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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

| | | |
|---------------------------------|---|--------------------------------|
| CITY OF PALMDALE, a charter |) | |
| city, |) | 2:11-cv-01808-GEB-GGH |
| |) | |
| Plaintiff, |) | |
| |) | <u>ORDER TO SHOW CAUSE RE:</u> |
| v. |) | <u>FEDERAL SUBJECT MATTER</u> |
| |) | <u>JURISDICTION</u> |
| CALIFORNIA HIGH-SPEED RAIL |) | |
| AUTHORITY, a public agency; |) | |
| ROELOF VAN ARK, Chief Executive |) | |
| Officer; and DOES 1-10, |) | |
| inclusive, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

Plaintiff has filed a motion for a preliminary injunction in which it argues that Defendants should be prohibited "from continuing to improperly and illegally use state and/or federal funds to conduct a study of an alignment for the California High-Speed Rail Project." (Pl.'s Mot. for Prelim. Inj. 1:2-5.) However, Plaintiff has not stated the basis of federal court subject matter jurisdiction over this case.

"The party seeking to invoke the court's jurisdiction bears the burden of establishing that jurisdiction exists." Scott v. Breeland, 792 F.2d 925, 927 (9th Cir. 1986).

The Court's first consideration in reviewing any action is whether it has subject matter jurisdiction over the action. A federal court is a court of limited [] jurisdiction which is authorized by the Constitution or Congress to hear only certain types of actions. . . .

1 It is a plaintiff's responsibility in a
2 federal civil action to set forth in the complaint
3 the basis for the Court's subject matter
4 jurisdiction. Furthermore, Rule 8(a)(1) of the
Federal Rules of Civil Procedure states that a
complaint must contain a short and plain statement
of the grounds for the court's jurisdiction.

5 Welch v. Holder, No. 09-0534-WS-C, 2009 WL 4898357, at *3 (S.D. Ala.
6 Dec. 14, 2009) (internal citations, quotation marks, and brackets
7 omitted). While Plaintiff has cited federal statutes in its complaint,
8 Plaintiff has not shown on what basis the cited statutes provide a
9 "ground[] for the court's jurisdiction[.]" Fed. R. Civ. P. 8(a)(1).

10 Specifically, Plaintiff alleges in paragraph one of its
11 complaint that it "brings this complaint for declaratory and injunctive
12 relief against Defendants for their misappropriation of federal monies
13 specifically earmarked under the American Recovery and Reinvestment Act
14 pursuant to a grant issued by the Federal Railroad Administration in
15 2010[.]" (Compl. ¶ 1.) Further, the second paragraph of the complaint
16 contains the following conclusory allegations: "This Court has subject
17 matter jurisdiction pursuant to 28 U.S.C. §§ 1331 (federal question),
18 2201 (authorizing declaratory relief) and 2202 (authorizing injunctive
19 relief)." Id. ¶ 2.

20 28 U.S.C. § 1331 confers subject matter jurisdiction over "all
21 civil actions arising under the Constitution, laws, or treaties of the
22 United States." Nothing in the complaint indicates this case concerns
23 the Constitution or a treaty of the United States. Moreover,
24 notwithstanding Plaintiff's contrary indication, § 1331 alone does not
25 confer subject matter jurisdiction, since it is a "general
26 federal-question jurisdiction statute [which] is applicable only when
27 the plaintiff sues under a federal statute that creates a right of
28 action in federal court." Williams v. United Airlines, Inc., 500 F.3d

1 1019, 1022 (9th Cir. 2007). Therefore, Plaintiff's conclusory statement
2 that jurisdiction is based on § 1331 is insufficient.

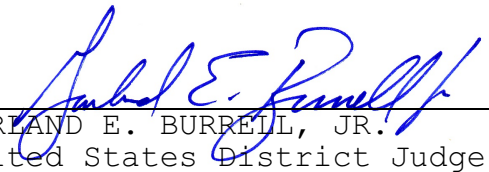
3 Further, Plaintiff's citation to 28 U.S.C. §§ 2201 and 2202
4 does not establish subject matter jurisdiction, since "the Declaratory
5 Judgment Act[, codified at 28 U.S.C. §§ 2201 and 2202,] does not itself
6 confer federal subject matter jurisdiction but merely provides an
7 additional remedy in cases where jurisdiction is otherwise established."
8 City of Colton v. Am. Promotional Events, Inc., 614 F.3d 998, 1006 (9th
9 Cir. 2010) (internal quotation marks omitted).

10 The court raises the issue of subject matter jurisdiction sua
11 sponte, since "courts . . . have an independent obligation to determine
12 whether subject-matter jurisdiction exists, even in the absence of a
13 challenge from any party." Arbaugh v. Y & H Corp., 546 U.S. 500, 514
14 (2006); see also Fed. R. Civ. P. 12(h)(3) ("If the court determines at
15 any time that it lacks subject-matter jurisdiction, the court must
16 dismiss the action."). "The existence of subject matter jurisdiction
17 goes to the very power of the district court to issue . . . rulings" on
18 the now pending injunction motion, since "the district court's order
19 . . . would be meaningless if the district court was without
20 jurisdiction over that [matter] in the first instance." Merritt v.
21 Shuttle, Inc., 187 F.3d 263, 269 (2d Cir. 1999). Therefore, failure to
22 determine whether subject matter jurisdiction exists before briefing on
23 the matter and decision could "waste[] the court's time[,]" and that of
24 the parties if the district court is without subject matter
25 jurisdiction. Int'l Union of Operating Eng'rs v. Cnty. Of Plumas, 559
26 F.3d 1041, 1045 (9th Cir. 2009) (reversing and remanding district
27 court's judgment since Ninth Circuit determined the district court
28 lacked subject matter jurisdiction over the case).

1 Therefore, Plaintiff shall explain the basis of subject matter
2 jurisdiction in a filing due on or before August 12, 2011; any response
3 to this filing shall be filed on or before August 22, 2011. A hearing on
4 the subject matter jurisdiction issue is scheduled to commence at 10:00
5 a.m. on August 29, 2011.

6 Further, in light of the briefing schedule regarding the
7 subject matter jurisdiction issue, the hearing on Plaintiff's motion for
8 a preliminary injunction currently scheduled for 9:00 a.m. on August 22,
9 2011, is rescheduled to commence at 10:00 a.m. on October 3, 2011.
10 Defendants shall file an opposition or statement of non-opposition to
11 the preliminary injunction motion on or before September 12, 2011.
12 Plaintiff may file a reply on or before September 19, 2011.

13 Dated: August 2, 2011

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GARLAND E. BURRELL, JR.
United States District Judge