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*Attorneys for Plaintiff Sierra Club,
Defenders of Wildlife, and Animal Legal Defense Fund*

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**IN RE: BORDER
INFRASTRUCTURE
ENVIRONMENTAL
LITIGATION**

Case No. 17-cv-01873-GPC-WVG
Consolidated with
Case No. 3:17-cv-01215-GPC-WVG
Case No. 17-cv-01911-GPC-WVG

**Plaintiffs' Joint Notice of Appeal of
Order Denying Plaintiffs' Motions for
Summary Judgment and Granting
Defendants' Motions for Summary
Judgment (*Ultra Vires* Claims)**

Notice is hereby given that Defenders of Wildlife, Animal Legal Defense Fund, and Sierra Club, Plaintiffs in the above named consolidated case, appeal to the United States Court of Appeals for the Ninth Circuit from the Court's February 27, 2018 Order Denying Plaintiffs' Motions for Summary Judgment and Granting Defendants' Motions for Summary Judgment. Final Judgment on this Order was entered on March 26, 2018 (ECF No. 54).

Plaintiffs' Notice of Appeal is entered pursuant to Federal Rules of Appellate Procedure 3(b) and is limited to Plaintiffs' first and second causes of action, which allege that the Department of Homeland Security Secretary's August 2, 2017 Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), 8 U.S.C. § 1103 note, to waive requirements under the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*, Endangered Species Act, 16 U.S.C. § 1531 *et seq.*, and other laws, was *ultra vires* to the Secretary's authority under that law. *See* Plaintiffs Defenders of Wildlife, Animal Legal Defense Fund, and Sierra Club First Amended Complaint (ECF No. 23).¹

¹ Plaintiffs' remaining causes of action allege constitutional violations in relation to the August 2, 2017 Determination. IIRIRA Section 102(c)(2)(C) provides that these claims "may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States."

DATED: April 9, 2018

Respectfully submitted,

s/ Jason Rylander

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Memorandum of Points and Authorities

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Attorney for Plaintiff Sierra Club

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2018, I electronically filed Plaintiffs' Joint Notice of Appeal with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record.

s/ Jason Rylander

Jason Rylander

**REPRESENTATION STATEMENT
Pursuant to F.R.A.P Circuit Rule 3-2**

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3:17-cv-1873-GPC-WVG)**

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17-cv-1215-GPC-WVG, 17-cv-1911-GPC-WVG, and 17-cv-1873-GPC-WVG)**

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