

1 increased radiation doses to Nevada citizens and would, in some circumstances, lead to
2 contamination of the state’s lands and groundwater with radioactive materials. (ECF No.
3 1 at 6.) The state further asserts that “[l]acking any assurance against the imminent risk,
4 Nevada (and this Court) must assume that the shipments could reach Nevada any day
5 now.” (ECF No. 2 at 9.)

6 The Court has set a hearing on the state’s PI Motion for January 17, 2019. (ECF
7 No. 19.) The state argues that with the present Motion the government seeks to indefinitely
8 stay the scheduled hearing without providing any assurance to the state that it will not
9 begin its plutonium shipments to NNSS before this Court renders a decision on the PI
10 Motion. (ECF No. 21 at 4–7; see *also* ECF No. 21-1 at 4, ECF No. 21-2.)

11 The Court finds the state’s contentions persuasive and will deny the Motion in light
12 of the alleged irreparable harm and the government’s refusal to assure that it will not
13 proceed with the asserted harmful conduct before the PI Motion is resolved. See, e.g.,
14 *Priests for Life v. U.S. Dep’t of Health and Human Servs.*, 2013 WL 5572730, at *1 (D.D.C.
15 Oct. 2, 2013) (declining the DOJ’s requested stay after a lapse of appropriations because
16 “in light of the irreparable harm alleged, the impending time sensitive mandate, and
17 defendants’ refusal to delay enforcement of the mandate as to the plaintiffs in this case,
18 the Court finds that an indefinite stay would be incompatible with the fair administration of
19 justice”). Moreover, granting a stay here is likely to prejudice the state in exercising its
20 vested interest in protecting its residents and lands by having this Court proceed with the
21 scheduled hearing regarding the impending transport of plutonium. See, e.g., *Native*
22 *Songbird Care & Conservation v. Foxx*, 2013 WL 5609320, at *3 n.3 (N.D. Cal. Oct. 11,
23 2013) (“Given the fact that time is of the essence in this case, and the fact that an indefinite
24 stay could potentially prejudice Plaintiffs, the Court will not stay this case because of the
25 lapse of appropriations.”). The government has not argued that it would be likewise
26 prejudiced if this Court denies its Motion.

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It is therefore ordered that the government's motion to stay (ECF No. 20) on behalf of all Defendants is denied.¹

DATED THIS 2nd day of January 2019.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

¹This order does not preclude the parties for further conferring with each other about a possible stay of this matter on agreeable terms that would accommodate the DOJ's limitations on its attorneys' professional obligations and the state's concern that the first shipment would occur during the stay.