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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

29.81 ACRES OF LAND, MORE OR
LESS, SITUATE IN KERN COUNTY,
CALIFORNIA, AND MALEK &
SCHIPPER INVESTMENT AND
DEVELOPMENT CORP., et al.,

Defendants.

No. 1:17-cv-00932-DAD-JLT

ORDER FOR DELIVERY OF POSSESSION

(Doc. No. 16)

On July 13, 2017, plaintiff in this action, the United States of America, filed a complaint in condemnation on behalf of the United States Army Corp of Engineers seeking title and possession of the subject property, Tract No. 419 of Parcel 1 of Parcel Map 7436 in the unincorporated area of Kern County, California,¹ also known as APN 485-070-24. (See generally Doc. Nos. 1; 1-3.) Plaintiff seeks possession of the subject property for construction of the Lake Isabella Dam Safety Modification Project. (Doc. No. 1-2.) The court finds that the United States has filed both a declaration of taking and deposited the estimated just compensation into the

¹ Said Parcel Map was recorded April 8, 1985 in Book 31, Page 188 of Parcel Maps in the office of the County Recorder in Kern County, California. (Doc. No. 1-3.)

1 court's registry in accordance with 40 U.S.C. § 3114. (*See* Doc. No. 9.) As such, title to the land
2 is appropriately vested in the United States. 40 U.S.C. § 3114(b)(1). The court also notes that
3 Gerald Wenstrand, a named defendant in this action, has disclaimed any possessory interest
4 and/or right to just compensation with respect to the subject property on September 14, 2017.
5 (Doc. No. 15-1, Ex. 1.) Thus, only the United States and defendant, Malek Schipper Investment
6 and Development Group ("Malek"), have remaining possessory interests in the subject property.
7 (Doc. No. 16 at 2-3, ¶ 6.) According to the stipulation filed on September 14, 2017, the parties
8 met and conferred on August 21, 2017 and agreed that defendant, Malek, will "relinquish,
9 possession of the estate" and that the "United States' right to possession of the property is
10 condemned" as of September 1, 2017. (*Id.* at 3, ¶ 7.) The court approves this stipulation and
11 further orders delivery of possession as follows:

- 12 1. All defendants to this action and all persons in possession or control of the property
13 described in the complaint and declaration of taking in this case shall surrender
14 possession of said property to the extent of the estate condemned, to the United States
15 effective September 1, 2017; and
- 16 2. This order shall be served upon counsel of record for Malek, and on all known persons
17 in possession or control of the said property forthwith.

18 IT IS SO ORDERED.

19 Dated: September 14, 2017

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22 UNITED STATES DISTRICT JUDGE
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