

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL



June 9, 2020

To all parties:

Please find enclosed a copy of the proposed decision prepared by the Administrative Law Judge ("ALJ") in this matter. This is being provided to all parties pursuant to Government Code section 11517(c)(1), and the proposed decision is hereby filed as a public record.

PLEASE NOTE: This proposed decision has not been adopted by the Department. The Director has up to 100 days from the date it was received from the Administrative Hearing Office to act on the proposed decision. Such action may include, among other things, adoption or rejection of the proposed decision. (See Government Code section 11517(c)(2).)

There is no provision in the Government Code that specifically authorizes parties to submit written comments to the Director regarding the proposed decision. However, there is also no restriction in the law that prohibits parties from doing so, and it is not uncommon for parties to submit such comments, identifying asserted errors or flaws in the proposed decision.

The Director is limited to reviewing the proposed decision based upon the record developed at the hearing. As such, if you do choose to send comments, the Director can only consider them to the extent that they identify alleged error based on the law and/or on the evidence presented at hearing. In addition, **any comments should be sent to the Administrative Records Secretary and must be served on all parties** (which includes the attorney representing the Department at the hearing) and be **accompanied by a proof of service** establishing that this was done. Failure to do so will result in the comments being considered an *ex parte* communication, which is prohibited pursuant to Government Code sections 11430.10, *et seq.*, and the Director will not review such comments.

Although proposed decisions are typically acted on within 30 to 60 days following receipt, action may be taken earlier than this. As such, if you do decide you wish to submit comments, you should do so promptly. Action on proposed decisions will not be delayed awaiting receipt of comments.

Whether or not comments are submitted, parties have all rights to request reconsideration (Government Code section 11521), to appeal a decision to the ABC Appeals Board, or to pursue such other legal remedies as provided by law.

Sincerely,

A handwritten signature in cursive script that reads "Mark Kinyon".

Mark Kinyon

Administrative Records Secretary
Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, CA 95834

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE PROTEST OF:

Alice Ryerson, et al.,	}	File: 20-600139
	}	
AGAINST THE ISSUANCE OF AN OFF-SALE BEER AND WINE LICENSE TO:	}	Registration: 19088922
	}	
Dolgen California, LLC	}	License Type: 20
DBA: Dollar General #15028	}	
1180 Murray Road	}	Page Count:
McKinleyville, CA 95519-3476	}	
	}	Reporter: Tania Brunell-CSR #4277 Coleman Reporters
	}	
<u>Under the Alcoholic Beverage Control Act</u>	}	<u>PROPOSED DECISION</u>

Administrative Law Judge Alberto Roldan, Administrative Hearing Office, Department of Alcoholic Beverage Control, heard this matter at Eureka, California on January 29, 2020.

Matthew Gaughan, Attorney, appeared and represented the Department of Alcoholic Beverage Control (Department).

Dolgen California, LLC (Applicant) appeared and was represented by J. Daniel Davis, Attorney.

The verified Protestants appeared and represented themselves pursuant to Government Code section 11500(b).

Oral evidence, documentary evidence, and evidence by oral stipulation on the record was received at the hearing. The matter was initially argued and submitted for decision on January 29, 2020.

Subsequent to the matter being submitted, the Department petitioned to reopen the matter on February 4, 2020. During the taking of evidence at the January 29, 2020 hearing, repeated questions were raised as to whether the Department had surveyed the correct census tract in determining the number of licenses in the census tract containing the proposed premises. A number of the Protestants identified a census tract different from the one used by the Department as the one containing the proposed premises in their testimony. The Protestants testified that this information was obtained from publicly available census tract information. The Department and the Applicant proceeded with their cases in chief and closed the evidence presented in reliance that the correct census tract was considered. Subsequent to the closing of evidence, but prior to the issuance of a proposed decision, the Department petitioned to reopen the evidence in this matter.

The Department's petition to reopen conceded that the Department had surveyed the incorrect census tract in its report of investigation that was received in evidence. Given the importance of correct information regarding this core question, the petition to reopen was granted on February 7, 2020. A notice of Continued Hearing on Protest was sent to the parties for additional evidence to be taken on March 25, 2020 at 10:30 a.m. in Eureka, California.

Subsequent to the notice of hearing being sent, federal and state guidelines to slow the spread of Coronavirus (COVID-19) were issued that impacted the appropriateness of an in-person hearing occurring on March 25, 2020 to address this limited issue. The prior hearing involved dozens of parties and witnesses and it was anticipated that the Continued Hearing on Protest would involve a similarly large group coming together. A gathering of this size was found to be contrary to public safety guidelines enacted by the State of California and the United States government to combat the spread of COVID-19.

The Continued Hearing on Protest was limited to the Department presenting its revised findings using the correct census tract information and any additional evidence and argument from the parties that might flow from this new evidence. An order was issued to facilitate this limited inquiry regarding the new evidence. (Exhibit D-7) The order instructed the Department to serve the revised report on the parties in this matter. The order gave the parties the option of filing informal statements in response to the report rather than gathering for the taking of additional testimony. The parties could also elect to request a future hearing date.

The Department prepared a supplemental report of investigation addressing the census tract issue that was served on the parties. The supplemental report also contained a declaration establishing that it was prepared in the ordinary course of the Department's work. (Exhibit D-6) Protestant J. Bryce Kenney elected to respond to the additional evidence in a written statement. (Exhibit P-19). The Applicant also elected to respond in writing to the Department's evidence. (Exhibit A-2) The remaining Protestants who responded elected to request that the matter be set for an additional hearing (Exhibits P-20 through P-26) These exhibits are received in evidence. Exhibit D-6 is received pursuant to California Evidence Code section 1280. Exhibits P-19 and A-2 are received as party responses to evidence presented by the Department in Exhibit D-6. Exhibits P-20 through P-26 are Protestant requests for the scheduling of an additional hearing date and are received as responses to the election ordered in Exhibit D-7.

ISSUES

The issues to be determined on the merits of the protest are whether issuance of the applied-for license to Dolgen California LLC doing business as Dollar General #15028 at 1180 Murray Road, McKinleyville, CA 95519-3476 (Premises) would be contrary to public welfare or morals on the basis that:

- (1) The issuance of the license would interfere with the quiet enjoyment of nearby residents in the surrounding homes by creating a public nuisance, specifically cited are concerns about loitering, littering, and underage persons consuming alcohol,

- (2) The issuance of the license would negatively impact a consideration point, specifically, McKinleyville High School,
- (3) The issuance of the license would not serve a public convenience or necessity, and
- (4) The issuance of the license will add to or cause an undue concentration of licenses. (Exhibit D-1)

FINDINGS OF FACT

1. The Premises did not hold any Department issued licenses prior to the application in this matter. The Premises is in a purpose built structure and is a chain retail store that focuses on budget merchandise. The products for sale are organized in display aisles with checkouts near the front entrance. The building that comprises the Premises is 130 feet in length by 70 feet in width. The Premises has operated, without a liquor license, since its opening as a retail business. The main entrance of the Premises faces Murray Road and it sits at the intersection of Murray Road and McKinleyville Avenue. Both are significant thoroughfares through the community of McKinleyville. A 20 vehicle parking lot separates the front façade of the building from Murray Road. The Premises footprint is on a single business lot. Across Murray Road and facing the Premises are multiple residential structures. To the west and south of the Premises are additional residential structures, although there is no direct vehicle access to these streets from the Premises. To the northeast of the Premises is an empty lot. Directly to the east and across McKinleyville Ave. is the campus of McKinleyville High School. The high school is approximately 263 feet from the Premises. (Exhibits D-2, D-5 and P-1)
2. The application was initiated prior to October 2018 and the Premises location was subsequently posted. (Exhibit D-5) The Applicant seeks a type 20 off sale beer and wine license for the Premises. Three residences are within 100 feet of the Premises. As a result of the required postings and notices sent by the Department and the Applicant, 64 verified protests were initially received, including one from an individual residing approximately 80 feet to the southwest of the Premises. That individual is one of the Protestants who appeared and presented evidence in this matter. Department Licensing Representative K. Locken (Locken) was assigned to investigate the application and to determine the appropriateness of approving the license sought and whether conditions should be attached if approval was warranted.
3. As part of her investigation, Locken visited the Premises on multiple occasions, including periods when the location was open and operating. The Premises was found to be a new, single story, free standing building that was built on a previously vacant lot. As part of its investigation, the Department determined that the Premises is properly zoned neighborhood commercial and that the Premises operation was consistent with this zoning. (Exhibit D-5) The Premises has ample off-street parking for customers since the business is primarily accessed by vehicle. (Exhibits D-2 and D-5) The Premises sells a large variety of discounted, general store wares, including packaged food. There is no customer seating in the Premises building or on the surrounding property controlled by the Applicant.
4. From the Department's investigation in this matter, through the initial hearing in this case, the Department maintained that the Premises was located in Census Tract 0104.00. The Department

relied on the count formula contained in Business and Professions Code section 23958.4,¹ and the presumption that they were using the correct census tract, to conclude that four off-sale retail licensed businesses were permitted in the Census Tract where the Premises is located. The Department concluded that issuance of this license would result in three off-sale licenses in this census tract. The Department found no evidence of the Premises being in a high crime area. Based on the assumption that the Premises was in Census Tract 0104.00, the Department concluded that, even with the issuance of this license, this census tract would remain below the allowed concentration of Department issued off-sale licenses for this tract. During the Department's investigation and through the initial hearing in this matter, this was the information that was shared in the Department's communications with the Applicant and the Protestants. Based on this, no evidence of a public convenience or necessity (PCN) finding was sought or presented in support of the Applicant's license, based on the assumption that there was no overconcentration of licenses in the census tract or evidence of the Premises being in a high crime area requiring a PCN showing.

5. During the initial hearing in this matter, multiple Protestant witnesses testified that the Department had used the wrong census tract in arriving at the conclusion that the license issuance would not lead to an over-concentration of licenses in the census tract containing the Premises. This led the Department to subsequently investigate whether the Premises was properly associated with the correct census tract in its initial investigation. (Exhibit D-6) The Department's subsequent investigation led to a determination that the Premises was actually located in Census Tract 0105.01. The Department determined that, at the time of the application, this census tract had an overconcentration of licenses. 7 off-sale licenses were allowed for the census tract and Census Tract 0105.01 had 8 off-sale licenses during the period of the application by the Premises. The granting of the license sought by the Applicant would result in 9 off-sale licenses in Census Tract 0105.01. (Exhibit D-6)

6. Section 23958 states, "The department...shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result or add to an undue concentration of licenses, except as provided in Section 23958.4." This section allows for exceptions such as a PCN finding. Because of this, the Department determined that the Applicant needed to obtain a PCN. The Applicant was notified of this requirement by the Department on February 24, 2020. On March 17, 2020 the Department also provided the Humboldt County Board of Supervisors with the ABC-245 form necessary for it to provide a PCN finding for the Premises. On March 17, 2020 the Humboldt County Board of Supervisors communicated to the Department that it was denying a PCN finding for the Premises. In addition, Humboldt Supervisor Steve Madrone forwarded to the Department a copy of an October 22, 2019 letter the Humboldt County Board of Supervisors had previously sent to the Department opposing the application. (Exhibits D-6 and P-8)

7. The Humboldt County Sheriff's Department (HCSD) was initially notified of the application by the Department on November 27, 2018. HCSD did not communicate an objection to the application during the Department's initial investigation. HCSD was unable to provide statistical

¹ All statutory references are to the Business and Professions Code unless otherwise noted.

crime data for the census tract. As a result of the above, the Department determined during its initial investigation that the issuance of a license to the Premises would not create a law enforcement problem. During the hearing in this matter, the Protestants presented evidence that HCSO Sheriff William Honsal had written to the Department on October 22, 2019 opposing the issuance of a type 20 license for the Premises. Sheriff Honsal specifically cited the close proximity of McKinleyville High School and residences, and generally noted a concern that the issuance would create a public nuisance and cause or add to crime in the neighborhood containing the Premises. (Exhibit P-8)

8. There are multiple residences within 500 feet of the Premises, and three residences within 100 feet of the Premises, including one of the Protestants. The Premises is separated from these homes by a parking lot, a walkway, a greenway, and the property fences of the residences adjacent to the Premises. Some of the Premises within 500 feet are separated from the Premises by Murray Road, a four lane street. (Exhibits D-2 and D-5)

9. The consideration point within 600 feet of the Premises is McKinleyville High School. (Exhibits D-2, D-5 and P-1) The Premises is directly across the street and in the immediate sightline of the school. The Premises is utilized by students from the high school campus, which is an open campus. Multiple Protestants and witnesses testified to concerns about the close proximity of the high school to the Premises and a concern that students would use the Premises as a location to obtain alcohol if an off-sale license were issued. During the initial hearing in this matter, the Applicant presented evidence that it has protocols for teaching responsible alcohol sales to its employees and managers and mechanisms to enforce this requirement.

10. Multiple Protestant witnesses testified to concerns that there is an ongoing transient population problem in the neighborhood surrounding the Premises. Evidence was presented that the transient population actively littered in the area just beyond the Premises and that this littering interfered with the quiet enjoyment of the adjacent property occupants. (Exhibits P-10, P-11 and P-12) Some of these witnesses testified to a concern that the discount strategy of the Premises would encourage transients to gravitate to the Premises from the encampments that were already in existence in the surrounding neighborhood. Regarding the consideration point, multiple witnesses testified to concerns that students would utilize the local transients to overcome the responsible sales measures of the Applicant and purchase alcohol on their behalf in exchange for a portion of the alcohol purchased. Multiple witnesses, including employees of the high school, testified that the campus had a particularly vulnerable population of special needs students.

11. In her initial investigation, Locken proceeded with the assumption that no PCN was needed. Locken found no issues that would support outright denying the license sought. Locken did weigh the concerns communicated by the Protestants, the consideration point, and the existence of residences within 100 feet of the Premises. Locken determined that the license should only be granted with conditions to ensure the quiet enjoyment of the surrounding residences. The conditional license was drafted with four specific conditions. On February 28, 2019 the Applicant executed a Petition for Conditional License that would limit the Applicant's day-to-day business operations and imposes affirmative responsibilities. (Exhibit D-4) In the petition,

the Applicant acknowledged the Premises is located within 100 feet of residences and that issuance of an unrestricted license would be contrary to public welfare and morals². In recognition of this, the Applicant agreed to the imposition of four operating restrictions on the license.³ (Exhibit D-4)

12. These conditions restrict the hours during which alcoholic beverages may be sold at the Premises to between 6 a.m. and 10 p.m. each day of the week. The Applicant must ensure that there is sufficient lighting to discern the appearance and conduct of persons in the area surrounding the Premises controlled by the Applicant. The Applicant is required to sell beer and malt beverage containers in pre-packaged multi-unit quantities. The Applicant is prohibited from displaying exterior advertising promoting or indicating the availability of alcoholic beverages. (Exhibit D-4)

13. Despite the proposed conditions on the license sought by the Applicant, multiple verified Protestants continued to object to the issuance of a type 20 license to the Applicant at the hearing in this matter. Multiple Protestants testified to their opposition. These Protestants included individuals who live in the immediate vicinity of the Premises. The Protestants expressed general concerns regarding the impact the granting of the license would have on the quiet enjoyment of the community and on the student population of the adjacent high school. Multiple witnesses testified that beer and wine products were available in the immediate vicinity from nearby convenience stores with type 20 licenses. One was described as being within 1000 feet of the Premises by Protestant Margaret Stofsky. (Exhibit P-5) The Protestants presented testimonial and pictorial evidence of homeless persons loitering in the area and littering in the surrounding fields. (Exhibits P-11, P-12, and P-13) The encampments were described by multiple witnesses as being in the neighborhood immediately around the Premises and in the wooded areas adjacent to the Premises or behind the adjacent McKinleyville High School.

14. The Premises has operated as a convenience or general store without a license, through the hearing in this matter. The license sought is to expand the products available at the location of the Premises to include beer and wine. Through District Manager Juan Gallindo, the Applicant presented extensive evidence that its employees would be trained regarding alcohol sales and that the Applicant would enforce rules to prevent unlawful alcohol sales.

15. The Applicant, in its response to the additional evidence presented by the Department, established that it had sent a letter on January 14, 2019 to the Humboldt County Planning Commission (HCPC) asking for a PCN finding. The letter, sent on Alcoholic Beverage Specialists letterhead, discussed the requirements for when a PCN finding is needed. The letter specifically noted that a PCN was needed only when there is an overconcentration of licenses.

² Oddly, the petition for conditional license made no reference to the existence of a consideration point even though the Department's investigation established that McKinleyville High School was within 600 feet of the Premises.

³ The Department, as required by law, investigated all issues arising from the application, not just those raised by the Protestants. Some of the conditions documented in the proposed conditional license relate to the broader Department investigation.

The letter did not reference whether there was an over or under concentration of licenses in the census tract of the Premises. As previously noted, the Department's interaction with the parties initially presumed there was not an overconcentration of off-sale licenses. The sole offered justification in the letter requesting a PCN finding from the HCPC was that customers could get staple groceries and other general store products while buying beer or wine if the Premises were granted a type 20 license. The letter did not address whether any of the other off-sale license holders in the census tract or immediate area surrounding the Premises offered similar services. A statement of operations was included as an attachment to the January 14, 2019 letter. It referenced the same PCN justification as the main letter and explained that customers can make streamlined purchases of grocery staples in a trip that averaged less than 10 minutes. (Exhibit A-2) No testimonial evidence was offered during the hearing in this matter by the Applicant supporting a PCN finding.

16. Except as set forth in this decision, all other allegations in the protest and all other contentions of the parties lack merit.

CONCLUSIONS OF LAW

1. Article XX, section 22 of the California Constitution delegates the exclusive power to license the sale of alcoholic beverages in this state to the Department of Alcoholic Beverage Control.
2. Business and Professions Code § 23958 requires that the Department conduct a thorough investigation to determine, among other things, if the Applicant and the Premises qualify for a license, if the provisions of the Alcoholic Beverage Control Act have been complied with, and if there are any matters connected with the application which may affect public welfare or morals. It provides, in part, that the Department shall deny an application for a license if the applicant or the Premises do not qualify for a license under the Act.
3. Section 23958.4 sets forth a two-prong test for determining whether an area has an over-concentration of licenses. The first prong relates to the number of reported crimes in the relevant reporting district, while the second relates to the number of licenses within the relevant census tract. An area is over-concentrated if either prong is met. Even if an area is over-concentrated, the license may still issue if an applicant demonstrates that public convenience *or* necessity would be served. The Protestants and the Department's subsequent evidence did establish that there was an undue concentration of licenses in the relevant census tract. The second prong of section 23958.4 provides that, with respect to off-sale retail licenses, a census tract is over-concentrated if the ratio of off-sale retail licenses to population in the census tract in which the applied-for premises is located exceeds the ratio of off-sale retail licenses to population in the county in which the applied-for premises is located. As noted, the evidence did establish a statutory over-concentration, given that granting this license would bring the total to 9 off-sale licenses of the 7 allowed in Census Tract 0105.01. As a result, the second prong of section 23958.4 has been shown to be an issue here. (Findings of Fact ¶¶ 1-15)
4. In a protest matter, the applicant bears the burden of establishing that he or she is entitled to a liquor license from the start of the application process until the Department makes a final

determination.⁴ In this matter, the final determination of the Department occurred after it completed its revised report that took into account the correct census tract information. This report was completed on March 26, 2020. (Exhibit D-6 and Findings of Fact ¶¶ 1-15)

5. Business and Professions Code § 23958.4, in relevant part, provides that:

“... (2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

If the local governing body, or its designated subordinate officer or body, does not make a determination within the 90-day period, then the department may issue a license if the applicant shows the department that public convenience or necessity would be served by the issuance. In making its determination, the department shall not attribute any weight to the failure of the local governing body, or its designated subordinate officer or body, to make a determination regarding public convenience or necessity within the 90-day period.”

6. The Applicant has argued that their January 14, 2019 letter sent to the Humboldt County Planning Commission set in motion the 90 day period in subsection 23958.4(2). The failure of the Humboldt County Board of Supervisors to respond within 90 days of that letter precluded the Department from deferring to the PCN denial by the Humboldt County Board of Supervisors. This interpretation ignores the express language of this statute that requires “(B) a completed application according to local requirements, if any, whichever is later” before the 90 day period commences. (Business and Professions Code § 23958.4(2)(B)) In this matter, the application remained ongoing given the continued findings being made by the Department in furtherance of its investigation, as evidenced by the Department’s supplemental investigation report on March 26, 2020. The denial of a PCN finding by the Humboldt County Board of Supervisors occurred well within 90 days of that report and is deemed timely in this matter for consideration under that section. Given that an overconcentration of off-sale licenses pursuant to section 23958.4 has been established, a PCN finding is required to establish an exception for this license to issue. No exception has been established. (Findings of Fact ¶¶ 1-15)

7. Further, even if the Department were required to make a PCN finding, independent of the PCN denial made by the Humboldt County Board of Supervisors, the record in this matter would not support a determination that public convenience or necessity exists to support an exception. The record in this matter established that there is already an overconcentration of licenses in this census tract. Nothing in the record supports a finding that the issuance of this particular license would deliver a public convenience or necessity that wasn’t already being met by the 8 other off-sale licenses already in operation in this census tract, or by off-sale businesses in the immediate

⁴ *Coffin v. Alcoholic Beverage Control Appeals Board* (2006) 139 Cal. App. 4th 471.

area that might be operating in adjacent census tracts, but in close physical proximity to the Premises location. During the Department's investigation, the Applicant raised no unique features regarding the Premises that would allow the Department to document a basis for a PCN finding. During the taking of evidence in this matter, no additional information was received that would lead to a different result. (Findings of Fact ¶¶ 1-15)

8. In addition, the record supports that there are matters connected with the application which may negatively affect public welfare or morals. The Protestants raised substantive concerns regarding the impact of the license on the quiet enjoyment of the surrounding neighbors because of noise, loitering issues arising from established homeless encampments in the area that may be drawn to the Premises if it were licensed, and the close proximity of the Premises to a high school consideration point. The Protestants also raised substantive concerns about the undue concentration of licenses in the correct census tract that led to the Department correcting the census tract finding and determining that a PCN was needed. The Department then sought, but did not obtain, a PCN finding from the Humboldt County Board of Supervisors. Further, the local sheriff's department wrote in opposition to the issuance of this license which supports a finding that the license issuance would lead to a law enforcement concern. (Findings of Fact ¶¶ 1-15)

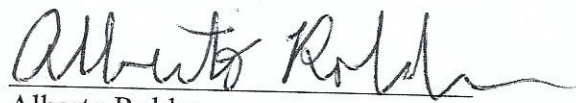
9. Given the above, the burden of the Applicant has not been met in this matter and the evidence presented by the Protestants has successfully rebutted the initial findings relied on by the Department in recommending the issuance of this license with the conditions described.

ORDER

The protests in this matter are sustained. The type 20, off-sale beer and wine license sought by Dolgen California LLC for the Premises doing business as Dollar General Store #15028 at 1180 Murray Road, McKinleyville, CA 95519-3476 is denied.

Given the order in this matter, the requests that the matter be set for an additional hearing (Exhibits P-20 through P-26) are denied as moot.

Dated: May 22, 2020


Alberto Roldan
Administrative Law Judge

<input type="checkbox"/> Adopt
<input type="checkbox"/> Non-Adopt: _____

By: _____
Date: _____

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE PROTEST OF:

ALICE RYERSON, ET AL

AGAINST THE ISSUANCE OF A LICENSE TO:

DOLGEN CALIFORNIA, LLC
DOLLAR GENERAL #15028
1180 MURRAY ROAD
MCKINLEYVILLE, CA 95519-3476

OFF-SALE BEER AND WINE - LICENSE

under the Alcoholic Beverage Control Act.

File: 20-600139

Reg: 19088922

DECLARATION OF SERVICE BY MAIL

The undersigned declares:

I am employed at the Department of Alcoholic Beverage Control. I am over 18 years of age and not a party to this action. My business address is 3927 Lennane Drive, Suite 100, Sacramento, California 95834. On June 9, 2020, I served, by regular mail (unless otherwise indicated) a true copy of the following documents:

PROPOSED DECISION

on each of the following, by placing them in an envelope(s) or package(s) addressed as follows:

DOLGEN CALIFORNIA, LLC
ATTN: TAX-LICENSING
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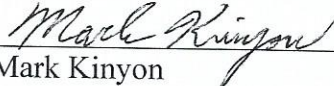
WALTER T. PANIAK
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CLANCY DESMET
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and placing said envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with this department's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, County of Sacramento, State of California, in an envelope with the postage fully prepaid. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 9, 2020 at Sacramento, California.

EUREKA DISTRICT OFFICE (INTEROFFICE MAIL)
 DIVISION OFFICE (INTEROFFICE MAIL)


Mark Kinyon