

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JAMES M. BURNHAM
Deputy Assistant Attorney General
JOHN R. GRIFFITHS
Director, Federal Programs Branch
ANTHONY J. COPPOLINO
Deputy Director, Federal Programs Branch
ANDREW I. WARDEN (IN #23840-49)
Senior Trial Counsel
KATHRYN C. DAVIS
MICHAEL J. GERARDI
LESLIE COOPER VIGEN
RACHAEL WESTMORELAND
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, D.C. 20530
Tel.: (202) 616-5084
Fax: (202) 616-8470
Attorneys for Defendants

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

STATE OF CALIFORNIA, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

SIERRA CLUB, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

No. 4:19-cv-00872-HSG
No. 4:19-cv-00892-HSG

**SUPPLEMENTAL
DECLARATION OF LOREN
FLOSSMAN ADDRESSING
TREASURY FORFEITURE FUND**

1 Defendants hereby submit the attached Declaration of Loren Flossman, Acquisition
2 Program Manager for the Wall Program Management Office of the U.S. Customs and Border
3 Protection (CBP), dated July 11, 2019, to update the Court and parties about CBP's use of
4 money from the Treasury Forfeiture Fund (TFF) for purposes of border barrier construction.

5 Mr. Flossman previously submitted declarations dated April 1 and May 14, 2019, in the
6 above-captioned cases that explained how CBP intended to use the TFF for barrier construction
7 along the southern border. *See California v. Trump* (ECF Nos. 89-8, 150-1); *Sierra Club v.*
8 *Trump* (ECF No. 131-1). Those declarations explained that CBP had initially planned to use the
9 TFF exclusively for projects in the Rio Grande Valley Sector. *See* Flossman Decl. ¶ 5 (July 11,
10 2019). Based on consideration of the Fiscal Year 2020 budget, CBP now plans to utilize the TFF
11 for planning and construction exclusively within the Rio Grande Valley and/or Laredo Sectors in
12 Texas. *Id.*

13 No final decision has been made as to the final barrier location for any project funded by
14 the TFF in the Rio Grande Valley and/or Laredo Sectors. *Id.* ¶ 6. Prior to a final decision, CBP
15 will need to complete planning work including design, hydrology studies, real estate surveys and
16 appraisals, landowner identification and title work, and environmental work. *Id.* This planning
17 work, which is ongoing, often takes several months to complete. *Id.* As in other locations, CBP
18 will be in communication with landowners who are in a proposed barrier location and will
19 continue to be in communication with landowners in a final barrier location throughout the
20 planning process. *Id.*

21 Mr. Flossman's prior declarations also stated that CBP was considering using the TFF for
22 planning related to barrier construction projects in other Sectors. *See* Flossman Decl. ¶ 12 (April
23 1, 2019); Flossman Decl. ¶ 5 (May 14, 2019). CBP has now determined that it will not use the
24 TFF for any planning, which includes design, real estate surveys appraisals, landowner
25 identification and title work, environmental work, payments of just compensation for lands
26 acquired, and community and landowner outreach, in other Sectors outside of the Rio Grande
27 Valley and/or Laredo Sectors in Texas. *See* Flossman Decl. ¶ 5 (July 11, 2019).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATE: July 12, 2019

Respectfully submitted,

JAMES M. BURNHAM
Deputy Assistant Attorney General

JOHN R. GRIFFITHS
Director, Federal Programs Branch

ANTHONY J. COPPOLINO
Deputy Director, Federal Programs Branch

/s/ Andrew I. Warden
ANDREW I. WARDEN (IN #23840-49)
Senior Trial Counsel

KATHRYN C. DAVIS
MICHAEL J. GERARDI
LESLIE COOPER VIGEN
RACHAEL WESTMORELAND
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, D.C. 20530
Tel.: (202) 616-5084
Fax: (202) 616-8470
Attorneys for Defendants