1, same being the northeast corner of said Parcel 2A described in a deed to Dublin Crossing, LLC recorded on March

PHASE 5A & 5B BOUNDARY LIMITS

17, 2017 under document no. 2017-064517 Official Records of said County; Thence along the north line of Parcel 2A, North 88° 26' 23" West - 45.04 feet to the northwest corner of Parcel 2A, same corner being on the west line of the 180.126 acre parcel; Thence along said west line for the following three (3) courses: (1) North 46° 28' 47" West - 532.33 feet to the beginning of a curve to the right, (2) in a northwesterly direction 305.01 feet along the arc of said curve to the right, having a radius of 11309.19 feet and through a central angle of 01° 32' 43" to a westerly corner of the 180.126 acre parcel; and (3) North 01° 13' 02" East - 105.88 feet to the **Point of Beginning**.

Containing 760,122 Square Feet of land area, more or less.

PHASE 5B:

Commencing at the northwest corner of the said 180.126 acre parcel, Thence along the north line of the 180.126 acre parcel, South 88° 24' 09" East – 1857.51 feet for the **Point of Beginning** hereof; Thence continuing along said north line, South 88° 24' 09" East - 1177.65 feet; Thence crossing through the USA parcel for the following seven (7) courses: (1) South 38° 42' 02" West - 407.75 feet for the beginning of a curve to the right, from which point the center bears North 05° 02' 23" West, (2) in a westerly direction 48.42 feet along the arc of said curve to the right, having a radius of 418.00 feet and through a central angle of 06° 38' 14", (3) North 88° 24' 09" West - 170.00 feet for the beginning of a curve to the left,

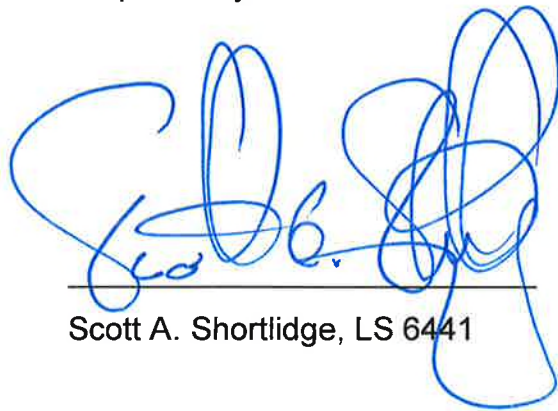
PHASE 5A & 5B BOUNDARY LIMITS

from which point the center bears South 00° 06' 09" West, (4) in a southwesterly direction 361.71 feet along the arc of said curve to the left, having a radius of 582.00 feet and through a central angle of 35° 42' 26", (5) South 55° 53' 25" West - 188.66 feet for the beginning of a curve to the right, (6) in a southwesterly direction 244.28 feet along the arc right of said curve to the right, having a radius of 639.00 feet and through a central angle of 21° 54' 12", and (7) North 01° 35' 51" East - 649.19 feet to the **Point of Beginning**.

Containing 444,088 Square Feet of land area, more or less.

End of Description

Prepared By:



Scott A. Shortlidge, LS 6441



1-24-2018
Date

LEGEND

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- SF SQUARE FEET
- (1) RECORD OF SURVEY 2031, 31 RS 28
- (2) PARCEL MAP 8275, 280 PM 71
- PROPERTY CORNER MONUMENT

UNITED STATES OF AMERICA
5132 OR 1

P.O.C. PARCEL 5B
(1) N88°24'09"W 1072.93'(M-M) (1) N01°35'51"E 24.99'

PHASE 5A
(760,122± SF)

P.O.B. PHASE 4D
(70,116± SF)

PARCEL 4A
DUBLIN CROSSING LLC
2017-241771

PHASE 5B
(444,088± SF)

P.O.B. PHASE 5B
RECORD OF SURVEY 2031
31 RS 28

COUNTY OF ALAMEDA
PARCEL 2
1986-026014
SCARLETT HOMES LLC.
2001-081530

TRACT 8382
351 M 60

P.O.B. PHASE 4C
(110,580± SF)

TRACT 8150
341 M 6

TRACT 8308
345 M 89

PHASE 3A
(608,253± SF)

P.O.B. PHASE 3B
TRACT 8307
345 M 83

(2) N88°46'25"W 336.32'
(2) N01°13'29"E 105.01'

P.O.B. PHASE 3B

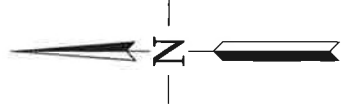
TRACT 8306
345 M 76

TRACT 8382
351 M 60

PARCEL 3
254 PM 28

BOULEVARD

DUBLIN



(IN FEET)
1 inch = 500 ft.



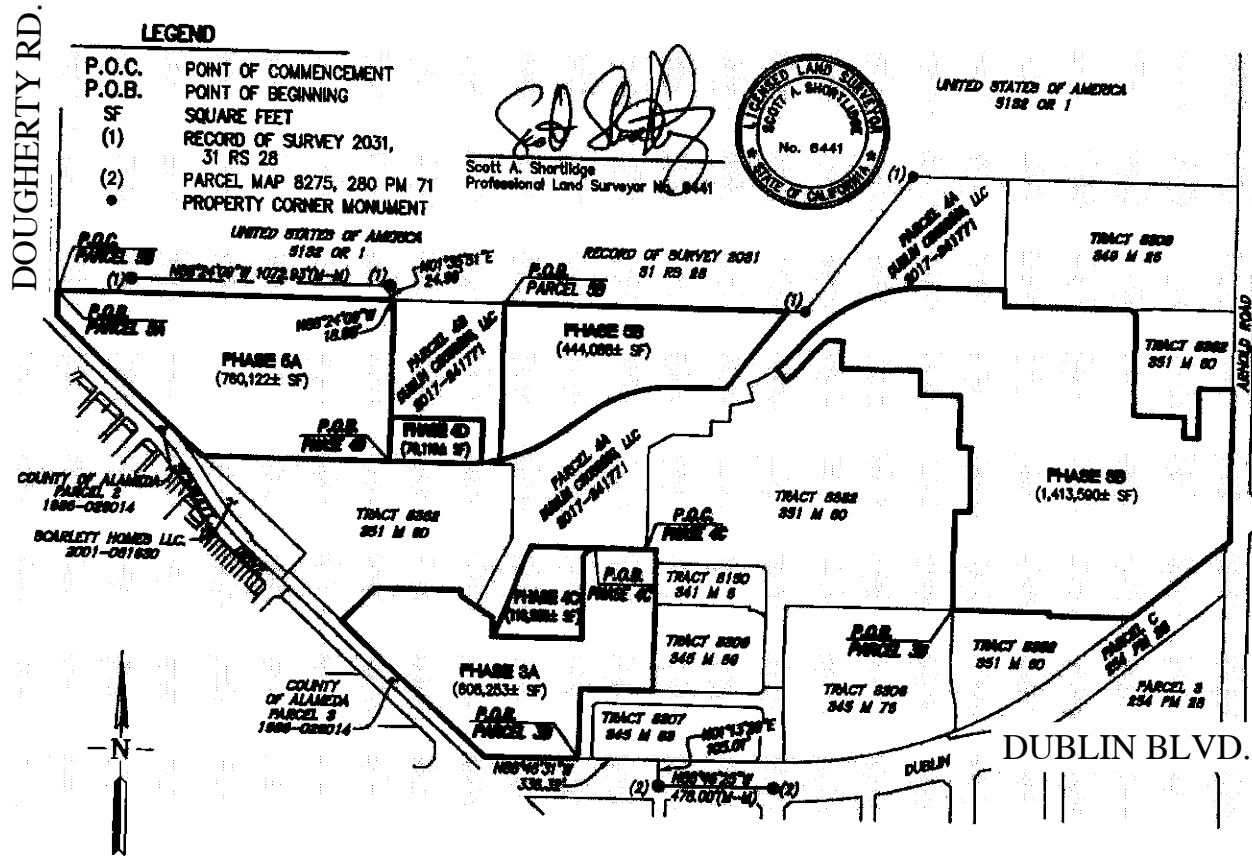
Scott A. Shortlidge
Professional Land Surveyor No. 6441



RUGGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

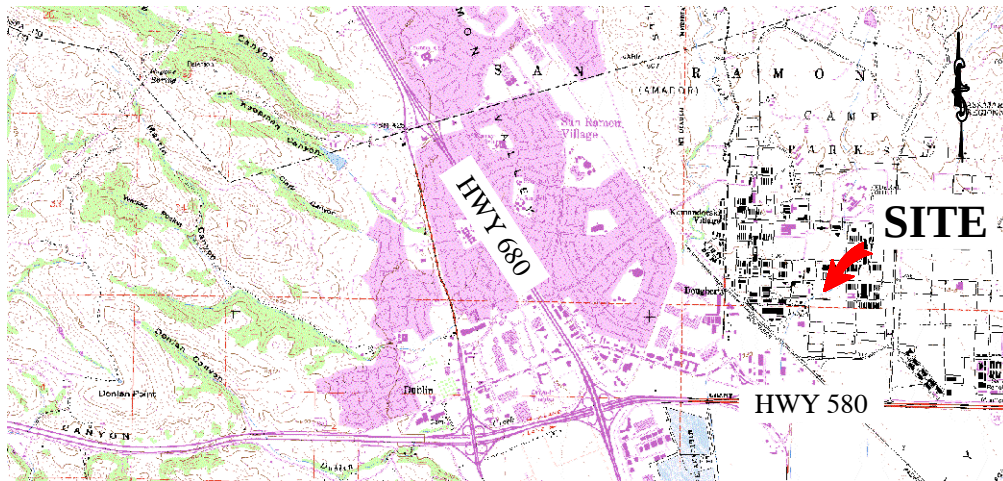
EXHIBIT B
PLAT TO ACCOMPANY LEGAL DESCRIPTION
FOR
UNITED STATES OF AMERICA PROPERTY
CITY OF DUBLIN, ALAMEDA COUNTY, CALIFORNIA

NO SCALE

SITE

DUBLIN, ALAMEDA COUNTY

NO SCALE

LOCATION

MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit C

SB 50
DUBLIN CROSSING, LLC
SB 50 TRANSFER
ALAMEDA COUNTY



DJF 02/15/2018

Exhibit 6

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:
STATE OF CALIFORNIA
STATE LANDS COMMISSION
100 HOWE AVE. SUITE 100 SOUTH
SACRAMENTO, CA 95825
ATTN: LEGAL UNIT
TELEPHONE: (916) 574-1850

**STATE OF CALIFORNIA - OFFICIAL
BUSINESS**

DOCUMENT ENTITLED TO FREE
RECORDATION
PURSUANT TO GOVERNMENT
CODE SECTION 27383

CERTIFICATE OF COMPLIANCE

California Public Resources Code Section 8560

WHEREAS Purchaser has applied to the California State Lands Commission for a Certificate of Compliance regarding a contemplated purchase of federal public lands within California, described in Exhibit A; and

WHEREAS the California State Lands Commission, pursuant to California Public Resources Code Section 8560, determined at a properly noticed public meeting to not acquire the lands described in Exhibit A; and

WHEREAS the California State Lands Commission determined not to arrange for a transfer of the lands described in Exhibit A to another party;

NOW, THEREFORE, I, Colin Connor, Assistant Executive Officer of the California State Lands Commission, hereby certify, pursuant to a delegation of authority by the Executive Officer, that the California State Lands Commission met on February 27, 2018 and authorized the Executive Officer to issue a Certificate of Compliance to Dublin Crossing, LLC. A copy of the Commission's Staff Report, Item No. C86, is attached hereto as Exhibit A.



COLIN CONNOR, ASSISTANT EXECUTIVE
OFFICER
CALIFORNIA STATE LANDS COMMISSION

Date: MAR 2 2018

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of SACRAMENTO)On March 6, 2018 before me, Kim Lunetta, Notary Public
Date Here Insert Name and Title of the Officerpersonally appeared Colin Carroll
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Kim Lunetta
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Certificate of Compliance
Document Date: Feb 27, 2018 Number of Pages: 23
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)Signer's Name: Colin Carroll

☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator

☒ Other: Asst. Executive OfficerSigner Is Representing: As StateLand Commission

Signer's Name: _____

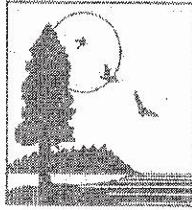
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

**CALIFORNIA STATE
LANDS COMMISSION**

GAVIN NEWSOM, *Lieutenant Governor*
BETTY T. YEE, *Controller*
MICHAEL COHEN, *Director of Finance*



EXECUTIVE OFFICE
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

JENNIFER LUCCHESI, *Executive Officer*
(916) 574-1800 Fax (916) 574-1810
California Relay Service TDD Phone 1-800-735-2929
Voice Phone 1-800-735-2922

June 1, 2016

To: Colin Connor
Assistant Executive Officer

From: Jennifer Lucchesi
Executive Officer

Subject: **Delegation of Authority**

This letter shall serve as a statement of the delegation authority granted to you as Assistant Executive Officer under authority of the State Lands Commission at its June 19, 2014 meeting. Expressly during my absence, you are authorized to execute any and all powers of the Executive Officer.

CIVIL COVER SHEET

Case 2:18-at-00406 Document 1-7 Filed 04/02/18 Page 1 of 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
(see attachment)**DEFENDANTS**State of California;
Edmund G. Brown, Jr., Governor of California; and
California State Lands CommissionCounty of Residence of First Listed Defendant **Sacramento**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Attorney General of California
1300 "I" Street, Sacramento, California 95814
(916) 445-9555**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☒ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
U.S. Const. art. IV, § 3, cl. 2; id. art. VI, cl. 2; and numerous statutes cited in Paragraph 21 of complaint

Brief description of cause:
Supremacy Clause challenge to 2017 California Senate Bill 50

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

04/02/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Eric Grant

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

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