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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CITY OF IMPERIAL BEACH, et al.,  
Plaintiffs,  
v.  
THE INTERNATIONAL BOUNDARY  
AND WATER COMMISSION, UNITED  
STATES SECTION,  
Defendant.

Case No.: 18cv457 JM(LL)

**ORDER ON JOINT MOTION TO  
EXTEND STAY**

Presently before the court is the Parties’ “Joint Motion to Extend Stay” (Doc. No. 122) in the instant case and two related cases: *People of the State of California v. International Boundary and Water Commission et al.*, 18cv2050 JM(LL) (Doc. No. 91) and *Surfrider Foundation v. The International Boundary and Water Commission United States Section*, 18cv1621 (JM)LL (Doc. No. 91).

**I. BACKGROUND**

On June 25, 2020, the Parties filed a Joint Motion to Stay requesting that the court stay this action and the related actions “while the United States Environmental Protection Agency [(“EPA”)] . . . identifies and moves towards the construction of transboundary

1 pollution control infrastructure in Tijuana River Valley.” (Doc. No. 122 at 3).<sup>1</sup> The  
2 Parties’ request was based on the enactment of the United States-Mexico-Canada  
3 Implementation Act (“USMCA”) on January 29, 2020, “which appropriated to the EPA  
4 \$300 million for the construction of priority wastewater treatment works to address  
5 transboundary pollution in the Tijuana River Valley, and other areas of the border.” *Id.* at  
6 5.

7 At a June 2, 2020 meeting, the EPA announced it would launch a “roughly one-year  
8 public process” to evaluate the technical, environmental, and financial feasibility of various  
9 potential projects, the results of which would inform what projects would be constructed  
10 in the Tijuana River Valley using USMCA funds. *Id.* at 5-6. According to the Parties, the  
11 projects the EPA intended to study were “substantially similar in concept to those Plaintiffs  
12 sought as remedies in the litigation.” *Id.* at 6-7. For these reasons, the Parties jointly moved  
13 to stay the cases “for a reasonable period commensurate with the expected duration of the  
14 EPA Process” and “to submit to judicial supervision during the stay” via regular status  
15 conferences. *Id.* at 3-4.

16 On July 7, 2020, the court adopted Magistrate Judge Linda Lopez’s Report and  
17 Recommendation (Doc. No. 104) and stayed the case for twelve months from the date of  
18 the Report and Recommendation. (Doc. No. 105 at 2). The court further directed the  
19 Parties to participate in attorneys-only telephonic status conferences with Judge Lopez  
20 every thirty days for the duration of the stay. *Id.*

## 21 **II. LEGAL STANDARD**

22 District courts have inherent power to stay proceedings. The power to stay “is  
23 incidental to the power inherent in every court to control the disposition of the causes on  
24 its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis*  
25 *v. N. Am. Co.*, 299 U.S. 248, 254 (1936). The court may grant a stay “pending resolution  
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28 <sup>1</sup> All citations to page numbers are to the page numbers assigned by the court’s CM/ECF  
system.

1 of independent proceedings which bear upon the case,” even if those proceedings are not  
2 “necessarily controlling of the action before the court.” *Leyva v. Certified Grocers of Cal.,*  
3 *Ltd.*, 593 F.2d 857, 863-64 (9th Cir. 1979).

4 Using this power “calls for the exercise of judgment, [by] which [courts] must weigh  
5 competing interests and maintain an even balance.” *Landis*, 299 U.S. at 254-55. The  
6 competing interests the court considers include “the possible damage which may result  
7 from the granting of a stay, the hardship or inequity which a party may suffer in being  
8 required to go forward, and the orderly course of justice measured in terms of the  
9 simplifying or complicating of issues, proof, and questions of law which could be expected  
10 to result from a stay.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962).

### 11 **III. ANALYSIS**

12 In the instant Motion, the Parties state they have reached an “agreement in principle”  
13 to seek a further stay from this court until February 2022. (Doc. No. 122 at 3). The Parties  
14 first request however that the court extend the current stay—which is set to expire on July  
15 2, 2021—until at least July 23, 2021, so that counsel for Plaintiffs and Defendants may  
16 present this agreement to their respective clients for approval. *Id.* Once approved, the  
17 Parties expect to move the court to extend the stay for a second time. *Id.*

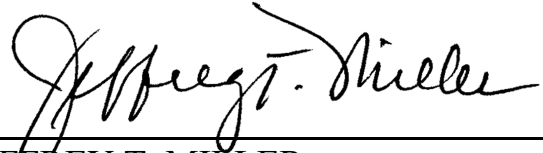
18 Here, the Parties did not provide any details regarding their agreement in principle  
19 or the status of this case, beyond a short statement this agreement is expected to achieve  
20 some “short-term mitigation” and “improve information sharing” among the Parties while  
21 the EPA process continues. *Id.* Despite this lack of information, given the short length of  
22 the extension requested, the court will exercise its discretion and **GRANTS** the Parties’  
23 Joint Motion. The stay in the instant case and related cases is extended until **July 23, 2021**.

24 The court cautions the Parties however that this Order is not to be interpreted as the  
25 court’s approval (implicit or otherwise) of any extension of the stay past July 23, 2021. If  
26 the Parties move to extend the current stay for a second time, the Parties should be prepared  
27 to provide detailed information to the court substantially justifying this request, including  
28 information on: (1) the status of the EPA process; (2) the progress of the Parties’ settlement

1 negotiations to date; (3) exact details of the agreement-in-principle reached by the Parties;  
2 and (4) a plan to continue settlement negotiations during an extended stay, including for  
3 further judicial supervision.

4 **IT IS SO ORDERED.**

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6 DATED: June 30, 2021



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JEFREY T. MILLER  
United States District Judge

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