UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

LASHAWN JONES, KENT ANDERSON, STEVEN DOMINICK, ANTHONY GIOUSTAVIA, JIMMIE JENKINS, GREG JOURNEE, RICHARD LANFORD, LEONARD LEWIS, EUELL SYLVESTER and MARK WALKER, on behalf of themselves and all others similarly situated,	**Civil Action No. 2:12-cv-00859** **Section I** **Judge Lance M. Africk** **Magistrate Judge Shushan**
Plaintiffs,	**MEMORANDUM OF LAW IN SUPPORT OF UNITED STATES' UNOPPOSED MOTION TO INTERVENE PURSUANT TO THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT, 42 U.S.C. § 1997**
UNITED STATES OF AMERICA	
Applicant for Intervention,	
v.	
MARLIN GUSMAN, Sheriff, Orleans Parish,	
Defendant.	

MEMORANDUM OF LAW IN SUPPORT OF UNITED STATES' UNOPPOSED MOTION TO INTERVENE

The United States of America, pursuant to Rule 24, Federal Rules of Civil Procedure, submits this Memorandum of Law in support of its Unopposed Motion to Intervene in the above-styled case, *Jones v. Gusman*, No. 2:12-cv-00859 (LMA) (E.D. La., filed Apr. 2, 2012).

I. INTRODUCTION

The Orleans Parish Prison ("OPP") is a violent and dangerous institution. The United States has found reasonable cause to believe that prisoners confined to OPP are subject to physical assaults by others prisoners and staff, including sexual assaults, denied access to necessary medical and mental health care for serious conditions, and subjected to unsafe physical plant conditions. The United States and Defendant Sheriff Marlin Gusman have negotiated an agreement that will resolve

the concerns of the United States as well as those raised by the parties to this litigation. Upon being granted leave to intervene in this case, the United States and Defendant will submit the proposed agreement to the Court and request that it be entered as an injunction.

On February 12, 2008, the United States formally notified the City of New Orleans that the Department of Justice ("Department") was opening an investigation of conditions of confinement at OPP pursuant to the Civil Rights of Institutionalized Persons Act ("CRIPA"), 42 U.S.C. § 1997. CRIPA gives the Department authority to seek a remedy for a pattern or practice of conduct that violates the constitutional rights of prisoners in adult detention and correctional facilities.

On September 11, 2009, the United States issued a public findings letter concluding that numerous conditions and practices at OPP violated the constitutional rights of prisoners. More specifically, the Department found that prisoners were not adequately protected against harm, including harm from excessive use of force by staff and prisoner-on-prisoner violence due to inadequate supervision; that prisoners did not receive adequate mental and medical health care, including proper suicide prevention; that prisoners faced serious risks posed by inadequate fire safety precautions; and that the physical plant caused harm and posed an unreasonable risk of serious harm to prisoners' health and safety.

On April 23, 2012, the United States sent Defendant a letter detailing current deficiencies at OPP necessitating emergency action, including inadequate protection from violence and sexual assault; inadequate suicide prevention; inadequate mental health care and access to medical care; and inadequate services to limited English proficient ("LEP") prisoners in violation of Title VI of the Civil Rights Act of 1964 ("Title VI"). The Defendant has not, despite notice of the problems and minimally necessary steps necessary to remedy the problems, resolved the findings.

On April 2, 2012, Plaintiffs filed this class action on behalf of the men, women and youth imprisoned at OPP to protect them from abusive and unconstitutional conditions of confinement and dangers substantially similar to many of the conditions outlined in the United States' September 2009 letter of findings and April 2012 letter regarding emergency conditions. (Complaint, ECF No. 1)[1]

CRIPA provides that the United States may intervene in any action seeking relief from egregious or flagrant conditions of confinement that deprive prisoners "of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing them to suffer grievous harm," where the Attorney General has reasonable cause to believe that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights. 42 U.S.C. § 1997c.

Given the overlap between the United States' CRIPA investigation and the subject matter of this litigation, both Plaintiffs and Defendant believe it would be most efficient to resolve Plaintiffs' claims and the United States' CRIPA investigation with a single, comprehensive remedy. Indeed, Plaintiffs invited the United States to intervene in this action and Defendant supports the United States' intervention. The parties and the United States have already engaged in negotiations regarding a mutually agreeable, global settlement. Intervention by the United States in this matter will serve the interests of judicial economy and will facilitate much needed reforms at OPP in the fastest and most efficient manner.

As such, the United States moves this Court for intervention of right, pursuant to Rule 24(a)(2), and alternatively for permissive intervention, pursuant to Rule 24(b). The parties consent to the United States' intervention in this case.

[1] This matter was consolidated with a previously filed complaint for Injunctive and Declaratory Relief, which alleged that unconstitutional conditions at OPP subject youths to imminent and serious risk of bodily harm or death. (ECF No. 13)

II. APPLICABLE LEGAL STANDARDS

A. CRIPA

CRIPA provides:

> Whenever an action has been commenced in any court of the United States seeking relief from egregious or flagrant conditions which deprive persons residing in institutions of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing them to suffer grievous harm and the Attorney General has reasonable cause to believe that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may intervene in such action upon motion by the Attorney General.

42 U.S.C. § 1997c.

The United States has met each of the conditions required in order to intervene pursuant to CRIPA. First, more than 90 days have expired since the April 2, 2012 commencement of this action. 42 U.S.C. § 1997c(a)(2). Second, the United States' Complaint in Intervention includes a certification by the Attorney General that the United States has provided Defendant with at least 15 days' written notice of: (a) the alleged conditions which deprive rights, privileges, or immunities secured or protected by the Constitution or laws of the United States and the alleged pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities; (b) the supporting facts giving rise to the alleged conditions, including the dates and time period during which the alleged conditions and pattern or practice of resistance occurred; and (c) the minimum measures which the Attorney General believes may remedy the alleged conditions. 42 U.S.C. § 1997c(b)(1)(A). The Department's September 2009 findings letter and April 2012 letter of current deficiencies satisfy these requirements. In addition, the certification affirms that the Attorney General believes that intervention by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the

Constitution or laws of the United States. 42 U.S.C. § 1997c(b)(1)(B). Finally, the Attorney General has personally signed the United States' Motion to Intervene, Complaint in Intervention, and certification. 42 U.S.C. § 1997c(b)-(c).

B. Intervention Pursuant to Federal Rule of Civil Procedure 24

Rule 24 of the Federal Rules of Civil Procedure provides for two types of intervention – "Intervention of Right" and "Permissive Intervention." Rule 24(a)(2), which sets forth the requirements for intervention as of right, states in relevant part, that:

> On timely motion, the court must permit anyone to intervene who . . . claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

Fed. R. Civ. P. 24(a)(2). Rule 24(b) provides for permissive intervention. Under that provision:

> On timely motion, the court may permit anyone to intervene who: (A) is given a conditional right to intervene by a federal statute; or (B) has a claim or defense that shares with the main action a common question of law or fact.

Fed. R. Civ. P. 24(b)(1). The rule further instructs that "[i]n exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3).

III. DISCUSSION

"Federal courts should allow intervention where no one would be hurt and the greater justice could be attained." *Doe # 1 v. Glickman*, 256 F.3d 371, 375 (5th Cir. 2001) (citing *Sierra Club v. Espy*, 18 F.3d 1202, 1205 (5th Cir.1994)). This Court should grant the United States' Motion to Intervene. The United States satisfies both the requirements to intervene as of right and for permissive intervention. First, this Court should permit the United States to intervene as of right

because (1) the United States has timely filed its Motion to Intervene; (2) it has a significant, legally protectable interest in the proceedings; (3) that interest may be impaired by the disposition of the case; and (4) the existing parties may not adequately protect the United States' interest in ensuring that OPP provides constitutional conditions and compliance with federal law with regard to all of its prisoners. In the alternative, this Court should grant the United States' permissive intervention under Federal Rule of Civil Procedure 24(b). The motion is timely, the United States has a conditional right to intervene pursuant to CRIPA, the United States' CRIPA claims share common questions of law and fact with the current action, and it will not unduly delay or prejudice the adjudication of the case.

"Rule 24 represents 'an accommodation between two potentially conflicting goals: to achieve judicial economies of scale by resolving related issues in a single lawsuit, and to prevent the single lawsuit from becoming fruitlessly complex or unending.'" *United States v. Texas E. Transmission Corp.*, 923 F.2d 410, 413 (5th Cir.1991) (quoting *Smuck v. Hobson*, 408 F.2d 175, 179 (D.C.Cir.1969) (*en banc*)). The United States' intervention in this matter will serve both goals.

A. The United States Is Entitled to Intervention of Right

A Court should grant a timely motion for intervention as of right under Rule 24(a) where the movant has a "direct, substantial, and legally protectable interest" in the subject matter of the litigation; the denial of intervention could significantly impair or impede the movant's ability to protect this interest; and the movant's protectable interests may not be adequately represented by the existing parties. *Edwards v. City of Houston*, 78 F.3d 983, 999 (5th Cir. 1996); *New Orleans Public Service, Inc. v. United Gas Pipe Line Co*, 732 F.2d 452, 463 (5th Cir. 1984) (*en banc*). Each of these requirements must be met to intervene as of right. *Haspel & Davis Milling & Planting Co. Ltd. v. Board of Levee Commissioners of New Orleans*, 493 F.3d 570, 577-78 (5th Cir. 2007). However, "the inquiry under subsection (a)(2) is a flexible one, which focuses on the particular facts and

circumstances surrounding each application.... [and] intervention of right must be measured by a practical rather than technical yardstick." *Texas E. Transmission Corp.*, 923 F.2d at 413 (quoting *United States v. Allegheny-Ludlum Indus., Inc.*, 517 F.2d 826, 841 (5th Cir.1975), *cert. denied*, 425 U.S. 944 (1976)).

1. The United States' Motion for Intervention Is Timely

In *Stallworth v. Monsanto Co.*, 558 F.2d 257 (5th Cir.1977), the Fifth Circuit established four factors to consider when evaluating the timeliness of a motion to intervene: (1) the length of time during which the movant actually knew or reasonably should have known of its interest in the case before petitioning for leave to intervene; (2) the extent of the prejudice that the existing parties to the litigation may suffer as a result of the movant's failure to apply for intervention as soon as it actually knew or reasonably should have known of its interest in the case; (3) the extent of the prejudice that the movant may suffer if its petition for leave to intervene is denied; and (4) the existence of unusual circumstances militating either for or against a determination that the application is timely. *Id.* at 264-66. Timeliness is to be determined from an analysis of all the relevant circumstances. *Corley v. Jackson Police Dep't*, 755 F.2d 1207, 1209 (5th Cir.1985) (citing *NAACP v. New York*, 413 U.S. 345, 366, 93 S.Ct. 2591, 2603, 37 L.Ed.2d 648 (1973)). "Accordingly, these factors merely comprise a framework for the analysis of this threshold consideration." *Id.*; *Edwards*, 78 F.3d at 1000 ("There are no absolute measures of timeliness.").

The United States' application for intervention is timely. Although the United States had knowledge of Plaintiffs' case from the time it was filed, it has only recently become clear that both the parties are amenable to resolving this case and the United States' investigation through a single remedy. The United States has been engaged in settlement discussions with Defendant for an extended period, including meetings in June and July of this year. On September 7, 2012,

representatives from Plaintiffs contacted the Department and requested that the United States consider intervening in the current lawsuit achieve a global settlement remedying abusive and unconstitutional conditions of confinement at OPP. The United States thereafter discussed a potential intervention with Defendant and received his support. Following these discussions, the United States immediately prepared to move for intervention, including obtaining the Attorney General's certification and signature on these papers. Such proceedings have progressed in a very timely manner. *See, e.g.*, *Espy*, 18 F.3d at 1205 (motion found timely when made within two months of becoming aware that interests were affected); *Association of Professional Flight Attendants v. Gibbs*, 804 F.2d 318 (5th Cir.1986) (five month lapse found not unreasonable).

Given that a global settlement is preferred by and to the benefit of both the United States and the original parties in this matter, and will serve the interests of judicial economy by achieving the most efficient resolution to Plaintiffs' and the United States' claims, the original parties to the litigation will not suffer any prejudice as a result of the timing of the United States' motion.

2. The United States Has a Protectable Interest

The United States has a "direct, substantial, legally protectable" interest in these proceedings. *New Orleans Public Service, Inc.*, 732 F.2d at 463. The interest must be "one which the *substantive law* recognizes as belonging to or being owned by the applicant." *Id.* at 464 (emphasis in original); *Ross v. Marshall*, 426 F.3d 745, 757 (5th Cir. 2005). An entity has such an interest where it "would have standing to raise the claim." *United States v. Alcan Aluminum, Inc.*, 25 F.3d 1174, 1185 (3d Cir. 1994); *see also United States v. 936.71 Acres of Land*, 418 F.2d 551, 556 (5th Cir.1969). "This 'interest test' is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process." *Espy*, 18 F.3d at 1207.

The United States satisfies the significantly protectable interest test. The United States bases

its claims here on the same facts and conditions asserted by plaintiffs. Its interest thus relates directly to the subject of the existing litigation. CRIPA gives the United States standing to institute civil litigation to obtain equitable relief "to insure the minimum corrective measures necessary to insure the full enjoyment of such rights, privileges, or immunities" secured or protected by the Constitution or laws of the United States for individual confined to a correctional facility. 42 U.S.C. § 1997a. Courts have previously recognized that a government agency has an interest sufficient to support intervention in cases in which, as here, the subject of the suit comes within the scope of the agency's duties. *See Harris v. Pernsley*, 820 F.2d 592, 602 (3d Cir. 1987); *Blowers v. Lawyers Coop. Publ'g Co.*, 527 F.2d 333, 334 (2d Cir. 1975) (instructing courts to take a "hospitable attitude" toward "allowing a government agency to intervene in cases involving a statute it is required to enforce"). As the United States is tasked with insuring the "full enjoyment" of OPP's prisoners' rights to constitutional conditions of confinement, it has a significantly protectable interest in the current litigation, in which Plaintiffs seek to enforce those same rights.

3. This Case May Threaten the United States' Ability To Protect Its Interest

To establish the third requirement for intervention as of right, an applicant must demonstrate that disposition of the action "may realistically impair" the movant's interest. *Texas E. Transmission Corp.*, 923 F.2d at 413. The United States satisfies this requirement because this case threatens its ability to protect its sovereign interest in the protection and enforcement of OPP prisoners' constitutional rights and protections under federal law. Intervention will allow the United States to resolve its OPP investigation, as well as this litigation, in an effective and efficient manner, which will conserve resources and best serve judicial economy. In contrast, allowing the current litigation to proceed without the United States will impede the United States' ability to settle with Defendant and increase the likelihood that the United States will need to file a separate, duplicative lawsuit to

protect its interests. Given the substantially similar claims contained in Plaintiffs' complaint and the United States' CRIPA findings, an unfavorable ruling here could preclude the use of factual and legal arguments in a separate CRIPA case brought by the United States to resolve its current investigation. *See Southeast Recovery Group, LLC v. BP America, Inc.*, 278 F.R.D. 162, 167 (E.D. La. 2012) (stating that intervention was appropriate where United States' interest in a criminal investigation could be impaired by discovery based on the same facts at issue in the civil litigation). Moreover, an adverse ruling here could negatively impact the Department's ability to bring CRIPA enforcement actions nationally. The Fifth Circuit has frequently analyzed this factor by evaluating the effect of *stare decisis* on a prospective intervenor's rights. *See Espy*, 18 F.3d at 1207; *Texas E. Transmission Corp.*, 923 F.2d at 413; *Woolen v. Surtran Taxicabs, Inc.*, 684 F.2d 324 (5th Cir.1982); *see also Brody ex rel. Sugzdinis v. Spang*, 957 F.2d 1108, 1123 (3d Cir. 1992) (stating that such a "*stare decisis* effect" may be sufficient on its own to satisfy the third factor); *Smith v. Pangilinan*, 651 F.2d 1320, 1324-25 (9th Cir. 1981) (finding Attorney General, charged with administering immigration, had protected interest in construction and application of immigration law, and that Attorney General had right to intervene because of a possible *stare decisis* impairment).

4. **The Existing Parties May Not Adequately Represent the United States' Interest**

The existing parties to this class action lawsuit do not represent the United States' interests adequately, satisfying the final requirement for intervention as of right. The burden of establishing inadequacy of representation is "minimal." *Edwards*, 78 F.3d at 1005 (citing *Trbovich v. United Mine Workers*, 404 U.S. 528, *538 n.*10 (1972)). Moreover, an applicant need not demonstrate a certainty that the existing parties will inadequately represent its interests, only that such representation "may be" inadequate. *Id.* When evaluating an application to intervene, courts consider representation inadequate where the applicant's interests, though similar to those of an

existing party, "diverge sufficiently that the existing party cannot devote proper attention to the applicant's interests." *Brody*, 957 F.2d at 1123.

The Fifth Circuit recognizes a presumption of adequate representation when the would-be intervenor has the same ultimate objective as a party to the lawsuit. *Edwards*, 78 F.3d at 1005; *see Kneeland v. National Collegiate Athlete Ass'n*, 806 F.2d 1285 5th Cir. 1987) (denying movants' motion for intervention on the grounds that would-be intervenors and defendants had the same ultimate objective to prevent disclosure of documents). While it is true that Plaintiffs, the United States, and even Defendant share the same ultimate goal of constitutional conditions at OPP, the United States is tasked with remedying conditions of confinement that deprive prisoners "of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing them to suffer grievous harm." 42 U.S.C. § 1997c. This goal extends beyond the claims of the individual class members, and indeed the United States' proposed Complaint in Intervention includes allegations not included in Plaintiffs' complaint. As such, it cannot be claimed that the parties' similar objectives equate to adequate representation of the United States' interest. *Espy*, 18 F.3d at 1208 (holding that intervention is appropriate where "the government must present the broad public interest, not just the [concerns of the parties]."); *see also Forest Conservation Council v. U.S. Forest Service*, 66 F.3d 1489, 1499 (9th Cir. 1995) (holding that intervention applicants that have "more narrow, parochial interests" than the government, have interests unprotected by the government); *Natural Resources Defense Council v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977) (holding that government and individual interests may not coincide where government is "broadly concerned with implementation and enforcement of the settlement agreement" and individuals are "more narrowly focused").

The United States is charged by statute with representing the public interest on a national scale. While this responsibility may overlap somewhat with plaintiffs' interests, its interests can and do diverge significantly from theirs. Although the United States recognizes that the Plaintiffs are seeking class certification in this case, the United States' interests nevertheless extend beyond class members' claims regarding their safety and well-being to include ensuring that OPP provides comprehensive constitutional conditions and complies with federal laws regarding the services required for all prisoners. *See JLS, Inc. v. PSC of West Virginia*, 321 Fed. Appx. 286, 291 (4th Cir. 2009) (explaining that "even when a governmental agency's interests appear aligned with those of a particular private group at a particular moment in time, the 'government's position is defined by the public interest, not simply the interests of a particular group of citizens.'") (quoting *Feller v. Brock*, 802 F.2d 722, 730 (4th Cir. 1986)).

In the case at hand, the allegations stated in the United States' CRIPA findings letter of 2009 and April 2012 letter of current deficiencies encompass, but are broader than, the claims stated in Plaintiffs' class complaint. For example, the United States has alleged that OPP is in violation of its Title VI obligations by failing to provide meaningful access for Latino and other national origin minority LEP prisoners to the intake, processing, housing, and medical services at each of the OPP facilities. OPP's lack of meaningful LEP services has a discriminatory effect on Latino prisoners. Title VI authorizes the United States to initiate civil litigation against a recipient of federal assistance, like OPP, whose program or activity violates Title VI by discriminating on the basis of race, color, or national origin, including language access procedures that have a discriminatory effect. 42 U.S.C. § 2000d-1; 28 C.F.R. § 42.108; 28 C.F.R. § 42.104(a); 28 C.F.R. § 42.104(b)(2) (prohibiting discriminatory effect); *see also N.Y. Urban League, Inc. v. New York*, 71 F.3d 1031, 1036 (2d Cir. 1995). Plaintiffs have not included similar allegations in their complaint. The United States is tasked

with representing the interests of all OPP prisoners who may be impacted by unconstitutional conditions. *United States v. City of Miami*, 614 F.2d 1322, 1332 (5th Cir. 1980), *aff'd in part, vacated and remanded in part on reh'g*, 664 F.2d 435 (noting that any tendency to seek affirmative relief that goes too far in a Title VII case is likely to be constrained when the Justice Department represents the plaintiff, because it represents the interests of all citizens). Plaintiffs therefore cannot – and should not – be expected to make all of the United States' arguments. This lack of identity of arguments and ultimate objectives is sufficient to satisfy the minimal burden of demonstrating inadequacy of representation. *See Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 973-74 (3d Cir. 1998) (concluding that federal government agency and private businesses seeking to intervene had "interests inextricably intertwined with, but distinct from" each other and thus government's representation of private interests would be inadequate).

The Fifth Circuit has long relied on the presumption that where an existing party to a lawsuit is a government entity charged by law with representing the interests of a private applicant for intervention, the government's representation will be adequate. *Hopwood v. Texas,* 21 F.3d 603, 605 (5th Cir.1994). This is because the government generally is required to represent both the public interest and individuals' interests by law, while individuals have only their own "narrower" or "parochial" views to advocate. *See Trbovich*, 404 U.S. at 538-39. The presumption thus does not hold in the reverse situation, as individual litigants are not tasked with the responsibility of – and therefore cannot be expected to – represent adequately the public interest on behalf of the government. Accordingly, Plaintiffs here cannot and should not be expected to represent the public interest on behalf of the United States.

B. The United States Is Entitled to Permissive Intervention

Should the Court decline to grant the United States intervention of right, it should, in its discretion, nevertheless grant the United States permissive intervention. Permissive intervention is appropriate where a movant "is given a conditional right to intervene by a federal statute; or has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1). A court, in exercising its discretion, "must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3).

Permissive intervention "is wholly discretionary with the [district] court ... even though there is a common question of law or fact, or the requirements of Rule 24(b) are otherwise satisfied." *New Orleans Public Service, Inc.*, 732 F.2d at 470-71 (quoting 7C C. Wright, A. Miller & M. Kane, Federal Practice and Procedure § 1913, at 376-77 (2d ed. 1986)). In acting on a request for permissive intervention, the district court may consider, among other factors, whether the movants' interests are adequately represented by other parties, *id.* at 472, and whether intervention will unduly delay the proceedings or prejudice existing parties, Fed.R.Civ.P. 24(b). In addition, it is proper to consider whether movants will "significantly contribute to full development of the underlying factual issues in the suit." *New Orleans Public Services Inc.*, 732 F.2d at 472.

The United States' CRIPA claims clearly share common questions of fact and law with the Plaintiffs' claims that Defendant is violating the constitutional rights of prisoners at OPP by subjecting them to abusive and unconstitutional conditions of confinement.

In addition, the United States has a conditional right to intervene pursuant to CRIPA. As discussed above, the United States has met each of the conditions required for intervention under CRIPA. 42 U.S.C. § 1997c.

Finally, both parties and the United States agree that, in contrast to a resulting delay or prejudice to the original parties, permitting intervention will allow for the most efficient and effective method of resolving this litigation. The United States and the parties are ready to propose a settlement to the Court to resolve this litigation, if the United States is permitted to intervene. As such, intervention is likely to provide the quickest relief to OPP prisoners while conserving the most judicial resources and saving the parties and the United States from expending additional time and money on unnecessary litigation.

Permissive intervention is appropriate because the United States has a conditional right to intervene, its claims are substantially similar to Plaintiffs' claims, and intervention will serve the interests of judicial economy by permitting the most efficient resolution of Plaintiffs' and the United States' claims.

IV. CONCLUSION

For the foregoing reasons, the United States respectfully requests that this Court grant its Motion to Intervene.

Respectfully submitted this 23 day of September, 2012.

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