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

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

Case No. 4:19-cv-00872-HSG
**PLAINTIFF STATES’
 ADMINISTRATIVE CONSENT
 MOTION TO CONSIDER WHETHER
 CASES SHOULD BE RELATED**
 Judge: Honorable Haywood S. Gilliam,
 Jr.
 Trial Date: None Set
 Action Filed: February 18, 2019

1 **I. INTRODUCTION**

2 Pursuant to Civil Local Rules 3-12(b) and 7-11, Plaintiff States respectfully request that the
3 Court relate the action *State of California et al. v. Trump et al.*, Case No. 20-cv-1563 (*California*
4 *v. Trump II*) filed on March 3, 2020 in the Northern District of California to *California et al. v.*
5 *Trump et al.*, Case No. 19-cv-872 (*California v. Trump I*, with *California v. Trump II*, the
6 “Actions”).¹ Like *California v. Trump I*, *California v. Trump II* involves the legality of
7 Defendants’ decision to divert billions of dollars appropriated by Congress for other purposes
8 toward the construction of a wall on the United States and Mexico border.

9 “An action is related to another when: (1) The actions concern substantially the same
10 parties, property, transaction or event; and (2) It appears likely that there will be an undue
11 burdensome duplication of labor and expense or conflicting results if the cases are conducted
12 before different Judges.” N.D. Cal. Civ. L.R. 3-12(a). Defendants have agreed to relate the
13 Actions as requested by the Plaintiff States in this motion. Sherman Decl. ¶ 5. On February 20,
14 2020, this Court indicated that it would relate this new action to *California v. Trump I*. ECF No.
15 275.

16 **II. DISCUSSION**

17 The Actions contain substantially the same parties and events. In *California v. Trump I*,
18 this Court considered whether 10 U.S.C. § 2808, 10 U.S.C. § 284, and §§ 8005 and 9002 of the
19 Department of Defense Appropriations Act, 2019, Pub. L. No. 115-245 authorized Defendants to
20 divert billions of Department of Defense (DOD) funds toward the construction of a border wall in
21 fiscal year (FY) 2019. *See generally* ECF Nos. 185, 257 (orders on plaintiffs’ motions for
22 summary judgment). In *California v. Trump II*, Plaintiffs allege that Defendants seek to use the
23 same or equivalent statutory authority to again divert billions of DOD funds towards of the
24 construction of a border wall in FY 2020. *See, e.g.*, Ex B ¶¶ 218-229.

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27 ¹ The operative complaints in *California v. Trump I* and *California v. Trump II* re attached
28 as Exhibits A and B respectively, to the Declaration of Lee I. Sherman (“Sherman Decl.”) filed
herewith.

1 Both *California v. Trump I* and II involve overlapping legal issues surrounding the
2 constitutionality and lawfulness of Defendants’ actions to divert billions of dollars that Congress
3 appropriated to DOD for other purposes toward the construction of a border wall. Both
4 complaints contain the same causes of action alleging that Defendants’ actions: (a) violate
5 separation of powers principles, including the Presentment Clause; (b) violate the Appropriations
6 Clause; (c) are ultra vires; (d) violate the Administrative Procedure Act (APA) for exceeding
7 congressional authority and violating the Constitution; (e) violate the APA’s prohibition on
8 arbitrary and capricious actions; and (f) violate the National Environmental Policy Act. *Compare*
9 Ex. A ¶¶ 363-399 with Ex. B ¶¶ 295-336.

10 Both cases involve substantially the same parties. They both involve as plaintiffs the same
11 nineteen states that allege to be injured by Defendants’ actions. They both involve President
12 Trump, the DOD, the Department of Homeland Security, the Department of Interior, and the
13 relevant officials in each of those agencies as defendants. There is substantial factual overlap, as
14 both cases involve Congress’s actions with respect to border barriers and Defendants’ past actions
15 and statements surrounding border barriers. And as in *California v. Trump I*, the Plaintiff States
16 in *California v. Trump II* are seeking declaratory and injunctive relief.

17 Granting this motion to relate is appropriate to avoid unnecessary duplication of effort
18 given the overlap in parties, factual and legal issues involved, and the relief sought in both cases.
19 Defendants agree to relate these cases. Sherman Decl. ¶ 5. During the February 20 status
20 conference in *California v. Trump I*, this Court also indicated that it would relate these cases once
21 a new action was on file. ECF No. 275.

22 **III. CONCLUSION**

23 For the reasons set forth above, Plaintiff States respectfully request that the Court relate
24 *California v. Trump II* to *California v. Trump I*.

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Dated: March 3, 2020

Respectfully submitted,
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/s/ Lee I. Sherman

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