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8 Counsel for Movant U.S. Rep. Andy Barr

9 **IN THE UNITED STATES DISTRICT COURT**  
 10 **NORTHERN DISTRICT OF CALIFORNIA**

11	STATE OF CALIFORNIA, et al.,	)	Case No. 4:19-cv-00872-HSG
12	<i>Plaintiffs,</i>	)	
13	v.	)	<b>UNOPPOSED MOTION OF U.S. REP. ANDY</b>
14	DONALD J. TRUMP, President of	)	<b>BARR FOR LEAVE TO FILE</b>
15	the United States, in his official	)	<b>MEMORANDUM AS <i>AMICUS CURIAE</i> IN</b>
16	capacity, et al.,	)	<b>SUPPORT OF DEFENDANTS’ MOTION</b>
17	<i>Defendants.</i>	)	<b>FOR PARTIAL SUMMARY JUDGMENT</b>
		)	Judge: Hon. Haywood S. Gilliam, Jr.
		)	S.J. Hearing Date: November 20, 2019
		)	Time: 10:00 a.m.
		)	Courtroom: 2, 4th Floor

18 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

19 U.S. Representative Andy Barr (KY-6) respectfully moves for leave to file the attached  
 20 brief as *amicus curiae* in the above-captioned matter, in support of Defendants’ Motion for  
 21 Partial Summary Judgment Regarding Border Barrier Projects Undertaken Pursuant to 10 U.S.C.  
 22 § 2808. Counsel for Plaintiffs and Defendants indicated that their clients do not oppose Rep.  
 23 Barr’s proposed filing.<sup>1</sup>

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 26 <sup>1</sup> Specifically, the Plaintiffs consented, and the Defendants indicated that they do not  
 oppose.

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**IDENTITY AND INTEREST OF AMICUS CURIAE**

U.S. Rep. Andy Barr has represented Kentucky’s 6th congressional district since 2013. Rep. Barr supports the President’s attention to the humanitarian and public-safety emergency on the southern border as both a citizen and as a Member of Congress. In his legislative capacity, Rep. Barr has a significant interest in protecting the statutory scheme that Congress enacted to delegate power in emergencies to the President, not to courts and not private — or even state — litigants.

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**REASONS TO GRANT LEAVE TO FILE**

In support of his motion for leave to file the accompanying memorandum of law as an *amicus curiae*, Rep. Barr states as follows:

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1. A lawyer by training, Rep. Barr also taught constitutional law at the University of Kentucky and Morehead State University when his practice was based in Kentucky.

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2. With the leave of the relevant courts, Rep. Barr has previously filed *amicus* briefs in related cases before the United States District Court for the District of Columbia, *Center for Biological Diversity v. Trump*, No. 1:19-cv-0408-TNM (D.D.C.); *U.S. House of Representatives v. Mnuchin*, No. 1:19-cv-0969-TNM (D.D.C.), the Western District of Texas, *El Paso Cty, Texas v. Trump*, No. 3:19-cv-0066-DB (W.D. Tex.), the United States Court of Appeals for the Ninth Circuit, *Sierra Club v. Trump*, No. 19-16102 (9th Cir.), and the United States Supreme Court, *Trump v. Sierra Club*, No. 19A60 (U.S.).

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3. Among other things, the proffered brief addresses issues of Article III standing (*i.e.*, Plaintiffs’ lack of a *legally protected* interest needed for an “injury in fact” under Article III and the lack of ripeness for the states’ deferred-taxation injuries), which also fall within this Court’s obligation to consider jurisdiction *sua sponte*. Further, these same issues go to the weakness — if not outright lack — of the states’ irreparable harm, which is necessary for injunctive relief.



**CERTIFICATE OF SERVICE**

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2 I hereby certify that on this 4th day of November, 2019, I electronically filed the  
3 foregoing motion for leave to file together with the accompanying *amicus curiae* brief, with the  
4 Clerk of the Court for the United States District Court for the Northern District of California by  
5 using the CM/ECF system. Participants in the case who are registered CM/ECF users will be  
6 served by the CM/ECF system. Notice of this filing will be sent by mail to anyone unable to  
7 accept electronic filing as indicated on the Notice of Electronic filing. Parties may access this  
8 filing through the Court’s CM/ECF System.  
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/s/ Lawrence J. Joseph  
\_\_\_\_\_  
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