

1 DAVID M. MORRELL
Deputy Assistant Attorney General
2 ALEXANDER K. HAAS
Director, Federal Programs Branch
3 ANTHONY J. COPPOLINO
Deputy Director, Federal Programs Branch
4 ANDREW I. WARDEN (IN #23840-49)
Senior Trial Counsel
5 KATHRYN C. DAVIS
MICHAEL J. GERARDI
6 LESLIE COOPER VIGEN
7 RACHAEL WESTMORELAND
Trial Attorneys
8 U.S. Department of Justice
9 Civil Division, Federal Programs Branch
1100 L Street, NW
10 Washington, D.C. 20530
11 Tel.: (202) 616-5084
Fax: (202) 616-8470
12 *Attorneys for Defendants*

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

16 STATE OF CALIFORNIA, *et al.*,

17 Plaintiffs,

18 v.

19 DONALD J. TRUMP, *et al.*,

20 Defendants.

21 SIERRA CLUB, *et al.*,

22 Plaintiffs,

23 v.

24 DONALD J. TRUMP, *et al.*,

25 Defendants.

No. 4:19-cv-00872-HSG
No. 4:19-cv-00892-HSG

**NOTICE OF CHANGES IN
FUNDING FOR BORDER
BARRIER PROJECTS
UNDERTAKEN PURSUANT TO 10
U.S.C. § 2808 IN FISCAL YEAR 2019**

Defendants hereby provide notice of recent changes to the funding sources for the eleven border barrier military construction projects the Secretary of Defense decided to undertake on September 3, 2019, pursuant to 10 U.S.C. § 2808.

To fund the § 2808 border barrier military construction projects that are the subject of litigation in these cases, the Secretary of Defense deferred \$3.6 billion in military construction projects, divided evenly between projects outside of the United States and projects located in the United States (including U.S. territories). *See* ECF No. 206 in 4:19-CV-00872; ECF No. 201 in 4:19-CV-00892. The list of projects deferred at the time of the Secretary's decision to undertake § 2808 construction is available at No. 207 in 4:19-CV-00872; ECF No. 202 in 4:19-CV-00892.

On April 27, 2020, the Secretary of Defense authorized adjustments to the funding for the § 2808 projects. *See* Exhibit 1. To enable their execution as scheduled in calendar year 2020, the Secretary removed 22 projects located in the United States from the deferred projects list and directed that \$545.536 million in funding for those projects be released. *See id.* The Secretary also directed \$545.536 million in replacement sources to ensure adequate funding remains available for § 2808 border barrier military construction. These substitute funds are drawn from (1) two projects that have been cancelled for reasons not associated with border barrier military construction; (2) the deferral of 16 projects located outside the United States that are scheduled to award in fiscal year 2021 or later; and (3) excess planning and design funds. *See id.* A chart listing the 22 projects removed from the deferral list and the substitute funding sources is attached as Exhibit 1. *See id.*

DATE: April 29, 2020

Respectfully submitted,

DAVID M. MORRELL
Deputy Assistant Attorney General

ALEXANDER K. HAAS
Director, Federal Programs Branch

ANTHONY J. COPPOLINO
Deputy Director, Federal Programs Branch

/s/ Andrew I. Warden
ANDREW I. WARDEN (IN #23840-49)
Senior Trial Counsel

U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, D.C. 20530
Tel.: (202) 616-5084
Fax: (202) 616-8470
E-mail: Andrew.Warden@usdoj.gov

Attorneys for Defendants