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

18 **STATE OF CALIFORNIA et al.;**
 19
 20 Plaintiffs,
 21
 22 **v.**
 23 **DONALD J. TRUMP, in his official capacity**
as President of the United States of America,
et al.;
 24 Defendants.

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

**STIPULATED REQUEST FOR ORDER
DISMISSING WITHOUT PREJUDICE
PLAINTIFFS' CLAIMS RELATING TO
THE TREASURY FORFEITURE FUND**

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

3 1. Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief, ECF
4 No. 47, identifies three different sources of federal funds from which Defendants directed money
5 be diverted to fund the construction of border barriers on the United States-Mexico border.

6 2. Plaintiffs' First Amended Complaint alleges that Defendants' diversion of \$601
7 million from the Treasury Forfeiture Fund (TFF), one of the three funding sources at issue in this
8 case, would harm the public safety of Plaintiff States by putting at risk the equitable share claims
9 that would otherwise have been provided to state and local law enforcement agencies in Plaintiff
10 States. Plaintiffs' First Amended Complaint alleges that this diversion of funds from the TFF
11 under 31 U.S.C. § 9705 is: (a) in violation of constitutional separation of powers principles,
12 including the Presentment Clause and the Appropriations Clause; (b) ultra vires; and (c) in
13 violation of the Administrative Procedure Act.

14 3. Defendants have represented in this litigation, including during the course of
15 discovery, that "[S]tate and local law enforcement agencies will not lose any money they
16 otherwise might receive as a result of Treasury's decision to fund Strategic Support projects.
17 Future equitable sharing payments are not impacted by the \$601M that was declared as strategic
18 support for FY 2019." *E.g.*, Decl. of John M. Farley ¶ 23 (Apr. 25, 2019) ECF No. 89-9.

19 4. Defendants have also represented in this litigation, including during the course of
20 discovery, that funds from the TFF will not be used to fund or support the construction of border
21 barriers in any areas other than within the Rio Grande Valley and/or Laredo Sectors. *E.g.*, Decl.
22 of Loren Flossman ¶ 5 (July 11, 2019) ECF No. 196-1.

23 5. Based upon these sworn representations, the parties agree that Plaintiffs' claims as
24 set forth in the First Amended Complaint regarding the diversion of funds from the TFF shall be
25 dismissed without prejudice.

26 6. Approving this stipulation would not impact any other deadlines or claims at issue
27 that have yet to be adjudicated to final judgment in this case, including specifically Plaintiffs'
28 claims as they pertain to the diversion of funds via 10 U.S.C. § 2808 and the alleged violation of

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