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10 **UNITED STATES DISTRICT COURT**
 11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 12 **OAKLAND DIVISION**

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| <p>13 STATE OF CALIFORNIA, <i>et al.</i>,</p> <p>14 Plaintiffs,</p> <p>15 v.</p> <p>16 JOSEPH R. BIDEN, JR., <i>et al.</i>,</p> <p>17 Defendants.</p> |
| <p>19 SIERRA CLUB, <i>et al.</i>,</p> <p>20 Plaintiffs,</p> <p>21 v.</p> <p>22 JOSEPH R. BIDEN, JR., <i>et al.</i>,</p> <p>23 Defendants.</p> |

No. 4:19-cv-00872-HSG
 No. 4:19-cv-00892-HSG
 No. 4:20-cv-01494-HSG
 No. 4:20-cv-01563-HSG

JOINT STATUS REPORT

25 In accordance with the Court’s Order of April 21, 2021, Plaintiffs and Defendants submit
 26 the following joint status report addressing proceedings in the above-captioned cases.

27 The parties’ most recent status report (ECF Nos. 290 & 88 in *California I & II* and ECF
 28

1 Nos. 305 & 44 in *Sierra Club I & II*) explained that the parties agreed to stay further proceedings
2 in these cases to allow Defendants to continue to develop the plan called for by the President's
3 Proclamation of January 20, 2021. *See* Proclamation No. 10142, 86 Fed. Reg. 7225; *see also*
4 Order (April 21, 2021) (granting stay). On April 30, 2021, Defendants notified the Court and
5 Plaintiffs that the Department of Defense had canceled all border wall projects undertaken
6 pursuant to 10 U.S.C. § 284 and 10 U.S.C. § 2808. As a result of that action, the Department of
7 Defense has now made clear that it will not construct any additional border wall under sections
8 284 and 2808. While the Department of Defense's cancelation of the projects represents a
9 significant step toward implementing the President's Proclamation, the plan called for in the
10 Proclamation is not yet complete and remains in development.

11 Additionally, Defendants' two appeals of the Ninth Circuit's decisions addressing border
12 wall construction undertaken pursuant to sections 284 and 2808 remain pending in the Supreme
13 Court. In the cases addressing section 284 construction undertaken in fiscal year 2019, the
14 Supreme Court granted Defendants' petition for a writ of certiorari on October 19, 2020, but
15 ordered that the case be removed from the argument calendar and held in abeyance following
16 issuance of the President's Proclamation. *See Biden v. Sierra Club*, No. 20-138 (Feb. 3, 2021).
17 Defendants notified the Supreme Court about the Department of Defense's recent decision to
18 cancel the border wall projects and requested that the cases continue to be held abeyance in light
19 of the ongoing development of the plan as directed by the Proclamation. *See id.* (April 30, 2021).

20 In the section 2808 cases, Defendants filed a petition for a writ of certiorari on November
21 17, 2020, and the Supreme Court recently extended Plaintiffs' time to respond to the petition to
22 July 19, 2021. *See Biden v. Sierra Club*, No. 20-685 (May 7, 2021).

23 In light of the pending matters in Supreme Court and the ongoing plan development, the
24 parties agree that district court proceedings in these cases should remain stayed. The parties agree
25 to submit a joint status report on June 17, 2021, updating the Court on the status of proceedings
26 in these cases.

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DATE: May 14, 2021

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