

BREYER, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 19A60

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. *v.* SIERRA CLUB, ET AL.

ON MOTION TO LIFT STAY

[July 31, 2020]

The motion to lift stay is denied.

JUSTICE BREYER, with whom JUSTICE GINSBURG, JUSTICE SOTOMAYOR, and JUSTICE KAGAN join, dissenting from denial of motion to lift stay.

Just over a year ago, I suggested “a straightforward way” to avoid irreparable harm to the parties in this litigation: stay the District Court’s injunction “only to the extent” that it “prevents the Government from finalizing [relevant] contracts or taking other preparatory administrative action, but leave [the injunction] in place insofar as it precludes the Government from disbursing those funds or beginning construction.” *Trump v. Sierra Club*, 588 U. S. ____, ____–____ (2019) (slip op., at 2–3) (opinion concurring in part and dissenting in part from grant of stay).

Now, the Government has apparently finalized its contracts, avoiding the irreparable harm it claimed in first seeking a stay. The Court’s decision to let construction continue nevertheless, I fear, may “operat[e], in effect, as a final judgment.” *Id.*, at ____ (slip op., at 2). I would therefore lift the Court’s stay of the District Court’s injunction.