

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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BRYNDON FISHER, <i>et al.</i> ,))	
))	
Plaintiffs,))	No. 13-608C
))	(Chief Judge Sweeney)
v.))	
))	
THE UNITED STATES,))	
))	
Defendant.))	
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))	
BRUCE REID, <i>et al.</i> ,))	
))	
Plaintiff,))	No. 14-152C
))	(Chief Judge Sweeney)
v.))	
))	
THE UNITED STATES,))	
))	
Defendant.))	
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DEFENDANT’S STATUS REPORT

Pursuant to the Court’s orders issued in the above-captioned cases on March 19, 2020, which directed the United States to file status reports, by no later than March 26, 2020, stating “whether it stipulates that its motion to dismiss should be denied [in these cases] based on the reasoning in the *Fairholme* Opinion,” the United States respectfully submits this status report.

Without conceding or waiving any of the arguments made in our omnibus motion to dismiss, the United States agrees that the Court’s reasoning in the *Fairholme* opinion, if applied to the substantially-identical claims alleged in the *Fisher* and *Reid* complaints, would result in the denial of our motion to dismiss in *Fisher* and *Reid*. The factual allegations in *Fisher* and *Reid* are materially the same as the factual allegations in *Fairholme*. Moreover, the derivative takings, illegal exaction, and breach-of-fiduciary-duty claims alleged in *Fisher* and *Reid* are

substantially the same as the derivative takings, illegal exaction, and breach-of-fiduciary-duty claims alleged in *Fairholme* that survived our omnibus motion to dismiss. *Compare Fisher* Am. Compl., counts I-III and *Reid* Am. Compl., counts I-III, with *Fairholme*, Second Am. Compl., counts II-III, V-VI, VIII-IX. Thus, we see no difference in *Fisher* and *Reid* that would warrant a different outcome with respect to our omnibus motion to dismiss.

Respectfully submitted,

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