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

SAVE THE PARK AND BUILD THE SCHOOL,

Plaintiff,

v.

**NATIONAL PARK SERVICE;
DAVID L. BERNHARDT, in his
official capacity as Secretary of the
United States Department the
Interior; DAVID VELA, in his official
capacity as Director of the National
Park Service; LISA MANGAT, in her
official capacity as Director of the
California Department of Parks and
Recreation; and CARDIFF SCHOOL
DISTRICT,**

Defendants.

Case No. 3:20-cv-1080-LAB-AHG
ORDER

In its July 24, 2020 Amended Preliminary Injunction Order, the Court found that under ordinary circumstances, the public interest would *not* favor enjoining the completion of construction of a public school shortly before the school year was to start. Dkt. 21 at 11. But other considerations, peculiar to this case, nonetheless supported issuance of the injunction. One (that goes to the core of this litigation) was

1 that the National Park Service was reconsidering its decision to approve the project,
2 and it was estimated that the review would be completed by the end of August.
3 *Id.* at 12. A second consideration was that state officials had recently placed San
4 Diego County, in which the Cardiff School District is located, on the COVID-19
5 Monitoring List. That action made it “unlikely . . . that the District [would] need to
6 be ready to accommodate students in classrooms in September—or for that matter in
7 the immediate future.” *Id.* at 11.

8 Counsel for the Cardiff School District notified the Court that at least one of
9 these important circumstances has changed. On August 18, 2020, state officials
10 removed San Diego County from the COVID-19 Monitoring List, reviving the
11 possibility that the Cardiff School District may soon reopen for in-person learning.
12 *See* <https://covid19.ca.gov/roadmap-counties/> (last accessed Aug. 18, 2020) (“The
13 following counties are no longer on the County Monitoring List: . . . San Diego as of
14 8/18/2020”); Cal. Dept. of Public Health, COVID-19 and Reopening In-Person
15 Learning: Framework for K-12 Schools in California, *available at*
16 [https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/
17 COVID-19/Schools%20Reopening%20Recommendations.pdf](https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Schools%20Reopening%20Recommendations.pdf) (last accessed
18 Aug. 18, 2020) (a school district may reopen for in-person instruction if it is in a
19 county “that has not been on the . . . monitoring list within the prior 14 days”).

20 With in-person instruction now possible, the Court must reconsider whether to
21 maintain the preliminary injunction. To assist in resolving this question, the Court

22 **ORDERS** that:

- 23 1) On or before **August 20, 2020 at 5:00 P.M.**, Defendant Cardiff School District
24 must file a sworn affidavit, executed by a responsible School District official
25 having personal knowledge of the subject matter, addressing whether the
26 Cardiff School District intends to open schools for in-person instruction by
27 September 2, 2020 or soon thereafter;

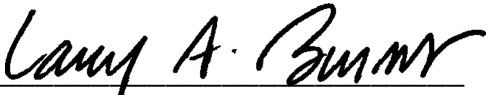
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- 2) On or before **August 24, 2020 at 5:00 P.M.**, Plaintiff Save the Park must file a brief, no more than five pages long, showing cause why the Court should not dissolve the injunction and specifically addressing the contention that the public interest no longer supports the injunction. Defendant Cardiff School District may file a five-page brief by the same deadline supporting its position that the injunction should be dissolved; and
- 3) On or before **August 24, 2020 at 5:00 P.M.**, Defendants National Park Service, David L. Bernhardt, and David Vela must file a short status update on the expected timing of NPS’s decision.

IT IS SO ORDERED.

Dated: 8/18/2020



Honorable Larry A. Burns
Chief United States District Judge