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15 **UNITED STATES DISTRICT COURT**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO-OAKLAND DIVISION**

17 SIERRA CLUB and SOUTHERN BORDER  
 18 COMMUNITIES COALITION,

Case No.: 4:19-cv-00892-HSG

19 *Plaintiffs,*

**REQUEST FOR JUDICIAL NOTICE  
 IN SUPPORT OF PLAINTIFFS’  
 MOTION FOR PRELIMINARY  
 INJUNCTION**

20 v.

21 DONALD J. TRUMP, President of the United  
 States, in his official capacity; PATRICK M.  
 22 SHANAHAN, Acting Secretary of Defense, in his  
 official capacity; KIRSTJEN M. NIELSEN,  
 23 Secretary of Homeland Security, in her official  
 capacity; and STEVEN MNUCHIN, Secretary of  
 24 the Treasury, in his official capacity,

25 *Defendants.*  
 26

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19 **REQUEST FOR JUDICIAL NOTICE**

20 Plaintiff Sierra Club and Plaintiff Southern Border Communities Coalition (collectively,  
21 “Plaintiffs”) hereby respectfully request, pursuant to Federal Rule of Evidence 201, that the Court  
22 take judicial notice of the following materials in support of Plaintiffs’ Motion for Preliminary  
23 Injunction.  
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25 1. Attached hereto as **Exhibit A** is a true and correct copy of a Letter from Acting  
26 Director of the Office of Budget and Management Russell T. Vought to the Honorable Richard  
27  
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1 Shelby, Chairman of the Senate Committee on Appropriations, dated January 6, 2019.  
2 <https://www.whitehouse.gov/wp-content/uploads/2019/01/Final-Shelby-1-6-19.pdf>.

3 2. Attached hereto as **Exhibit B** is a true and correct copy of a tweet from President  
4 Donald J. Trump, dated January 30, 2019, 3:49 AM, available on President Trump’s official Twitter  
5 account, @realDonaldTrump,  
6 <https://twitter.com/realdonaldtrump/status/1090577726459838464?lang=en>.

7  
8 3. Attached hereto as **Exhibit C** is a true and correct copy of a tweet from President  
9 Donald J. Trump, dated February 9, 2019, 2:02 PM, available on President Trump’s official Twitter  
10 account, @realDonaldTrump, <https://twitter.com/realDonaldTrump/status/1094355899194454017>.

11 4. Attached hereto as **Exhibit D** is a true and correct copy of the “Presidential  
12 Proclamation on Declaring a National Emergency Concerning the Southern Border of the United  
13 States,” dated February 15, 2019, and available on the White House official website at  
14 [https://www.whitehouse.gov/presidential-actions/presidential-proclamation-declaring-national-](https://www.whitehouse.gov/presidential-actions/presidential-proclamation-declaring-national-emergency-concerning-southern-border-united-states/)  
15 [emergency-concerning-southern-border-united-states/](https://www.whitehouse.gov/presidential-actions/presidential-proclamation-declaring-national-emergency-concerning-southern-border-united-states/).

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17 5. Attached hereto as **Exhibit E** is a true and correct copy of a transcript of “Remarks by  
18 President Trump on the National Security and Humanitarian Crisis on our Southern Border,” dated  
19 February 15, 2019, and available on the White House official website at  
20 [https://www.whitehouse.gov/briefings-statements/remarks-president-trump-national-security-](https://www.whitehouse.gov/briefings-statements/remarks-president-trump-national-security-humanitarian-crisis-southern-border/)  
21 [humanitarian-crisis-southern-border/](https://www.whitehouse.gov/briefings-statements/remarks-president-trump-national-security-humanitarian-crisis-southern-border/).

22  
23 6. Attached hereto as **Exhibit F** is a true and correct copy of a transcript of “Remarks by  
24 President Trump in Cabinet Meeting,” dated February 12, 2019, and available on the White House  
25 official website at [https://www.whitehouse.gov/briefings-statements/remarks-president-trump-](https://www.whitehouse.gov/briefings-statements/remarks-president-trump-cabinet-meeting-13/)  
26 [cabinet-meeting-13/](https://www.whitehouse.gov/briefings-statements/remarks-president-trump-cabinet-meeting-13/).

1           7. Attached hereto as **Exhibit G** is a true and correct copy of the “Fact Sheet” entitled  
2 “President Donald J. Trump’s Border Security Victory,” dated February 15, 2019, and available on  
3 the White House official website at [https://www.whitehouse.gov/briefings-statements/president-](https://www.whitehouse.gov/briefings-statements/president-donald-j-trumps-border-security-victory/)  
4 [donald-j-trumps-border-security-victory/](https://www.whitehouse.gov/briefings-statements/president-donald-j-trumps-border-security-victory/).

5           8. Attached hereto as **Exhibit H** is a true and correct copy of a Letter from David F.  
6 Eisner, Assistant Secretary for Management of the Department of Treasury, to Ranking Members of  
7 the Senate and House Committees and Subcommittees on Appropriations, dated February 15, 2019.  
8 The letter attaches a document titled “Treasury Forfeiture Fund FY2019 Strategic Support Funding.”  
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10           9. Attached hereto as **Exhibit I** is a true and correct copy of a Memorandum for Captain  
11 Hallock N. Mohler Jr., Executive Secretary of the Department of Defense, from Christina Bobb,  
12 Executive Secretary of the Department of Homeland Security, regarding “Request for Assistance  
13 Pursuant to 10 U.S.C. § 284,” dated February 25, 2019.  
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15           10. Attached hereto as **Exhibit J** is a true and correct copy of a tweet from President  
16 Donald J. Trump, dated March 8, 2019, 4:24 AM, available on President Trump’s official Twitter  
17 account, @realDonaldTrump, <https://twitter.com/realdonaldtrump/status/1103994805477085186>.

18           11. Attached hereto as **Exhibit K** is a true and correct copy of a tweet from President  
19 Donald J. Trump, dated March 9, 2019, 2:04 PM, available on President Trump’s official Twitter  
20 account, @realDonaldTrump, <https://twitter.com/realdonaldtrump/status/1104503216111321089>  
21 (“major sections being built”).  
22

23           12. Attached hereto as **Exhibit L** is a true and correct copy of a tweet from President  
24 Donald J. Trump, dated March 9, 2019, 2:13 PM, available on President Trump’s official Twitter  
25 account, @realDonaldTrump, <https://twitter.com/realdonaldtrump/status/1104505623293710337>.

26           13. Attached hereto as **Exhibit M** is a true and correct copy of a Letter from Senators  
27 Patrick Leahy, Richard J. Durbin, and Brian Schatz to the Honorable Gene Dodaro, Comptroller  
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1 General of the United States, dated March 11, 2019, available on Senator Durbin’s official website at  
2 <https://www.durbin.senate.gov/imo/media/doc/190311%20GAO%20reprogramming%20wall%20letter%20FINAL.pdf>.  
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4           14. Attached hereto as **Exhibit N** is a true and correct copy of an excerpt from the  
5 Department of Defense Fiscal Year 2020 Budget Request, dated March 12, 2019, available on the  
6 official Department of Defense website at  
7 [https://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2020/fy2020\\_Budget\\_Request\\_Overview\\_Book.pdf](https://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2020/fy2020_Budget_Request_Overview_Book.pdf).  
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10           15. Attached hereto as **Exhibit O** is a true and correct copy of a Letter from Patrick M.  
11 Shanahan, Acting Secretary of Defense, to the Honorable Kirstjen Nielsen, Secretary of Homeland  
12 Security, dated March 25, 2019. The letter attaches a notice entitled “Support for DHS Counter-Drug  
13 Activity Reprogramming Action.”  
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15           16. Attached hereto as **Exhibit P** is a true and correct copy of a CNN news article that  
16 quotes Jay Field, Spokesperson for the U.S. Army Corps of Engineers, dated March, 28, 2019, 9:12  
17 PM and available at <https://www.cnn.com/2019/03/28/politics/pentagon-border-wall-arizona-texas/index.html>.  
18

19           17. Attached hereto as **Exhibit Q** is a true and correct copy of an excerpt from the Fiscal  
20 Year 2020 White House Budget Request, dated March 11, 2019, available on the White House  
21 official website at <https://www.whitehouse.gov/wp-content/uploads/2019/03/budget-fy2020.pdf>.  
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23           18. Attached hereto as **Exhibit R** is a true and correct copy of an excerpt from the Fiscal  
24 Year 2019 White House Budget Request, dated February 2018, available on the official White  
25 House website at <https://www.whitehouse.gov/wp-content/uploads/2018/02/budget-fy2019.pdf>.  
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27           19. Attached hereto as **Exhibit S** is a true and correct copy of an excerpt from the  
28 transcript of testimony by Acting Defense Secretary Patrick Shanahan and Joint Chiefs of Staff

1 Chair General Joseph Dunford, before the Senate Armed Services Committee, dated March 14,  
2 2019, available on the Senate Armed Services Committee’s official website, [https://www.armed-](https://www.armed-<br/>3 services.senate.gov/imo/media/doc/19-25-03-14-19.pdf)

4 20. Attached hereto as **Exhibit T** is a true and correct copy of a transcript of “Remarks by  
5 President Trump Before Marine One Departure,” dated January 10, 2019, and available on the White  
6 House official website at [https://www.whitehouse.gov/briefings-statements/remarks-president-](https://www.whitehouse.gov/briefings-statements/remarks-president-<br/>7 trump-marine-one-departure-30/)  
8 [trump-marine-one-departure-30/](https://www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-30/).

9 21. Video recording of a February 10, 2019 interview of Mick Mulvaney, Acting White  
10 House Chief of Staff, on Fox News, available at [https://www.youtube.com/watch?v=l\\_Z0xx\\_zS0M](https://www.youtube.com/watch?v=l_Z0xx_zS0M).

11 22. Video recording of testimony by Kirstjen Nielsen, Secretary of Homeland Security,  
12 before the House Homeland Security Committee, on March 6, 2019, available at [https://www.c-](https://www.c-<br/>13 span.org/video/?458250-1/immigration-border-security)  
14 [span.org/video/?458250-1/immigration-border-security](https://www.c-span.org/video/?458250-1/immigration-border-security).

15 All of the above materials are judicially noticeable because the statements they contain “can  
16 be accurately and readily determined from sources whose accuracy cannot reasonably be  
17 questioned.” Fed. R. Evid. 201(b)(2); *see also Cty. of Santa Clara v. Trump*, 267 F. Supp. 3d 1201,  
18 1216-18, n.7-11 (N.D. Cal. 2017) (taking judicial notice of defendants’ public statements,  
19 government memoranda and letters, and information on government websites), *appeal dismissed as*  
20 *moot sub nom. City & Cty. of San Francisco v. Trump*, No. 17-16886, 2018 WL 1401847 (9th Cir.  
21 Jan. 4, 2018); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (court may take judicial  
22 notice of “matters of public record” not subject to reasonable dispute). The Court “must take judicial  
23 notice if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid.  
24 201(c)(2).

25 All of the above materials are also judicially noticeable because “government memoranda,  
26 bulletins, reports, letters, and statements of public record are appropriate for judicial notice.” *Santa*  
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1 *Clara II*, 267 F. Supp. 3d at 1217, n.11 (citing *Brown v. Valoff*, 422 F.3d 926, 933 n.9 (9th Cir.  
2 2005)); *see also* *Cty. of Santa Clara v. Trump* (“*Santa Clara I*”), 250 F. Supp. 3d 497, 520-23, n.5,  
3 8, 10, 11 (N.D. Cal. 2017)(taking judicial notice of government memoranda and letter). Furthermore,  
4 the President’s tweets, which the White House has confirmed are ““considered official statements by  
5 the President of the United States,”” are judicially noticeable. *See Hawaii v. Trump*, 859 F.3d 741,  
6 773 n.14 (9th Cir. 2017) (taking judicial notice of President Trump’s tweets concerning the “travel  
7 ban” executive order), *cert. granted sub nom. Trump v. Int’l Refugee Assistance Project*, 137 S. Ct.  
8 2080 (2017), and *vacated on other grounds*, 138 S. Ct. 377 (2017).

9  
10 **Exhibits A, D, E, F, G, M, N, Q, R, S, and T** are also judicially noticeable because they are  
11 posted to official government websites. *See Santa Clara I*, 250 F. Supp. 3d 497 at 510-23, n.2, 5, 7,  
12 9, 10, (taking judicial notice of information and official documents contained on government  
13 websites) (citing *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998–999 (9th Cir. 2010)).  
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1 Dated: April 4, 2019

Respectfully submitted,

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/s/ Dror Ladin

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