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by cm/ecf

Ms. Molly C. Dwyer
Clerk, United States Court of Appeals
for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103

RE: *Sierra Club v. Trump*, 9th Cir. No. 19-16102

Dear Ms. Dwyer:

The captioned case is an appeal from a preliminary injunction entered by the district court on May 24, 2019. DE# 144 (N.D. Cal. No. 4:19-cv-00892-HSG). The government moved for a stay pending appeal, and that motion remains pending before the Court's motions panel (Judges Clifton, N.R. Smith, and Friedland), which heard oral argument on June 20, 2019, and recently directed the parties to file supplemental briefs. In the Court's most recent order, the panel indicated that it "is endeavoring to issue a decision before the July 4th holiday." Order at 1 (June 24, 2019).

We write to inform the court that the district court in this case yesterday entered a permanent injunction and final judgment under Rule 54(b) on the same claims at issue in this preliminary injunction appeal, as well as substantially identical claims addressed to similar construction projects in additional areas. The permanent injunction supersedes the original preliminary injunction as to the two border barrier projects at issue in the preliminary-injunction appeal.

The government has today filed a notice of appeal from that decision, and we intend to move on Monday, July 1, 2019 to consolidate the new appeal with this case, and to seek a stay pending appeal of the permanent injunction. Because the terms and rationale of the permanent injunction are substantively identical to the

preliminary injunction on appeal, and the scope of the permanent injunction includes the two projects covered by the preliminary injunction, as well as additional projects, the government believes that it will not be necessary to provide additional briefing on the need for a stay, and we will request that the Court rely on the briefs and argument already presented to the panel addressing the pending stay motion. We will also request that the Court continue its efforts to issue a decision before the July 4th holiday.

Sincerely,

/s/ H. Thomas Byron III

H. THOMAS BYRON III

cc: counsel of record (by cm/ecf)