

1 BENJAMIN B. WAGNER  
 United States Attorney  
 2 KEVIN C. KHASIGIAN  
 Assistant U.S. Attorney  
 3 501 I Street, Suite 10-100  
 Sacramento, CA 95814  
 4 Telephone: (916)554-2700  
 5 Attorneys for the United States

6  
7

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

10

11 UNITED STATES OF AMERICA, 12                   Plaintiff, 13                   v. 14 REAL PROPERTY LOCATED AT 9445 15 FRUITRIDGE ROAD, SACRAMENTO, CALIFORNIA, SACRAMENTO COUNTY, 16 APN NOS: 063-0060-045 AND 063-0060-046 INCLUDING ALL 17 APPURTENANCES AND IMPROVEMENTS THERETO, 18                   Defendant. 19	) 2:11-CV-01902-JAM-DAD ) ) REQUEST FOR EXTENSION ) OF STAY OF FURTHER ) PROCEEDINGS AND ) ORDER ) ) ) DATE: N/A ) TIME: N/A ) COURTROOM: N/A ) )
---	---

20           The United States of America and David Johns, Mary Johns, and Major  
 21 Amos Nilson and Lucy H. Nilson, Trustees of the Nilson Family Revocable Trust  
 22 (hereafter referred to collectively as "claimants") submit the following Request for  
 23 Extension of Stay of Further Proceedings and Proposed Order.

24           This matter was previously stayed on September 15, 2011, November 28,  
 25 2011, and February 1, 2012, based on the on-going criminal investigation into  
 26 marijuana cultivation at 9445 Fruitridge Road, Sacramento, California (hereafter  
 27 "defendant property"). To date, several individuals have been charged with federal  
 28 criminal crimes related to marijuana cultivation at the defendant property, Case

1 Nos. 2:11-CR-00275-JAM-DAD and 2:11-CR-00276-JAM-DAD; but neither David  
2 Johns nor Mary Johns, the record owners of the defendant property, have been  
3 charged with any criminal offense by state, local, or federal authorities.

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

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

11 3. It is the United States' position that the statute of limitations has not  
12 expired on potential criminal charges relating to the marijuana grow at the  
13 defendant property. Nevertheless, the United States intends to depose claimants  
14 David and Mary Johns regarding their ownership of the defendant property, as well  
15 as their knowledge and participation in large scale marijuana cultivation, including  
16 the marijuana grow at the defendant property. If discovery proceeds at this time,  
17 claimants will be placed in the difficult position of either invoking their Fifth  
18 Amendment rights against self-incrimination and losing the ability to pursue their  
19 claims to the defendant property, or waiving their Fifth Amendment rights and  
20 submitting to a deposition and potentially incriminating themselves. If they invoke  
21 their Fifth Amendment rights, the United States will be deprived of the ability to  
22 explore the factual basis for the claims they filed with this court.

23 4. In addition, claimants intend to depose, among others, the agents  
24 involved with this investigation, including but not limited to the agents with the  
25 Drug Enforcement Administration and the Internal Revenue Service. Allowing  
26 depositions of the law enforcement officers at this time would adversely affect the  
27 ability of the federal authorities to investigate the alleged underlying criminal  
28 conduct.

1           5.     The parties recognize that proceeding with these actions at this time  
2 has potential adverse effects on the investigation of the underlying criminal conduct  
3 and/or upon the claimants' ability to prove their claim to the property and to assert  
4 any defenses to forfeiture. For these reasons, the parties jointly request that these  
5 matters be stayed until August 1, 2012, in accordance with the terms of this  
6 stipulation. At that time the parties will advise the court of the status of the  
7 criminal investigation, if any, and will advise the court whether a further stay is  
8 necessary.

9 Dated: 4/30/12

BENJAMIN B. WAGNER  
United States Attorney

11 By: /s/ Kevin C. Khasigian  
12 KEVIN C. KHASIGIAN  
Assistant U.S. Attorney

14 Dated: 4-25-2012

/s/ Brenda Grantland  
BRENDA GRANTLAND  
Attorney for claimants  
David Johns and Mary Johns

17 Dated: 4/26/2012

/s/ Douglas A. MacDonald  
DOUGLAS A. MACDONALD  
Attorney for claimants Major  
Amos Nilson and Lucy H. Nilson  
(Signatures retained by attorney)

21 **ORDER**

22 For the reasons set forth above, this matter is stayed pursuant to 18 U.S.C.  
23 §§ 981(g)(1), 981(g)(2), and 21 U.S.C. § 881(i) until August 1, 2012. On or before  
24 August 1, 2012, the parties will advise the court whether a further stay is  
25 necessary.

26 IT IS SO ORDERED.

27 Dated: 5/1/2012

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