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12
 13 IN THE UNITED STATES DISTRICT COURT
 14 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15	STATE OF CALIFORNIA, et al.,	
16		Plaintiffs,
17		
18	v.	
19	JANE NISHIDA, et al.,	
20		Defendants,
21	STATE OF GEORGIA, et al.,	
22		Intervenor-Defendants.

Case No. 3:20-cv-03005-RS

**PLAINTIFFS' RESPONSE TO
 DEFENDANTS' MOTION FOR AN
 ENLARGEMENT OF TIME/STAY
 PROCEEDING (ECF NO. 221)**

Action Filed: May 1, 2020

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1 Pursuant to Civil Local Rule 7-3(b), Plaintiffs¹ hereby submit this statement in response to
2 the motion for enlargement of time/stay proceeding filed by Defendants United States
3 Environmental Protection Agency (EPA), Acting EPA Administrator Jane Nishida, the United
4 States Army Corps of Engineers, and Senior Official Performing the Duties of Assistant Secretary
5 of the Army for Civil Works Vance F. Stewart, III (collectively, the Agencies) on February 10,
6 2021. ECF No. 221. The motion seeks an enlargement of time for all existing calendar deadlines
7 by at least 75 days along with a 60-day stay of litigation to allow the Agencies time to review the
8 *Navigable Waters Protection Rule: Definition of “Waters of the United States,”* 85 Fed. Reg.
9 22,250 (Apr. 21, 2020) (2020 Rule) pursuant to President Biden’s Executive Order 13990, 86
10 Fed. Reg. 7037 (Jan. 25, 2021), and determine whether the 2020 Rule should be maintained,
11 modified, or otherwise reconsidered.

12 As indicated in the Agencies’ motion, Plaintiffs generally agree that a limited stay and
13 enlargement of the deadlines in this matter are appropriate to give the Agencies an opportunity to
14 comply with Executive Order 13990 and reevaluate both the 2020 Rule and their litigation
15 position. Given the recent change in federal administration, a pause in the proceedings can also
16 help minimize unnecessary expenditure of resources by the parties or the Court. To ensure that
17 the Agencies’ review of the 2020 Rule proceeds in a timely manner and to allow the parties and
18 the Court to adequately prepare to resume litigation, Plaintiffs respectfully request that the Court
19 grant the motion and also require in its order that the Agencies: 1) meet and confer with Plaintiffs
20 regarding the status of the Agencies’ review of the 2020 Rule at least 14 days before the date on
21 which the stay of the litigation is set to expire, and 2) file a status report at least seven (7) days
22 before the date on which the stay of the litigation is set to expire to inform the Court about the
23 status of the Agencies’ review of the 2020 Rule and plans by any party to seek further stay of the
24 litigation or enlargement of deadlines.

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27 ¹ Plaintiffs are the States of California, New York, Connecticut, Illinois, Maine, Maryland,
28 Michigan, New Jersey, New Mexico, North Carolina, Oregon, Rhode Island, Vermont,
Washington, Wisconsin, the Commonwealths of Massachusetts and Virginia, the North Carolina
Department of Environmental Quality, the District of Columbia, and the City of New York.

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Dated: February 11, 2021

Respectfully Submitted,

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CERTIFICATE OF SERVICE

Case Name: **State of California, et al. v. Jane Nishida, et al.**

Case No.: **3:20-cv-03005-RS**

I hereby certify that on February 11, 2021, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

PLAINTIFFS’ RESPONSE TO DEFENDANTS’ MOTION FOR AN ENLARGEMENT OF TIME/STAY PROCEEDING (ECF NO. 221)

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 11, 2021, at Los Angeles, California.

Beatriz Davalos
Declarant

/s/ Beatriz Davalos
Signature