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18
19 **IN THE UNITED STATES DISTRICT COURT**
20
21 **FOR THE DISTRICT OF ARIZONA**

22 _____)
23 **United States of America,**)

24 Plaintiff,)

25 v.)

26 **Douglas A. Ducey, in his official capacity as**)
27 **Governor of the State of Arizona; the State**)
28 **of Arizona; the Arizona Department of**)
Emergency and Military Affairs; Kerry L.)
Muehlenbeck, in her official capacity as)
Adjutant General, Arizona Department of)
Emergency and Military Affairs; and Allen)
Clark, in his official capacity as Director of)
the Arizona Division of Emergency)
Management, Arizona Department of)
Emergency and Military Affairs,)

29 Defendants.)

No. CV-22-02107-PHX-SMB

STIPULATION

1 This Stipulation is entered into by and between Plaintiff United States of America
2 and Defendants Douglas A. Ducey, Governor of the State of Arizona, et al. (hereinafter
3 “Arizona”) to avoid the United States moving for an immediate temporary restraining
4 order and/or preliminary injunction.

5 NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES,
6 BY AND THROUGH UNDERSIGNED COUNSEL, AS FOLLOWS:

7 1. Arizona agrees to maintain its cessation of activity on National Forest
8 System lands within the Coronado National Forest for any purpose relating to installing
9 shipping containers along the international border (where “installing” includes, but is not
10 limited to, movement of equipment, staging, roadwork, welding, and installation of
11 concertina wire). In moving shipping containers, equipment, and construction materials
12 to cease its installation activities, Arizona will confer with representatives from the U.S.
13 Forest Service for safety purposes and to avoid and minimize damage to the United
14 States’ lands, properties, and natural resources.

15 2. By January 4, 2023, to the extent feasible and so as not to cause damage to
16 United States’ lands, properties, and natural resources, Arizona will remove all
17 previously installed shipping containers and associated equipment, materials, vehicles,
18 and other objects from the United States’ properties in the U.S. Border Patrol Yuma
19 Sector, including from lands over which the U.S. Bureau of Reclamation holds an
20 easement on the Cocopah Indian Tribe’s West Reservation. In taking such action,
21 Arizona will confer with representatives from Reclamation and U.S. Customs and
22 Border Protection for safety purposes, for sequencing removal, and to avoid and
23 minimize damage to United States’ lands, properties, and natural resources or disruption
24 to federal actions or activities within the Yuma Sector, including commencement of
25 engineered barrier construction by U.S. Customs and Border Protection in and around
26 the Morelos Dam area.

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1 3. Arizona will, to the extent feasible so as not to cause damage to National
2 Forest System lands and resources, remove all previously installed shipping containers
3 and associated equipment, materials, vehicles, and other objects from the United States’
4 properties on National Forest System lands within the Coronado National Forest. In
5 taking such action, Arizona will confer with representatives from the U.S. Forest Service
6 for safety purposes, for sequencing removal, and to avoid and minimize damage to
7 United States’ lands, properties, and natural resources or disruption to federal actions or
8 activities within the Coronado National Forest. Discussions between Arizona and the
9 Forest Service for accomplishing this task will begin within one week.

10 4. The Parties acknowledge that the safety and security of personnel working
11 to remove the shipping containers in accordance with Paragraphs 1 to 3 above are
12 important objectives in the removal of the shipping containers. No specific action by
13 any party is required if it is reasonably determined that these objectives are
14 compromised. Under such a situation, the points of contact from the state and federal
15 agencies will consult in good faith to resolve any issues. If such resolution is not
16 possible at that level, counsel for the Parties will discuss an appropriate course of action
17 to ensure the joint objectives of the entirety of this Stipulation.

18 5. Each Party is responsible for any act or omission by itself or its employees,
19 agencies, contractors, or agents that results in the death of or injury to any person, or loss
20 of or damage to any real or personal property of any person.

21 6. The Parties acknowledge and agree that this Stipulation is not a waiver of
22 any rights, claims, liabilities, or defenses.

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24 IT IS HEREBY STIPULATED AND AGREED:

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26 Respectfully submitted this 21st day of December, 2022,

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