

**FILED**

**OCT 24 2018**

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_  
DEPUTY CLERK

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15 **UNITED STATES DISTRICT COURT**  
16 **EASTERN DISTRICT OF CALIFORNIA**

17  
18 UNITED STATES OF AMERICA,

19 Plaintiff,

20  
21 v.

22 29.81 ACRES OF LAND, MORE OR  
23 LESS, SITUATE IN KERN COUNTY,  
24 CALIFORNIA, AND MALEK &  
25 SCHIPPER INVESTMENT AND  
DEVELOPMENT CORP., *et al.*

26 Defendants.

CASE NO. 1:17-CV-00932-LJO-JLT

**STIPULATED FINAL JUDGMENT**

27  
28 STIPULATED FINAL JUDGMENT 1

1 Plaintiff United States of America and Defendant Malek & Schipper Investment and  
2 Development Corporation ("MALEK"), hereby agree and stipulate, and the Court hereby  
3 **ORDERS, ADJUDGES, AND DECREES** as follows:

4 1. On July 13, 2017, the United States filed a Complaint in Condemnation (Dkt. 1)  
5 and a Declaration of Taking (Dkt. 2) in this eminent domain proceeding against approximately  
6 29.81 acres of land in Kern County, California.

7 2. The Declaration of Taking provides for the fee simple acquisition of Assessor  
8 Parcel No. 485-070-24 previously owned by MALEK ("Subject Property").

9 3. On July 20, 2017, the Court granted the United States' motion to deposit into the  
10 registry of this Court its estimated just compensation for the taking in the sum of \$290,000.00  
11 (Dkt. 9). As of July 13, 2017, title to the Subject Property, to the extent set forth in the Declaration  
12 of Taking, vested in the United States by operation of law. 40 U.S.C. § 3114.

13 4. On October 13, 2017, the Court granted Kern County Treasurer-Tax Collectors'  
14 motion to withdraw \$1,150.82 from the amount deposited to satisfy payment of property taxes for  
15 the Subject Property (Dkt. 21). The Kern County Treasurer-Tax Collector subsequently filed a  
16 disclaimer of interest waiving any rights to further compensation in this proceeding (Dkt. 22).

17 5. On February 2, 2018, the Court granted MALEK's motion to withdraw the  
18 remaining balance of \$288,849.18 from the deposit plus any accrued interest (Dkts. 31 & 32).

19 6. In order to settle this condemnation action, the parties agree that the just  
20 compensation payable by the United States for the taking of the Subject Property as described in  
21 the Declaration of Taking shall be the sum of \$300,000.00, inclusive of all costs, fees, and  
22 interest.

23 7. **JUDGMENT** shall be, and is hereby, entered against the United States in the  
24 amount of \$300,000.00.

25 8. That said sum of \$300,000.00 shall be just compensation and in full satisfaction of  
26 any and all claims of whatsoever nature against the United States by reason of the institution and  
27 prosecution of this action and the taking of the Subject Property.

1           9.     That said sum of \$300,000.00 shall be subject to all liens, encumbrances, and  
2 charges of whatsoever nature existing against the property at the time of vesting of title thereto in  
3 the United States, and all such liens, encumbrances, and charges of whatsoever nature shall be  
4 payable and deductible from the said sum.

5           10.    As the United States had previously deposited \$290,000.00 as estimated just  
6 compensation, the deficiency between the amount deposited and the stipulated settlement of  
7 \$300,000.00 is \$10,000.00. Upon entry of this stipulated judgment, the United States shall pay  
8 into the registry of the Court the deficiency of \$10,000.00.

9           11.    Upon entry of this judgment and the United States' deposit of the deficiency into  
10 the registry of the Court, the Clerk of the Court shall, without further order of this Court, and  
11 pursuant to Fed. R. Civ. P. 67 and L.R. 150(h), disburse all sums related to this case on deposit in  
12 the Court's registry to the "Peterson Law Group Client Trust Account" and deliver said payment  
13 to:

14                   Christopher D. Peterson  
15                   PETERSON LAW GROUP PC  
16                   19800 MacArthur Blvd., Suite 290  
17                   Irvine, California 92612  
18

19           12.    MALEK warrants that it was the sole owner of the Subject Property at the date of  
20 taking, and that it has the exclusive right to the just compensation herein, excepting the interests  
21 of parties having liens or encumbrances of record and unpaid taxes and assessments, if any, and  
22 that no other party is entitled to the same or any part thereof by reason of any unrecorded  
23 agreement.

24           13.    In the event that any other party is ultimately determined by a court of competent  
25 jurisdiction to have any right to receive compensation for the Subject Property in this case,  
26 MALEK shall refund into the registry of the Court the compensation distributed herein, or such  
27 part thereof as the Court may direct, with interest thereon calculated in accordance with the  
28

1 provision of 40 U.S.C. § 3116, from the date of receipt of the deposit by defendant to the date of  
2 repayment into the registry of the Court.

3 14. MALEK shall save and hold harmless the United States of America from all claims  
4 or liability resulting from any unrecorded leases or agreements affecting the Subject Property on  
5 the date of taking.

6 15. The parties agree to take no appeal from this Stipulated Final Judgment.

7 16. The parties shall be responsible for all of their own legal fees, costs, and expenses.

8 17. Following disbursement to MALEK, this case shall be closed.

9  
10  
11 **IT IS SO ORDERED.**

12 Dated: *October 23, 2018*   
13 UNITED STATES DISTRICT JUDGE

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15  
16  
17 THE UNDERSIGNED STIPULATE THAT THEY CONSENT TO THE ENTRY OF THE  
18 PRECEDING JUDGMENT AND ORDER:

19 ON BEHALF OF PLAINTIFF UNITED STATES OF AMERICA:

20 Dated: October 22, 2018 JEFFREY H. WOOD  
21 Acting Assistant Attorney General  
22 /s/ Reade E. Wilson  
23 READE E. WILSON  
24 /s/ Anthony C. Gentner  
25 ANTHONY C. GENTNER  
26 Trial Attorneys  
27 United States Department of Justice

28 [ Remaining Signature on page 5 ]

1 ON BEHALF OF MALEK & SCHIPPER INVESTMENT AND DEVELOPMENT  
2 CORPORATION:

3 Dated: October 22, 2018

PETERSON LAW GROUP  
PROFESSIONAL CORPORATION

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5 By: /s/ Christopher D. Peterson  
6 CHRISTOPHER D. PETERSON  
7 Attorneys for Defendant Malek & Schipper  
8 Investment and Development Corporation  
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