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 7  
 8 IN THE UNITED STATES DISTRICT COURT  
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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|                                   |                           |
|-----------------------------------|---------------------------|
| 11 UNITED STATES OF AMERICA,      | ) 2:11-CV-01902-JAM-DAD   |
|                                   | )                         |
| 12 Plaintiff,                     | ) STIPULATION TO STAY     |
|                                   | ) FURTHER PROCEEDINGS AND |
| 13 v.                             | ) ORDER                   |
|                                   | )                         |
| 14 REAL PROPERTY LOCATED AT 9445  | )                         |
| FRUITRIDGE ROAD, SACRAMENTO,      | )                         |
| 15 CALIFORNIA, SACRAMENTO COUNTY, | )                         |
| APN NOS: 063-0060-045 AND         | ) DATE: N/A               |
| 16 063-0060-046 INCLUDING ALL     | ) TIME: N/A               |
| APPURTENANCES AND IMPROVEMENTS    | ) COURTROOM: N/A          |
| 17 THERETO,                       | )                         |
|                                   | )                         |
| 18 Defendant.                     | )                         |
|                                   | )                         |

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 20 The United States, and Claimants David Johns, Mary Johns,  
 21 and Major Amos Nilson and Lucy H. Nilson, Trustees of the Nilson  
 22 Family Revocable Trust (hereafter referred to collectively as  
 23 "claimants"), by and through their respective counsel, hereby  
 24 stipulate that a stay is necessary in the above-entitled action,  
 25 and request that the Court enter an order staying further  
 26 proceedings until December 1, 2011 due to an on-going criminal  
 27 investigation into marijuana cultivation at 9445 Fruitridge  
 28 Road, Sacramento, California (hereafter "defendant property").

1 David and Mary Johns are the record owners of the defendant  
2 property, which is an approximately fourteen acre parcel with a  
3 business office, a large greenhouse facility, and a residence.

4 1. Each of the claimants has filed a claim to the  
5 defendant property. Claimants David Johns, Mary Johns, Major  
6 Amos Nilson, and Lucy H. Nilson have not yet filed their Answers  
7 and will not be required to do so until the stay contemplated by  
8 this stipulation expires.

9 2. The stay is requested pursuant to 18 U.S.C. §§  
10 981(g) (1), 981(g) (2), and 21 U.S.C. § 881(i). The United States  
11 contends that the defendant property was used to facilitate the  
12 cultivation of marijuana.

13 3. To date, several individuals have been charged with  
14 federal criminal crimes related to marijuana cultivation at the  
15 defendant property, Case Nos. 2:11-CR-0275-JAM-DAD and  
16 2:11-CR-0276-JAM-DAD; but neither David Johns nor Mary Johns have  
17 been charged with any criminal offense by state, local, or  
18 federal authorities. It is the United States' position that the  
19 statute of limitations has not expired on potential criminal  
20 charges relating to the marijuana grow at the defendant property.  
21 Nevertheless, the United States intends to depose claimants David  
22 and Mary Johns regarding their ownership of the defendant  
23 property, as well as their knowledge and participation in large  
24 scale marijuana cultivation, including the marijuana grow at the  
25 defendant property. If discovery proceeds at this time,  
26 claimants will be placed in the difficult position of either  
27 invoking their Fifth Amendment rights against self-incrimination  
28 and losing the ability to pursue their claims to the defendant

1 property, or waiving their Fifth Amendment rights and submitting  
2 to a deposition and potentially incriminating themselves. If  
3 they invoke their Fifth Amendment rights, the United States will  
4 be deprived of the ability to explore the factual basis for the  
5 claims they filed with this court.

6 4. In addition, claimants intend to depose, among others,  
7 the agents involved with this investigation, including but not  
8 limited to the agents with the Drug Enforcement Administration  
9 and the Internal Revenue Service. Allowing depositions of the  
10 law enforcement officers at this time would adversely affect the  
11 ability of the federal authorities to investigate the alleged  
12 underlying criminal conduct.

13 5. The parties recognize that proceeding with these  
14 actions at this time has potential adverse effects on the  
15 investigation of the underlying criminal conduct and/or upon the  
16 claimants' ability to prove their claim to the property and to  
17 assert any defenses to forfeiture. For these reasons, the  
18 parties jointly request that these matters be stayed until  
19 December 1, 2011, in accordance with the terms of this  
20 stipulation. At that time the parties will advise the court of

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1 the status of the criminal investigation, if any, and will advise  
2 the court whether a further stay is necessary.

3  
4 Dated: 9/14/11

BENJAMIN B. WAGNER  
United States Attorney

5  
6 By: /s/ Kevin C. Khasigian  
7 KEVIN C. KHASIGIAN  
8 Assistant U.S. Attorney

9 Dated: Sept. 13, 2011

/s/ Kristin S. Door  
KRISTIN S. DOOR  
Attorney for claimants  
David Johns and Mary Johns

10  
11  
12  
13 Dated: 9/14/11

/s/ Douglas A. MacDonald by Timothy  
E. Hodgson, Esq. CSB# 108398  
DOUGLAS A. MACDONALD  
Attorney for claimants  
Major Amos Nilson and Lucy H.  
Nilson

(Signatures retained by attorney)

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18 **ORDER**

19 For the reasons set forth above, this matter is stayed  
20 pursuant to 18 U.S.C. §§ 981(g) (1), 981(g) (2), and 21 U.S.C. §  
21 881(i) until December 1, 2011. On or before December 1, 2011,  
22 the parties will advise the court whether a further stay is  
23 necessary.

24 IT IS SO ORDERED.

25 Dated: 9/14/2011

/s/ John A. Mendez  
JOHN A. MENDEZ  
United States District Judge

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