

1 JAMES M. BURNHAM
 Deputy Assistant Attorney General
 2 JOHN R. GRIFFITHS
 Director, Federal Programs Branch
 3 ANTHONY J. COPPOLINO
 Deputy Director, Federal Programs Branch
 4 ANDREW I. WARDEN (IN #23840-49)
 Senior Trial Counsel
 5 KATHRYN C. DAVIS
 6 MICHAEL J. GERARDI
 7 LESLIE COOPER VIGEN
 RACHAEL WESTMORELAND
 8 Trial Attorneys
 U.S. Department of Justice
 9 Civil Division, Federal Programs Branch
 10 1100 L Street, NW
 Washington, D.C. 20530
 11 Tel.: (202) 616-5084
 12 Fax: (202) 616-8470

13 *Attorneys for Defendants*

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

17 STATE OF CALIFORNIA, *et al.*,
 18 Plaintiffs,
 19 v.
 20 DONALD J. TRUMP, *et al.*,
 21 Defendants.

No. 4:19-cv-00872-HSG

**STIPULATED REQUEST FOR
 ORDER STAYING SUMMARY
 JUDGMENT BRIEFING
 SCHEDULE ON CLAIMS
 RELATED TO 10 U.S.C.
 § 2808**

24 Pursuant to Local Rule 6-2 and 7-12, the Plaintiffs and Defendants in the above-
 25 captioned case stipulate and agree as follows:

- 26 1. On June 7, 2019, the Court entered a scheduling order in the above-captioned
 27 case establishing deadlines for the parties to brief cross-motions for summary judgment related
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1 to claims based on 10 U.S.C § 2808 (national emergency military construction). *See* ECF No.
2 174. The Acting Secretary of Defense has not yet decided to undertake or authorize any barrier
3 construction projects under section 2808. Accordingly, the parties jointly request that the Court
4 stay summary judgment briefing on the section 2808 claims until such time as the Acting
5 Secretary makes a decision to authorize border barrier construction pursuant to that authority.
6 The parties will submit a proposed briefing schedule for the section 2808 claims within 10 days
7 of a decision by the Acting Secretary. Plaintiff States may need to move for a temporary
8 restraining order or motion for preliminary injunction pending resolution of the motion for
9 summary judgment, and expressly reserve their right to do so.

10 3. In light of the agreement to stay briefing on the section 2808 claims, the parties
11 agree that the motion hearing currently scheduled in this case for August 29, 2019 at 2:00 p.m.
12 should be cancelled.

13 4. Approving this stipulation would not impact any other deadlines in this case.

14 5. Pursuant to Local Rule 6-2(a), undersigned counsel for Defendants has submitted
15 a declaration in support of this stipulation.

16 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the
17 parties, subject to the Court's approval, that:

18 (1) Summary judgment briefing on the section 2808 claims is stayed;

19 (2) The parties will submit a proposed schedule for briefing the section 2808 claims
20 within 10 days of a decision by the Acting Secretary of Defense;

21 (3) The motion hearing set for August 29, 2019 at 2:00 p.m. in this case is cancelled.

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23 A proposed order is attached.
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1 DATE: July 18, 2019

Respectfully submitted,

2 JAMES M. BURNHAM
3 Deputy Assistant Attorney General

4 JOHN R. GRIFFITHS
5 Director, Federal Programs Branch

6 ANTHONY J. COPPOLINO
7 Deputy Director, Federal Programs Branch

8 /s/ Andrew I. Warden
9 ANDREW I. WARDEN (IN #23840-49)
10 Senior Trial Counsel
11 U.S. Department of Justice
12 Civil Division, Federal Programs Branch
13 1100 L Street, NW
14 Washington, D.C. 20530
15 Tel.: (202) 616-5084
16 Fax: (202) 616-8470
17 *Attorneys for Defendants*

18 XAVIER BECERRA
19 Attorney General of California
20 ROBERT W. BYRNE
21 SALLY MAGNANI
22 MICHAEL L. NEWMAN
23 Senior Assistant Attorneys General
24 MICHAEL P. CAYABAN
25 CHRISTINE CHUANG
26 EDWARD H. OCHOA
27 Supervising Deputy Attorneys General
28 HEATHER C. LESLIE
JANELLE M. SMITH
JAMES F. ZAHRADKA II

/s/ Lee I. Sherman
LEE I. SHERMAN
Deputy Attorneys General
300 S. Spring St., Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6404
Fax: (213) 897-7605
E-mail: Lee.Sherman@doj.ca.gov
*Attorneys for Plaintiff State of California
and on Behalf of the Other Plaintiff States
4:19-cv-872-HSG*

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DECLARATION

I declare, under penalty of perjury, that the factual assertions contained in this stipulation are true and correct to the best of my knowledge.

/s/ Andrew I. Warden
ANDREW I. WARDEN (IN Bar No. 23840-49)