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11 UNITED STATES OF AMERICA

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF ARIZONA**

14 The United States of America,

15 Plaintiff,
16 v.

17 The State of Arizona; and Janice K.
18 Brewer, Governor of the State of
19 Arizona, in her Official Capacity,

20 Defenda nts.

No. 2:10-cv-1413-SRB

STATUS REPORT

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22 The plaintiff and the defendants, by th eir undersigned counsel, hereby submit the
23 following status report pursuant to the Cour t's Orders of Febr uary 7 and Fe bruary 13,
24 2013 (Docs. 183, 185).

25 1. Two of the plaintiff's claims in this action remain unresolved. First, although
26 the court has lifted the prelimin ary injunction against Secti on 2(B) of S.B. 1070 – the
27 immigration status verification provision – there has been no final resolution of plaintiff's
28 claim regarding this provision. Second, the Court has not had an opportunity to address

1 plaintiff's claim against Section 4 of S.B. 1070, which amended the Arizona statute that
2 establishes criminal penalties for "smuggling of human beings for profit or commercial
3 purpose."

4 2. The United States proposes to dismiss voluntarily its existing claim against
5 Section 2(B), in light of the Supreme Court's decision in *Arizona v. United States*, 132
6 S. Ct. 2492 (2012). Such dismissal is without prejudice, however, to the filing of a new
7 action against Section 2(B) in the future, if warranted based on Arizona's interpretation
8 and application of this provision. The defendants consent to the voluntary dismissal of
9 plaintiff's claim against Section 2(B).

10 3. The parties jointly propose that adjudication of plaintiff's claim against Section
11 4 of S.B. 1070 be stayed pending the Ninth Circuit's decision in *Valle del Sol, Inc. v.*
12 *Whiting* (No. 12-17152), and the resolution of any subsequent petitions for rehearing or
13 certiorari. That action includes a challenge by certain private parties to a portion of
14 Section 5 of S.B. 1070, which imposes criminal penalties under certain circumstances for
15 transporting or harboring an unlawfully present alien and encouraging or inducing an alien
16 to enter or reside in Arizona in violation of law. Since the courts' resolution of that
17 challenge is likely to have an effect on the smuggling provision in Section 4, the parties
18 believe plaintiff's challenge to Section 4 in this action should be stayed pending final
19 resolution of *Valle del Sol*.

20 4. Depending on the outcome of *Valle del Sol, Inc., v. Whiting* (9th Cir. No. 12-
21 17152) and other factors, the United States may, at an appropriate time, seek reconsider-
22 ation of this Court's Order (Doc. 133) dismissing plaintiff's claim against a portion of
23 Section 5 of S.B. 1070 and the reinstatement of such claim.

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25 Dated: March 7, 2013

Respectfully submitted,

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27 Principal

STUART F. DELERY

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CERTIFICATE OF SERVICE

I hereby certify that on March 7, 2013, I electronically transmitted the attached document to the Clerk’s Office using the CM /ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants on record in this matter.

s/ W. Scott Simpson

W. SCOTT SIMPSON

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