No. 26A560

IN THE
Supreme Court of the United States

MARKWAYNE MULLIN, SECRETARY OF HOMELAND SECURITY, ET AL.,

Applicants,

v.

FRIENDS OF THE RUIDOSA CHURCH, ET AL.,

Respondents.

TO THE HONORABLE JUSTICE SAMUEL ALITO, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE FIFTH CIRCUIT

SUPPLEMENTAL APPENDICES

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TABLE OF CONTENTS

Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Section 102, Pub. L. 104-208, Div. C, 110 Stat. 3009-546 (codified at 8 U.S.C. § 1103 note), as Amended 1a

Department of Homeland Security, Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended ("Procurement Waivers") 5a
- 90 Fed. Reg. 48281 (Oct. 15, 2025) – Tucson Sector 6a
- 90 Fed. Reg. 48282 (Oct. 15, 2025) – El Centro Sector 7a
- 90 Fed. Reg. 48283 (Oct. 15, 2025) – Del Rio Sector 8a
- 90 Fed. Reg. 48284 (Oct. 15, 2025) – Rio Grande Valley Sector 9a
- 90 Fed. Reg. 48285 (Oct. 15, 2025) – Yuma Sector 10a
- 90 Fed. Reg. 48286 (Oct. 15, 2025) – Big Bend Sector 11a
- 90 Fed. Reg. 48287 (Oct. 15, 2025) – Laredo Sector 12a
- 90 Fed. Reg. 48288 (Oct. 15, 2025) – El Paso Sector 13a
- 90 Fed. Reg. 48289 (Oct. 15, 2025) – San Diego Sector 14a

Department of Homeland Security, Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 91 Fed. Reg. 7297 (Feb. 17, 2026) 17a

Department of Homeland Security, Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 91 Fed. Reg. 27969 (May 15, 2026) 19a

First Amended and Second Supplemented Complaint for Declaratory and Injunctive Relief, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Aug. 11, 2026) 22a

PI Hearing, Plaintiffs' Exhibit 1: C. Phillips, Big Bend Area Map (Sep. 2026) 72a

PI Hearing, Plaintiffs' Exhibit 2: B. Krumenaker, Table of Illegal Migrant Activity In Big Bend National Park (Sep. 23, 2026) 74a

Declaration of Danny William Miller Junior in Support of Plaintiffs' Motion for Summary Judgment, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Jul. 17, 2026) 76a

Declaration of Laiken Jordahl in Support of Plaintiffs' Motion for Summary Judgment, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Jul. 17, 2026) 86a

Expert Report of Adam B. Isacson, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Jul. 17, 2026) 97a

Declaration of Zeynep Graves in Support of Plaintiffs' Motion for Summary Judgment, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Jul. 17, 2026) 111a

Declaration of Connor Phillips in Support of Plaintiffs' Motion for a Preliminary Injunction, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Aug. 17, 2026) 121a

Declaration of Bernadette Devine in Support of Plaintiffs' Emergency Motion for Temporary Restraining Order or Preliminary Injunction, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Aug. 17, 2026) 126a

Declaration of Danny William Miller Junior in Support of Plaintiffs' Motion for a Preliminary Injunction, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Aug. 17, 2026) 134a

Declaration of Willard "Bill" Guerra-Addington in Support of Plaintiffs' Emergency Motion for TRO or Preliminary Injunction, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Sep. 19, 2026) 141a

Declaration of Robert J. Krumenaker in Support of Plaintiffs' Motion for a Preliminary Injunction, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Sep. 19, 2026) 151a

Supplemental Expert Report of Adam B. Isacson, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Sep. 19, 2026) 167a

Testimony of Sheriff Thaddeus Cleveland, *The People of La Junta, et al. v. Dep't of Homeland Sec., et al.*, No. SA-26-CV-5245 OLG (W.D. Tex. Aug. 28, 2026) 210a

Defendants' Notice Regarding End of Big Bend Construction Pause, *Friends of the Ruidosa Church, et al. v. Mullin, et al.,* No. 3:26-cv-01099-KC (W.D. Tex. Sep. 29, 2026) 256a

Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Section 102, Pub. L. 104-208, Div. C, 110 Stat. 3009-546 (codified at 8 U.S.C. § 1103 note), as Amended

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. 104-208, Div. C, 110 Stat. 3009-546 (codified at 8 U.S.C. § 1103 note), as amended.

(a) **In General.**—The Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.

(b) **Construction of Fencing and Road Improvements Along the Border.—**

(1) **Additional fencing along southwest border.—**

(A) **Reinforced fencing.**—In carrying out subsection (a), the Secretary of Homeland Security shall construct reinforced fencing along not less than 700 miles of the southwest border where fencing would be most practical and effective and provide for the installation of additional physical barriers, roads, lighting, cameras, and sensors to gain operational control of the southwest border.

(B) **Priority areas.**—In carrying out this section [amending this section], the Secretary of Homeland Security shall—

(i) identify the 370 miles, or other mileage determined by the Secretary, whose authority to determine other mileage shall expire on December 31, 2008, along the southwest border where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States; and

(ii) not later than December 31, 2008, complete construction of reinforced fencing along the miles identified under clause (i).

(C) **Consultation.—**

(i) **In general.**—In carrying out this section, the Secretary of Homeland Security shall consult with the Secretary of the Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed.

(ii) **Savings provision.**—Nothing in this subparagraph may be construed to—

(I) create or negate any right of action for a State, local government, or other person or entity affected by this subsection; or

(II) affect the eminent domain laws of the United States or of any State.

(D) **Limitation on requirements.**—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary of Homeland Security to install fencing, physical barriers, roads, lighting, cameras, and sensors in a particular location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.

(2) **Prompt acquisition of necessary easements.**—The Attorney General, acting under the authority conferred in section 103(b) of the Immigration and Nationality Act [8 U.S.C. 1103(b)] (as inserted by subsection (d)), shall promptly acquire such easements as may be necessary to carry out this subsection and shall commence construction of fences immediately following such acquisition (or conclusion of portions thereof).

(3) **Safety features.**—The Attorney General, while constructing the additional fencing under this subsection, shall incorporate such safety features into the design of the fence system as are necessary to ensure the well-being of border patrol agents deployed within or in near proximity to the system.

(4) **Authorization of appropriations.**—There are authorized to be appropriated such sums as may be necessary to carry out this subsection. Amounts appropriated under this paragraph are authorized to remain available until expended.

(c) **Waiver.**—

(1) **In general.**—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section.

Any such decision by the Secretary shall be effective upon being published in the Federal Register.

(2) **Federal court review.—**

(A) **In general.**—The district courts of the United States shall have exclusive jurisdiction to hear all causes or claims arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1). A cause of action or claim may only be brought alleging a violation of the Constitution of the United States. The court shall not have jurisdiction to hear any claim not specified in this subparagraph.

(B) **Time for filing of complaint.**—Any cause or claim brought pursuant to subparagraph (A) shall be filed not later than 60 days after the date of the action or decision made by the Secretary of Homeland Security. A claim shall be barred unless it is filed within the time specified.

(C) **Ability to seek appellate review.**—An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.

Department of Homeland Security, Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended ("Procurement Waivers")

TABLE 4—REGISTRANTS OF REGISTRATIONS CANCELLED FOR NON-RESPONSE/PAYMENT OF 2025 MAINTENANCE FEE—Continued

Company No.	Company name and address
99764	DEAR PLANET LABS, INC., 169 WEST ORANGETHROPE AVENUE, PLACENTIA, CA 92870.
100091	GREENOLOGY PRODUCTS, LLC, 7020 CYNROW BLVD., RALEIGH, NC 27615.
100305	CENTURY PHARMACEUTICALS LTD, 406 WORLD TRADE CENTER, SAYAJIGUNJ, VADODARA, INDIA.
100368	PYROCK CHEMICAL, 2110 RANCH ROAD 620 S, UNIT 342712, LAKEWAY, TX 78734.
100894	BGREEN, INC., 72877 DINAH SHORE DRIVE, SUITE 103, RANCHO MIRAGE, CA 92270.
101607	THE BYE BYE COMPANY, 12907 LEMUR LANE, CYPRESS, TX 77429.
102280	ALZCHEM LLC, 11390 OLD ROSWELL ROAD, SUITE 124, ALPHARETTA, GA 30009.
102563	AGROSHIELD, 15 HENSON LANE, FLORISSANT, MO 63031.

III. Summary of Public Comments Received and Agency Response to Comments

As indicated in Unit I.C., EPA did receive comments in response to the notice of receipt that published in the **Federal Register** of August 5, 2025, including comments from registrants to withdraw their requests to cancel their registrations. Accordingly, EPA has removed those products from Table 3 and the company name and address from Table 4.

IV. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States, and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows.

Registrants may continue to sell and distribute existing stocks of these products until January 15, 2026. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Tables 1 and 3 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 9, 2025.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2025–19553 Filed 10–14–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of Arizona.

DATES: This determination takes effect on October 15, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol Tucson Sector is an area of high illegal entry. Between fiscal year 2021 and July 2025, the United States Border Patrol (''Border Patrol'') apprehended over 1,318,645 illegal aliens attempting to enter the United States between border crossings in the Tucson Sector. In that same time period, Border Patrol seized

over 16,600 pounds of marijuana, over 473 pounds of cocaine, over 145 pounds of heroin, over 8,224 pounds of methamphetamine, and over 3,079 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can be done, however. Because the Tucson Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States or smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the Tucson Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in the Tucson Sector.

Section 2

I determine that the Tucson Sector, which is in the vicinity of the United States border and located in the state of Arizona, is an area of high illegal entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States and achieve and maintain operational control of the border in the Tucson Sector pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the Tucson Sector, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA. Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive with respect to all contracting actions necessary for the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the Tucson Sector, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: the Administrative Procedure Act (5 U.S.C. 551, *et seq.*); 15 U.S.C. 63l(j); 15 U.S.C. 637(d)–(f), and (h)–(k); 15 U.S.C. 644; 15 U.S.C. 657q; 28 U.S.C. 1491(b) (to the extent that it authorizes injunctive relief or any form thereof that would interfere with the expeditious construction of barriers and roads); 31 U.S.C. 3553(c) and (d)(3); 40 U.S.C. 1101 *et seq.;* 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e)–(g); 41 U.S.C. 1901(c), (d), and (e); 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a)–(c); 41 U.S.C. 3307(b)–(d), (e)(4), and (e)(5)(C); 41 U.S.C. 3309; 41 U.S.C. 3502; Section 880 of Division A, Title VIII of Public Law 115–232 (41 U.S.C. 3701, Note); 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4105(c)–(d), (f)(2)–(3), (g); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 13 CFR part 125, and 127.503(g); 48 CFR 7.102; 48 CFR part 10; 48 CFR 16.504(c); 48 CFR 16.505(a)(4), (a)(8)(i) and (iii), (a)(9), and (b); 48 CFR 17.207; 48 CFR 22.404–5; 48 CFR subpart 22.5; 48 CFR 28.102–1(c); 48 CFR 33.103(f).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–19550 Filed 10–14–25; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of California.

DATES: This determination takes effect on October 15, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol El Centro Sector is an area of high illegal entry. Between fiscal year 2021 and July

2025, the United States Border Patrol (''Border Patrol'') apprehended over 204,085 illegal aliens attempting to enter the United States between border crossings in the El Centro Sector. In that same time period, Border Patrol seized over 1,562 pounds of marijuana, over 2,678 pounds of cocaine, over 206 pounds of heroin, over 18,130 pounds of methamphetamine, and over 936 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can be done, however. Because the El Centro Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States or smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the El Centro Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in the El Centro Sector.

Section 2

I determine that the El Centro Sector, which is in the vicinity of the United States border and located in the state of California, is an area of high illegal entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States and achieve and maintain operational control of the border in the El Centro Sector pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the El Centro Sector, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA. Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive with respect to all contracting actions necessary for the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the El Centro Sector, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: the Administrative Procedure Act (5 U.S.C. 551, *et seq.*); 15 U.S.C. 63l(j); 15 U.S.C. 637(d)–(f), and (h)–(k); 15 U.S.C. 644; 15 U.S.C. 657q; 28 U.S.C. 1491(b) (to the extent that it authorizes injunctive relief or any form thereof that would interfere with the expeditious construction of barriers and roads); 31 U.S.C. 3553(c) and (d)(3); 40 U.S.C. 1101 *et seq.;* 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e)–(g); 41 U.S.C. 1901(c), (d), and (e); 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a)–(c); 41 U.S.C. 3307(b)–(d), (e)(4), and (e)(5)(C); 41 U.S.C. 3309; 41 U.S.C. 3502; Section 880 of Division A, Title VIII of Public Law 115–232 (41 U.S.C. 3701, Note); 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4105(c)–(d), (f)(2)–(3), (g); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 13 CFR part 125, and 127.503(g); 48 CFR 7.102; 48 CFR part 10; 48 CFR 16.504(c); 48 CFR 16.505(a)(4), (a)(8)(i) and (iii), (a)(9), and (b); 48 CFR 17.207; 48 CFR 22.404–5; 48 CFR subpart 22.5; 48 CFR 28.102–1(c); 48 CFR 33.103(f).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–19544 Filed 10–14–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of Texas.

DATES: This determination takes effect on October 15, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction

of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol Del Rio Sector is an area of high illegal entry. Between fiscal year 2021 and July 2025, the United States Border Patrol (''Border Patrol'') apprehended over 1,408,615 illegal aliens attempting to enter the United States between border crossings in the Del Rio Sector. In that same time period, Border Patrol seized over 275 pounds of marijuana, over 131 pounds of cocaine, over 18 pounds of heroin, over 353 pounds of methamphetamine, and over five pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can be done, however. Because the Del Rio Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States or smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the Del Rio Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in the Del Rio Sector.

Section 2

I determine that the Del Rio Sector, which is in the vicinity of the United States border and located in the state of Texas, is an area of high illegal entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States and achieve and maintain operational control of the border in the Del Rio Sector pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the Del Rio Sector, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA. Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive with respect to all contracting actions necessary for the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the Del Rio Sector, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: the Administrative Procedure Act (5 U.S.C. 551, *et seq.*); 15 U.S.C. 63l(j); 15 U.S.C. 637(d)–(f), and (h)–(k); 15 U.S.C. 644; 15 U.S.C. 657q; 28 U.S.C. 1491(b) (to the extent that it authorizes injunctive relief or any form thereof that would interfere with the expeditious construction of barriers and roads); 31 U.S.C. 3553(c) and (d)(3); 40 U.S.C. 1101 *et seq.;* 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e)–(g); 41 U.S.C. 1901(c), (d), and (e); 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a)–(c); 41 U.S.C. 3307(b)–(d), (e)(4), and (e)(5)(C); 41 U.S.C. 3309; 41 U.S.C. 3502; Section 880 of Division A, Title VIII of Public Law 115–232 (41 U.S.C. 3701, Note); 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4105(c)–(d), (f)(2)–(3), (g); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 13 CFR part 125, and 127.503(g); 48 CFR 7.102; 48 CFR part 10; 48 CFR 16.504(c); 48 CFR 16.505(a)(4), (a)(8)(i) and (iii), (a)(9), and (b); 48 CFR 17.207; 48 CFR 22.404–5; 48 CFR subpart 22.5; 48 CFR 28.102–1(c); 48 CFR 33.103(f).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–19546 Filed 10–14–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of Texas.

DATES: This determination takes effect on October 15, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain

operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol Rio Grande Valley Sector is an area of high illegal entry. Between fiscal year 2021 and July 2025, the United States Border Patrol (''Border Patrol'') apprehended over 1,523,670 illegal aliens attempting to enter the United States between border crossings in the Rio Grande Valley Sector. In that same time period, Border Patrol seized over 166,198 pounds of marijuana, over 7,068 pounds of cocaine, over 87 pounds of heroin, over 5,885 pounds of methamphetamine, and over 118 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can be done, however. Because the Rio Grande Valley Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States or smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the Rio Grande Valley Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in the Rio Grande Valley Sector.

Section 2

I determine that the Rio Grande Valley Sector, which is in the vicinity of the United States border and located in the state of Texas, is an area of high illegal entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States and achieve and maintain operational control of the border in the Rio Grande Valley Sector pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the Rio Grande Valley Sector, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA. Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive with respect to all contracting actions necessary for the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the Rio Grande Valley Sector, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: the Administrative Procedure Act (5 U.S.C. 551, *et seq.*); 15 U.S.C. 63l(j); 15 U.S.C. 637(d)–(f), and (h)–(k); 15 U.S.C. 644; 15 U.S.C. 657q; 28 U.S.C. 1491(b) (to the extent that it authorizes injunctive relief or any form thereof that would interfere with the expeditious construction of barriers and roads); 31 U.S.C. 3553(c) and (d)(3); 40 U.S.C. 1101 *et seq.;* 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e)–(g); 41 U.S.C. 1901(c), (d), and (e); 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a)–(c); 41 U.S.C. 3307(b)–(d), (e)(4), and (e)(5)(C); 41 U.S.C. 3309; 41 U.S.C. 3502; Section 880 of Division A, Title VIII of Public Law 115–232 (41 U.S.C. 3701, Note); 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4105(c)–(d), (f)(2)–(3), (g); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 13 CFR part 125, and 127.503(g); 48 CFR 7.102; 48 CFR part 10; 48 CFR 16.504(c); 48 CFR 16.505(a)(4), (a)(8)(i) and (iii), (a)(9), and (b); 48 CFR 17.207; 48 CFR 22.404–5; 48 CFR subpart 22.5; 48 CFR 28.102–1(c); 48 CFR 33.103(f).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–19548 Filed 10–14–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of Arizona.

DATES: This determination takes effect on October 15, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct.

26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol Yuma Sector is an area of high illegal entry. Between fiscal year 2021 and July 2025, the United States Border Patrol (''Border Patrol'') apprehended over 659,900 illegal aliens attempting to enter the United States between border crossings in the Yuma Sector. In that same time period, Border Patrol seized over 1,628 pounds of marijuana, over 437 pounds of cocaine, over 45 pounds of heroin, over 2,634 pounds of methamphetamine, and over 1,554 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can be done, however. Because the Yuma Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States or smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the Yuma Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in the Yuma Sector.

Section 2

I determine that the Yuma Sector, which is in the vicinity of the United States border and located in the state of Arizona, is an area of high illegal entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States and achieve and maintain operational control of the border in the Yuma Sector pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the Yuma Sector, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA. Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive with respect to all contracting actions necessary for the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the Yuma Sector, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: the Administrative Procedure Act (5 U.S.C. 551, *et seq.*); 15 U.S.C. 63l(j); 15 U.S.C. 637(d)–(f), and (h)–(k); 15 U.S.C. 644; 15 U.S.C. 657q; 28 U.S.C. 1491(b) (to the extent that it authorizes injunctive relief or any form thereof that would interfere with the expeditious construction of barriers and roads); 31 U.S.C. 3553(c) and (d)(3); 40 U.S.C. 1101 *et seq.;* 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e)–(g); 41 U.S.C. 1901(c), (d), and (e); 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a)–(c); 41 U.S.C. 3307(b)–(d), (e)(4), and (e)(5)(C); 41 U.S.C. 3309; 41 U.S.C. 3502; Section 880 of Division A, Title VIII of Public Law 115–232 (41 U.S.C. 3701, Note); 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4105(c)–(d), (f)(2)–(3), (g); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 13 CFR part 125, and 127.503(g); 48 CFR 7.102; 48 CFR part 10; 48 CFR 16.504(c); 48 CFR 16.505(a)(4), (a)(8)(i) and (iii), (a)(9), and (b); 48 CFR 17.207; 48 CFR 22.404–5; 48 CFR subpart 22.5; 48 CFR 28.102–1(c); 48 CFR 33.103(f).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–19551 Filed 10–14–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of Texas.

DATES: This determination takes effect on October 15, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public

Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol Big Bend Sector is an area of high illegal entry. Between fiscal year 2021 and July 2025, the United States Border Patrol (''Border Patrol'') apprehended over 88,595 illegal aliens attempting to enter the United States between border crossings in the Big Bend Sector. In that same time period, Border Patrol seized over 86,851 pounds of marijuana, over 863 pounds of cocaine, over 12 pounds of heroin, over 1,084 pounds of methamphetamine, and over 94 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can be done, however. Because the Big Bend Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States or smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the Big Bend Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in the Big Bend Sector.

Section 2

I determine that the Big Bend Sector, which is in the vicinity of the United States border and located in the state of Texas, is an area of high illegal entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States and achieve and maintain operational control of the border in the Big Bend Sector pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the Big Bend Sector, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA. Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive with respect to all contracting actions necessary for the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the Big Bend Sector, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: the Administrative Procedure Act (5 U.S.C. 551, *et seq.*); 15 U.S.C. 63l(j); 15 U.S.C. 637(d)–(f), and (h)–(k); 15 U.S.C. 644; 15 U.S.C. 657q; 28 U.S.C. 1491(b) (to the extent that it authorizes injunctive relief or any form thereof that would interfere with the expeditious construction of barriers and roads); 31 U.S.C. 3553(c) and (d)(3); 40 U.S.C. 1101 *et seq.;* 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e)–(g); 41 U.S.C. 1901(c), (d), and (e); 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a)–(c); 41 U.S.C. 3307(b)–(d), (e)(4), and (e)(5)(C); 41 U.S.C. 3309; 41 U.S.C. 3502; Section 880 of Division A, Title VIII of Public Law 115–232 (41 U.S.C. 3701, Note); 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4105(c)–(d), (f)(2)–(3), (g); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 13 CFR part 125, and 127.503(g); 48 CFR 7.102; 48 CFR part 10; 48 CFR 16.504(c); 48 CFR 16.505(a)(4), (a)(8)(i) and (iii), (a)(9), and (b); 48 CFR 17.207; 48 CFR 22.404–5; 48 CFR subpart 22.5; 48 CFR 28.102–1(c); 48 CFR 33.103(f).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–19543 Filed 10–14–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of Texas.

DATES: This determination takes effect on October 15, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a

number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol Laredo Sector is an area of high illegal entry. Between fiscal year 2021 and July 2025, the United States Border Patrol (''Border Patrol'') apprehended over 308,260 illegal aliens attempting to enter the United States between border crossings in the Laredo Sector. In that same time period, Border Patrol seized over 43,738 pounds of marijuana, over 576 pounds of cocaine, over 104 pounds of heroin, over 1,246 pounds of methamphetamine, and over 14 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can be done, however. Because the Laredo Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States or smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the Laredo Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in the Laredo Sector.

Section 2

I determine that the Laredo Sector, which is in the vicinity of the United States border and located in the state of Texas, is an area of high illegal entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States and achieve and maintain operational control of the border in the Laredo Sector pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the Laredo Sector, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA. Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive with respect to all contracting actions necessary for the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the Laredo Sector, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: the Administrative Procedure Act (5 U.S.C. 551, *et seq.*); 15 U.S.C. 63l(j); 15 U.S.C. 637(d)–(f), and (h)–(k); 15 U.S.C. 644; 15 U.S.C. 657q; 28 U.S.C. 1491(b) (to the extent that it authorizes injunctive relief or any form thereof that would interfere with the expeditious construction of barriers and roads); 31 U.S.C. 3553(c) and (d)(3); 40 U.S.C. 1101 *et seq.;* 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e)–(g); 41 U.S.C. 1901(c), (d), and (e); 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a)–(c); 41 U.S.C. 3307(b)–(d), (e)(4), and (e)(5)(C); 41 U.S.C. 3309; 41 U.S.C. 3502; Section 880 of Division A, Title VIII of Public Law 115–232 (41 U.S.C. 3701, Note); 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4105(c)–(d), (f)(2)–(3), (g); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 13 CFR part 125, and 127.503(g); 48 CFR 7.102; 48 CFR part 10; 48 CFR 16.504(c); 48 CFR 16.505(a)(4), (a)(8)(i) and (iii), (a)(9), and (b); 48 CFR 17.207; 48 CFR 22.404–5; 48 CFR subpart 22.5; 48 CFR 28.102–1(c); 48 CFR 33.103(f).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–19547 Filed 10–14–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the states of New Mexico and Texas.

DATES: This determination takes effect on October 15, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to

deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol El Paso Sector is an area of high illegal entry. Between fiscal year 2021 and July 2025, the United States Border Patrol (''Border Patrol'') apprehended over 1,229,400 illegal aliens attempting to enter the United States between border crossings in the El Paso Sector. In that same time period, Border Patrol seized over 14,468 pounds of marijuana, over 1,347 pounds of cocaine, over 42 pounds of heroin, over 3,086 pounds of methamphetamine, and over 254 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can be done, however. Because the El Paso Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States or smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the El Paso Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in the El Paso Sector.

Section 2

I determine that the El Paso Sector. which is in the vicinity of the United States border and located in the states of New Mexico and Texas, is an area of high illegal entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States and achieve and maintain operational control of the border in the El Paso Sector pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the El Paso Sector, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA. Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive with respect to all contracting actions necessary for the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the El Paso Sector, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: the Administrative Procedure Act (5 U.S.C. 551, *et seq.*); 15 U.S.C. 63l(j); 15 U.S.C. 637(d)–(f), and (h)–(k); 15 U.S.C. 644; 15 U.S.C. 657q; 28 U.S.C. 1491(b) (to the extent that it authorizes injunctive relief or any form thereof that would interfere with the expeditious construction of barriers and roads); 31 U.S.C. 3553(c) and (d)(3); 40 U.S.C. 1101 *et seq.;* 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e)–(g); 41 U.S.C. 1901(c), (d), and (e); 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a)–(c); 41 U.S.C. 3307(b)–(d), (e)(4), and (e)(5)(C); 41 U.S.C. 3309; 41 U.S.C. 3502; Section 880 of Division A, Title VIII of Public Law 115–232 (41 U.S.C. 3701, Note); 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4105(c)–(d), (f)(2)–(3), (g); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 13 CFR part 125, and 127.503(g); 48 CFR 7.102; 48 CFR part 10; 48 CFR 16.504(c); 48 CFR 16.505(a)(4), (a)(8)(i) and (iii), (a)(9), and (b); 48 CFR 17.207; 48 CFR 22.404–5; 48 CFR subpart 22.5; 48 CFR 28.102–1(c); 48 CFR 33.103(f).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–19545 Filed 10–14–25; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of California.

DATES: This determination takes effect on October 15, 2025.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States,

including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol San Diego Sector is an area of high illegal entry. Between fiscal year 2021 and July 2025, the United States Border Patrol (''Border Patrol'') apprehended over 922,000 illegal aliens attempting to enter the United States between border crossings in the San Diego Sector. In that same time period, Border Patrol seized over 2,465 pounds of marijuana, over 9,873 pounds of cocaine, over 565 pounds of heroin, over 29,675 pounds of methamphetamine, and over 4,016 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can be done, however. Because the San Diego Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States or smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the San Diego Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in the San Diego Sector.

Section 2

I determine that the San Diego Sector, which is in the vicinity of the United States border and located in the state of California, is an area of high illegal entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States and achieve and maintain operational control of the border in the San Diego Sector pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the San Diego Sector, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA. Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive with respect to all contracting actions necessary for the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the San Diego Sector, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: the Administrative Procedure Act (5 U.S.C. 551, *et seq.*); 15 U.S.C. 63l(j); 15 U.S.C. 637(d)–(f), and (h)–(k); 15 U.S.C. 644; 15 U.S.C. 657q; 28 U.S.C. 1491(b) (to the extent that it authorizes injunctive relief or any form thereof that would interfere with the expeditious construction of barriers and roads); 31 U.S.C. 3553(c) and (d)(3); 40 U.S.C. 1101 *et seq.;* 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e)–(g); 41 U.S.C. 1901(c), (d), and (e); 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a)–(c); 41 U.S.C. 3307(b)–(d), (e)(4), and (e)(5)(C); 41 U.S.C. 3309; 41 U.S.C. 3502; Section 880 of Division A, Title VIII of Public Law 115–232 (41 U.S.C. 3701, Note); 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4105(c)–(d), (f)(2)–(3), (g); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 13 CFR part 125, and 127.503(g); 48 CFR 7.102; 48 CFR part 10; 48 CFR 16.504(c); 48 CFR 16.505(a)(4), (a)(8)(i) and (iii), (a)(9), and (b); 48 CFR 17.207; 48 CFR 22.404–5; 48 CFR subpart 22.5; 48 CFR 28.102–1(c); 48 CFR 33.103(f).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2025–19549 Filed 10–14–25; 8:45 am]

BILLING CODE 9111–14–P

POSTAL REGULATORY COMMISSION

Docket Nos. MC2025–1732 and K2025–1723; Order No. 9234]

Competitive Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recent Postal Service filing requesting to add a new Mid-Market Non-Published Rates (MMNPR–3) to the Competitive Product List. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 14, 2025.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Department of Homeland Security, Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 91 Fed. Reg. 7297 (Feb. 17, 2026)

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Shree Ram Singh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 672–6175, *singhshr@mail.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Chemical Synthesis and Biosynthesis Study Section.

Date: March 19–20, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Shan Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–4390, *shan.wang@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neuronal Communications Study Section.

Date: March 19–20, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Wenyan Han, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 1010D, Bethesda, MD 20892, (301) 594–2337, *wenyan.han@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Cancer Research.

Date: March 19–20, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health Rockledge II 6701 Rockledge Drive Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Caterina Bianco, MD, Ph.D., Chief, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 435–0000, *biancoc@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Biomedical Data Repositories and Knowledgebases.

Date: March 19, 2026.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: David R. Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Chemistry, Biochemistry and Biophysics.

Date: March 19–20, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Dennis Pantazatos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–2381, *dennis.pantazatos@nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Viral Dynamics and Transmission Study Section.

Date: March 19–20, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Alfredo J. Guerra, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–2569, *alfredo.guerra@nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Developmental Brain Disorders Study Section.

Date: March 19–20, 2026

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Meysam Yazdankhah, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 435–5000, *meysam.yazdankhah@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 12, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–03085 Filed 2–13–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in the state of Texas.

DATES: This determination takes effect on February 17, 2026.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct.

26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol Big Bend Sector is an area of high illegal entry. Between fiscal year 2021 and fiscal year 2025, Border Patrol apprehended over 89,000 illegal aliens attempting to enter the United States between border crossings in the Big Bend Sector. In that same time period Border Patrol seized over 87,574 pounds of marijuana, over 867 pounds of cocaine, over 1,156 pounds of methamphetamine, over 12 pounds of heroin, and over 94 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can and must be done, however. As the statistics cited above demonstrate, the Big Bend Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States and smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the Big Bend Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in a segment of the border in the Big Bend Sector. The segment where such construction will occur is referred to herein as the ''project area,'' which is more specifically described in Section 2 below.

Section 2

I determine that the following area in the vicinity of the United States border, located in the state of Texas within the U.S. Border Patrol Big Bend Sector, is an area of high illegal entry (the ''project area''): Starting at approximately GPS point 31.037623, −105.579877 and extending south and east to approximately GPS point 29.325866, −104.046466.

There is presently an acute and immediate need to construct additional physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project area pursuant to section 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of additional physical barriers and roads in the project area, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project area, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the National Trails System Act (16 U.S.C. 1241 *et seq.*), the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.* and 16 U.S.C. 431a *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 320301–320303 & 320101–320106); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); Section 438 of the Energy Independence and Security Act (42 U.S.C. 17094); the National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*)); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); 43 U.S.C. 387; the Wild and Scenic Rivers Act (Pub. L. 90–542 (16 U.S.C. 1281 *et seq.*); and the Federal Land Policy and Management Act (Pub L. 94–579 (43 U.S.C. 1701 *et seq.*)).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kristi Noem,

Secretary of Homeland Security.

[FR Doc. 2026–02994 Filed 2–13–26; 8:45 am]

BILLING CODE 9111–14–P

Department of Homeland Security, Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 91 Fed. Reg. 27969 (May 15, 2026)

several solid cancers, including breast cancer and melanoma.

- Combination of hetIL-15 with agents already approved (Fenofibrate, Flt–3) decreases regulatory risk and thus expedites commercialization.
- Overcoming IL–15 toxicity at clinically relevant doses.

Dated: May 13, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026–09808 Filed 5–14–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in the state of Texas.

DATES: This determination takes effect on May 15, 2026.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate, the President's Executive Order on Securing Our Borders directs that I take all appropriate action to deploy and construct physical barriers to ensure complete operational control of the southern border of the United States. Executive Order 14165, section 3 (Jan. 20, 2025).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, Tit. I, section 102, 110 Stat. 3009–546, 3009–554 (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, Tit. I, section 102, 119 Stat. 302, 306 (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Tit. V, section 564, 121 Stat. 2042, 2090. In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated that in carrying out the authority of section 102(a), I provide for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors to achieve and maintain operational control of the border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol Big Bend Sector is an area of high illegal entry. Between fiscal year 2021 and fiscal year 2025, Border Patrol apprehended over 89,000 illegal aliens attempting to enter the United States between border crossings in the Big Bend Sector. In that same time period Border Patrol seized over 87,574 pounds of marijuana, over 867 pounds of cocaine, over 1,156 pounds of methamphetamine, over 12 pounds of heroin, and over 94 pounds of fentanyl.

Since the President took office, DHS has delivered the most secure border in history. More can and must be done, however. As the statistics cited above demonstrate, the Big Bend Sector is an area of high illegal entry where illegal aliens regularly attempt to enter the United States and smuggle illicit drugs, and given my mandate to achieve and maintain operational control of the border, I must use my authority under section 102 of IIRIRA to install additional barriers and roads in the Big Bend Sector. Therefore, DHS will take immediate action to construct additional barriers and roads in a segment of the border in the Big Bend Sector. The segment where such construction will occur is referred to herein as the ''project area,'' which is more specifically described in Section 2 below.

Section 2

I determine that the following area in the vicinity of the United States border, located in the state of Texas within the U. S. Border Patrol Big Bend Sector is an area of high illegal entry (the ''project area''): Starting at approximately GPS point 29.7275568–101.6848011 and extending east to approximately GPS point 29.727557–102.684802.

There is presently an acute and immediate need to construct additional physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project area pursuant to section 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of additional physical barriers and roads in the project area, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project area, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915, as amended, repealed, or replaced by Pub.

L. 113–287 (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, as amended, repealed, or replaced by Pub. L. 113–287 (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.* and 16 U.S.C. 431a *et seq.,* now codified 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 320301–320303 & 320101–320106); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); Section 438 of the Energy Independence and Security Act (42 U.S.C. 17094); the National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*)); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); 43 U.S.C. 387; the Wild and Scenic Rivers Act (Pub. L. 90–542 (16 U.S.C. 1281 *et seq.*); the Federal Land Policy and Management Act (Pub L. 94–579 (43 U.S.C. 1701 *et seq.*)); the Wilderness Act (Pub. L. 88–577 (16 U.S.C. 1131 *et seq.*)); the National Park Service Organic Act and the National Park Service General Authorities Act (Pub. L. 64–235, 39 Stat. 535 and Pub. L. 91–383, 84 Stat. 825 as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (formerly codified at 16 U.S.C. 1, 2–4 and 16 U.S.C. 1a-1 *et seq.,* now codified at 54 U.S.C. 100101–100102, 54 U.S.C. 100301–100303, 54 U.S.C. 100501–100507, 54 U.S.C. 100701–100707, 54 U.S.C. 100721–100725, 54 U.S.C. 100751–100755, 54 U.S.C. 100901–100906, 54 U.S.C. 102101–102102)); 16 U.S.C. 156; 16 U.S.C. 157; 16 U.S.C. 157c; and 16 U.S.C. 157d.

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Markwayne Mullin,

Secretary of Homeland Security,

[FR Doc. 2026–09752 Filed 5–14–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7109–N–07; OMB Control No.: 2577–0294]

60-Day Notice of Proposed Information Collection: Moving to Work Amendment to Consolidated Annual Contributions Contract

AGENCY: Office of the Assistant Secretary for Public and Indian Housing (PIH), HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* July 14, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to *www.regulations.gov.* Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Dawn Martin, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Dawn Martin, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *PIH-PRAPublicComments@hud.gov;* telephone 202–402–6488. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of available documents submitted to OMB may be obtained from Ms. Martin.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Moving to Work Amendment to Consolidated Annual Contributions Contract(s).

OMB Approval Number: 2577–0294.

Type of Request: Renewal of a currently approved collection.

Form Number: HUD–50166.

Description of the need for the information and proposed use: The proposed Moving to Work (MTW) Amendment to the Annual Contributions Contract(s) (ACC), signed by HUD and the selected public housing agency (PHA), is necessary for HUD to implement the expansion of the MTW program enacted by Congress in the Consolidated Appropriations Act, 2016 (Pub. L. 114–113, approved December 18, 2015) (2016 Appropriation). It establishes the basic terms and conditions that will apply to new PHAs participating in the MTW demonstration and to existing MTW PHAs seeking to now be governed pursuant to the 2016 Appropriation. Specifically, the MTW ACC Amendment amends any ACCs for the public housing or housing choice voucher programs in effect between the PHA and HUD to establish the PHA's designation as an MTW agency and to operate in accordance with the requirements of the MTW demonstration program, as amended by Public Law 114–113. The MTW ACC Amendment establishes the terms of participation in MTW, including the requirement that the PHA follow the MTW Operations Notice and its respective Selection Notice. The PHAs remain subject to the applicable ACCs to the extent that the provisions thereof are not otherwise waived by the Operations Notice or the applicable MTW Selection Notice. Additionally, the MTW ACC

First Amended and Second Supplemented Complaint for Declaratory and Injunctive Relief, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Aug. 11, 2026)

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** Admitted Pro Hac Vice*

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH; DANNY WILLIAM MILLER JUNIOR; and CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiffs,

v.

MARKWAYNE MULLIN, in his official capacity as Secretary of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; and U.S. CUSTOMS AND BORDER PROTECTION,

Defendants.

Case No. 3:26-cv-01099-KC

FIRST AMENDED AND SECOND SUPPLEMENTED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

> *Colorful immensity and primeval magnificence fill the beholder with a great sense of upheaval, a feeling that gods older than ours clapped their hands to command the canyons into sudden glorious being. The pedestrian mind of man is linked for an instant with the force that created man and mountain. Up among the craggy cliffs and precipitous ledges there is a sense of gigantic turbulence. One feels that the gods are still engaged in a primordial rough and tumble, an Olympian roughhouse that gouges and rends chasms through the heart of the mountains . . . No man has altered that country, but it has altered many a man.*

Mary Lasswell, *Coloraturas in the Canyon* (1958).

1. In this action, Plaintiffs challenge the U.S. Department of Homeland Security's ("DHS" or "the Agency") unconstitutional repeal of bedrock environmental and historic protections and dozens of other federal laws to expedite massive border wall construction on the Texas-Mexico border that will destroy iconic sections of the Rio Grande corridor in the United States while tarnishing the carefully wrought web of laws meant to protect a vast universe of biological, historic, cultural, and other interests.

2. Texas's far west region is called the "Big Bend" because it encompasses the Rio Grande's south and then northward curvature around the Chisos mountains. The river corridor is life-sustaining for an extraordinarily diverse range of rare and endemic plants and animals in the Chihuahuan Desert, houses abundant archeological, cultural, and historic resources, and boasts some of the darkest skies in the continental U.S. Mammals such as the pronghorn, black bear, javelina, bighorn sheep, and a unique type of whitetail deer, the Carmen Mountain deer, roam this region.

3. On February 17, June 9, and July 27, 2026, the Secretary of Homeland Security announced that the Agency will construct "additional barriers and roads" in the Big Bend region: one project area spans over 250 miles along the Rio Grande ("West Wall Project"), the second project area encompasses Big Bend National Park and covers an additional 180 miles of border

("National Park Wall Project"), and the third project area stretches downriver from the National Park an additional 176 miles, ending at Lake Amistad ("Lower Canyons Wall Project") (together, "Big Bend Wall Project" or "Project"). *See* Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 91 Fed. Reg. 7297 (Feb. 17, 2026), *as amended by* Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 91 Fed. Reg. 40550 (July 2, 2026) (together, the "West Waiver");[1] Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 91 Fed. Reg. 27969 (May 15, 2026), *as amended by* Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 91 Fed. Reg. 34831 (June 9, 2026) (together, the "National Park Waiver");[2] Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended, 91 Fed. Reg. 46939 (July 27, 2026) (the "Lower Canyons Waiver") (together, with the West Waiver and National Park Waiver, the "Big Bend Waivers").

4. The West Waiver authorizes immense construction of walls, lights, and roads, including the erection of new 30-foot-tall bollard walls sprawling from near Quitman Point, Texas, traversing along the Rio Grande, through much of Big Bend Ranch State Park, and ending near Closed Canyon. The National Park Waiver picks up where the West Waiver ends, authorizing the same types of construction through the remainder of the State Park and through the entirety of Big

[1] On July 2, 2026 DHS published another waiver that "amends the February 17, 2026, notice of determination by including additional legal requirements that are being waived." Plaintiffs challenge both waivers and refer to them jointly as the "West Waiver."

[2] The May 15, 2026 waiver contained errors in its description of the project area. As a result, on June 9, 2026 DHS published another waiver described as "a republication of the May 15, 2026, document with the correct project area description." Plaintiffs challenge both waivers and refer to them jointly as the "National Park Waiver."

Bend National Park and Black Gap Wildlife Management Area. The National Park Waiver covers some of the most remote sections of the Rio Grande's Wild and Scenic River designations, and includes Santa Elena Canyon, Mariscal Canyon, Warm Springs, and Boquillas del Carmen. The Lower Canyons Waiver starts where the National Park Waiver ends, encompassing the lower canyons of the Rio Grande's Wild and Scenic River designations and ending at Lake Amistad. Together, the Big Bend Waivers authorize massive projects that would cleave through the Chihuahuan Desert, sever public and wildlife access to iconic sections of the Rio Grande, and mark one of the final—and most consequential—steps towards completing "the Wall."

5. The Chihuahuan Desert is the largest desert in North America and one of the most biologically diverse desert ecosystems on the planet. The Rio Grande, called the Rio Bravo in Mexico, is the primary major river flowing through the Chihuahuan Desert and is the main artery of the Big Bend region. This area boasts extraordinary geology, biology, and history, and lies at the confluence of multiple major ecosystems, including desert grasslands, limestone canyons, sky islands, and riparian corridors.

6. Because this substantial Project will result in numerous adverse impacts on cultural, recreational, wildlife, and environmental resources, DHS typically would be required to comply with the nation's essential environmental protection and historic preservation laws before proceeding with the Project. For example, DHS would be mandated to engage in consultation under the Endangered Species Act ("ESA"), 16 U.S.C. §§ 1531–1544, to evaluate the impacts of the Project on imperiled species and ensure it does not threaten their survival or recovery. Under the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321–4370m-12, DHS would also be required to evaluate the environmental impacts of the Project, receive and respond to public comment, and consider reasonable alternatives. Similarly, under the National Historic Preservation

Act ("NHPA"), 54 U.S.C. §§ 300101–307108, DHS would be required to identify and evaluate the Project's effects on historic properties listed or eligible for listing on the National Register of Historic Places, consult with appropriate parties to assess any adverse effects, and, where such effects are found, develop and evaluate alternatives or modifications to the Project to avoid, minimize, or mitigate such effects.

7. However, the Big Bend Waivers invoked Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. 104-208, Div. C, 110 Stat. 3009-546 (codified at 8 U.S.C. § 1103 note), as amended. IIRIRA grants the DHS Secretary authority to "waive all legal requirements," that the Secretary determines, in their "sole discretion," are "necessary to ensure expeditious construction" of physical barriers and roads in the vicinity of the U.S.-Mexico border "to deter illegal crossings in areas of high illegal entry." 8 U.S.C. § 1103(a), (c) note.

8. Since 2017, IIRIRA Section 102(c) has been deployed as part of an executive program to achieve a complete, cross-continental, border-length barrier through piecemeal, sector-by-sector waivers, including nine sector-wide waivers of procurement laws issued on October 15, 2025 that collectively span the entire southern border, followed by the Big Bend Waivers that purport to set aside NEPA, the ESA, NHPA, and more than two dozen additional federal statutes for this Project.

9. That assertion of sweeping authority—effectively to serially displace multiple statutory regimes across vast geography in service of an unmandated and controversial border-wide barrier bisecting the entire North American continent—threatens the carefully wrought architecture of our Constitution's separation of powers. Article I vests in Congress alone the exclusive legislative authority to make, amend, and repeal laws for the country. U.S. Const.

art. I, § 8. Article II vests in the Executive Branch alone the duty to faithfully execute those laws. U.S. Const. art. II, § 3. Here, five constitutional doctrines speak firmly to find the DHS Secretary's assertion of authority unconstitutional: First, the major questions doctrine requires that Congress "speak clearly" when it delegates powers of "vast economic and political significance." *See, e.g. West Virginia v. EPA,* 597 U.S. 697, 716 (2022) (cleaned up) (quoting *Utility Air Regulatory Group v. EPA,* 573 U.S. 302, 324 (2014)). IIRIRA lacks such a clear statement for a cross-continental border project. Second, if the Big Bend Waivers do not exceed the Secretary's statutory authority as a major question, then the waiver authority provided by IIRIRA Section 102(c) violates the Constitution's foundational principle of the nondelegation doctrine because it lacks an intelligible principle. Third, the Secretary's sweeping invocation of waiver authority violates the Take Care Clause of the U.S. Constitution by disregarding the substantive limitations Congress imposed in IIRIRA. Section 102 confines waiver authority to the "expeditious construction of barriers and roads" in areas of high illegal entry, such that extending the waiver to additional infrastructure—such as lighting, cameras, and sensors—and to areas beyond those statutory limits constitutes a failure to "faithfully execute" applicable laws as required by the Take Care Clause. Fourth, the Big Bend Waivers violate the Constitution's Fifth Amendment because they deprive Plaintiffs of their property and liberty interests by eliminating access to the Rio Grande without any due process. Fifth, IIRIRA's waiver authority unconstitutionally grants the DHS Secretary—an unelected Executive Branch official—the lawmaking power to independently nullify portions of duly enacted statutes without complying with bicameralism and presentment procedures, violating the Presentment Clause.

10. Plaintiffs FRIENDS OF THE RUIDOSA CHURCH, DANNY WILLIAM MILLER JUNIOR, and CENTER FOR BIOLOGICAL DIVERSITY are harmed by the DHS

Secretary's unlawful issuance of the Big Bend Waivers—as well as Section 102(c) of IIRIRA generally—and bring this action seeking declaratory and injunctive relief and other remedies as set forth below.

JURISDICTION

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1346, 5 U.S.C. §§ 701 to 706, and 8 U.S.C. § 1103 note. The causes of action arise under the laws of the United States and the U.S. Constitution, and the United States is a defendant. The relief requested is authorized pursuant to 28 U.S.C. §§ 1651 and 2201 to 2202, and 5 U.S.C. §§ 701 to 706.

VENUE

12. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (e), because the violations are occurring here, and a substantial part of the events or omissions giving rise to the claims have occurred in this district due to decisions made by Federal Defendants, and/or Federal Defendants' failure(s) to act.

PARTIES

13. Plaintiff FRIENDS OF THE RUIDOSA CHURCH ("Friends") is a non-profit organization dedicated to the preservation and maintenance of El Corazón Sagrado de la Iglesia de Jesús (the Sacred Heart of the Church of Jesus) in Ruidosa, Texas. In 2026, the National Trust for Historic Preservation designated El Corazón Sagrado de la Iglesia de Jesús as one of America's 11 Most Endangered Historic Places. Friends' mission is to stabilize, restore, and revitalize the historic site of the church through community engagement, teaching traditional adobe restoration practices, and sustainable preservation efforts. Friends brings this action on its own behalf and on behalf of its adversely affected members.

14. Friends' member Mike Green of Marfa, Texas is an architect and historic

preservation advocate who has long been involved in efforts to preserve and restore the historic Sacred Heart church along the Rio Grande. Mr. Green has been a member of Friends since its inception in 2020 and currently serves as its president. He has been visiting the area since the 1980s and was deeply moved by the church's deteriorating condition, which inspired his involvement in its preservation. Mr. Green has worked alongside other community members to protect, as well as stabilize and restore the structure using traditional adobe construction methods. These efforts include organizing and participating in regular community workshops that bring volunteers together to make adobe bricks and rehabilitate the building. He values the site for its historic, architectural, spiritual, and community significance, as well as its peaceful and remote setting along the border. Mr. Green's longstanding professional, preservation, aesthetic, educational, historic, and spiritual interests would be directly and irreparably harmed by the DHS's planned border infrastructure. Such construction would fragment the landscape, degrade the scenic and spiritual character of the area, and pose a direct physical threat to the fragile adobe structure through vibration and other impacts, threatening ongoing preservation efforts and the community's connection to the historic property.

15. The West Waiver will additionally deprive Mr. Green of the opportunity to participate in the public process typically required for projects of this scale, as well as access to critical information regarding environmental and structural impacts, including the risk that construction-related vibrations could damage the fragile adobe structure. Mr. Green has been visiting the Ruidosa area, including the church grounds, for decades and intends to continue returning regularly—on average, at least once every other month. He plans to return again in the late summer/early fall 2026 to prepare for a community day in November 2026, continuing the preservation work and community engagement efforts central to his involvement.

16. Plaintiff DANNY WILLIAM MILLER JUNIOR is a longtime resident of the Big Bend region of Texas and a professional river and outdoor recreation guide who has lived and worked in the area since 2005. Mr. Miller's personal, professional, and family life is deeply intertwined with the Rio Grande. He resides in Terlingua, Texas, where he has built his home, career, and community around the river and the surrounding landscape. Additionally, Mr. Miller owns and regularly uses a family property situated on the banks of the Rio Grande and neighboring Big Bend Ranch State Park to recreate and access the river.

17. For more than twenty-one years, Mr. Miller has maintained professional and personal ties to the Rio Grande, earning his livelihood as a river guide while also using the river and surrounding lands to recreate with his family. He has worked in the regional recreation industry for decades, including approximately twelve years with Far Flung Outdoor Center. Mr. Miller regularly uses his family property located next to the Rio Grande to access the river for both his professional guiding activities and for personal recreation, including river trips, camping, fishing, and wildlife observation with his family. Mr. Miller frequently visits sections of the river impacted by the Big Bend Waivers.

18. When river conditions are high enough, Mr. Miller visits the Rio Grande and his neighboring property multiple times each week to guide river trips, recreate, and spend time outdoors with his family. During periods of low water, he regularly goes to his property to camp, hike, and observe wildlife near the river. These repeated and ongoing uses of the river are essential to both his livelihood and quality of life. He plans to continue these regular weekly visits for the foreseeable future, unless accessing the river becomes impossible due to border wall construction.

19. The Big Bend Waivers and Project harm Mr. Miller's professional, aesthetic, moral, and recreational interests in accessing and using the river. The wall would block or severely

restrict access at river locations he has used for decades, physically preventing him from safely guiding commercial rafting trips and recreating on the Rio Grande as he has historically done. The Project would also cause ecological fragmentation, result in visual degradation of the landscape, reduce the area's wilderness character, and degrade wildlife habitat. These harms would substantially diminish the area's appeal for Mr. Miller and visitors to the area, which depends on an ecologically intact river ecosystem and barrier-free access to the Rio Grande. As a result, Mr. Miller would lose his primary livelihood as a professional river guide on the Rio Grande and his family would be unable to continue using the river and their neighboring property for boating, fishing, camping, and other recreational activities as they have done in the past. Construction of a border wall, through its restriction of access, ecological fragmentation, and visual degradation of the landscape, would significantly diminish the area's appeal, preventing Mr. Miller from continuing in his profession and harming his ongoing enjoyment of the Rio Grande.

20. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY (the "Center") is a non-profit environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has more than 101,600 members and is headquartered in Tucson, Arizona. The Center brings this action on behalf of its adversely affected members.

21. Center members live in or regularly visit the U.S.-Mexico borderlands region in the Big Bend region and vicinity of the Big Bend Wall Project. Center members regularly use areas impacted by and/or adjacent to the location of the Project for hiking, camping, boating, viewing and researching wildlife, photography, and other vocational, recreational, and professional activities. Center members derive recreational, spiritual, professional, scientific, educational, and aesthetic benefit from their interactions with wildlife, their signs, and their habitat in these areas.

Center members have specific intentions to continue to use and enjoy these areas frequently and on an ongoing basis in the future.

22. For example, Bernadette Devine has been a member of the Center for over 30 years and has lived and worked in the Big Bend region for just as long. Ms. Devine is a former river guide who regularly recreates on the Rio Grande between Redford and the Rancherias launch, including trips to Colorado Canyon and the Hoodoos of Big Bend Ranch State Park, and through the National Park, which she has visited over the years for family recreation, commemorative and memorial river trips, camping, and celebrations of life. She and her family have long used the areas impacted by the Big Bend Waivers for river trips, dark-sky viewing, and gathering with friends and community. Her son, now in his 20s, learned boating and river skills in these waters. Ms. Devine is an educator in the Terlingua Common School District, where she has taught Pre-K through eighth grade, serves as the ESL coordinator, and has led multiple outdoor education trips along the Rio Grande to locations including Colorado Canyon and Fort Leaton, fostering students' connections to the river and public lands. Ms. Devine is directly and irreparably harmed by the Big Bend Waivers and Project, which would degrade the wild and dark-sky character of the landscape, harm river access and cultural sites, and disrupt outdoor education and recreation.

23. As another example, Laiken Jordahl has been a Center member since 2017 and works to protect wildlife, ecosystems, and public lands in his position as National Public Lands Advocate and Borderlands Campaigner for Plaintiff Center. He previously served as a National Park Service Wilderness Fellow, where he prepared in-depth reports assessing threats to wilderness character to national parks, including Big Bend National Park, and assessing such harms as those arising from U.S. Border Patrol activities like road development, infrastructure, and vehicle use. Having spent significant time in the borderlands, including the Texas-Mexico

borderlands, Mr. Jordahl feels a strong emotional connection to public lands, especially along the southern border. As an avid hiker, boater, and camper, he has spent a great deal of time traversing, birdwatching, stargazing, boating, swimming, and wildlife-watching in and near the Rio Grande and Texas Big Bend region. Mr. Jordahl has witnessed firsthand the environmental devastation inflicted by border wall construction elsewhere along the borderlands, and the lasting impacts on soil, vegetation, and the halting of migrating wildlife in their tracks, preventing animals like desert bighorn sheep, mule deer, Sonoran pronghorn, and black bears from finding water, food, and mates. The destruction of one of the last intact wild places along the borderlands, especially one so physically and emotionally tied to his professional and spiritual identity, and a place that Mr. Jordahl has spent years trying to protect, would undoubtedly harm his aesthetic, recreational, and spiritual interests, and forever alter his reasons to be in this region. The Big Bend Waivers will additionally deprive him of the opportunity to participate in the public process normally involved with similar large-scale environmental projects, as well as access to important information regarding the far-reaching environmental impacts likely to occur, such as the likely installation and use of artificial lighting that harms sensitive species who live near or otherwise rely on this important area. Mr. Jordahl first visited the Big Bend region in 2015 and has continued to visit regularly over the years. He intends to continue returning to this region as long as he is alive, and as soon as late summer/early fall of 2026.

24. Similarly, Sam Stavinoha is another Center member who lives and works in the Big Bend region of Texas, where he owns and operates the historic French Company Grocer in Marathon and a hospitality property in Terlingua that serves visitors to Big Bend National Park, Big Bend Ranch State Park, and the Rio Grande corridor. Mr. Stavinoha has lifelong, ongoing aesthetic, recreational, spiritual, environmental, economic, and moral interests in the Big Bend

landscape, which he regularly uses for hiking, boating, river trips, scenic travel, wildlife viewing, and dark-sky recreation. The remote, open, and ecologically intact character of the Rio Grande corridor and surrounding desert is central to his personal well-being. Mr. Stavinoha would be directly and irreparably harmed by DHS's waiver of environmental laws and planned border wall construction in the Big Bend region, which would fragment and industrialize currently wild public lands, degrade scenic and spiritual values, restrict access to river corridors and geologic features, harm wildlife habitat, and deter visitors from his small businesses.

25. The Center itself has a long history of environmental advocacy within the borderlands region and has worked for decades to oppose environmentally harmful border fencing and other harmful border security projects along the U.S.-Mexico border. The Center also has a long history of advocating for the protection of rare wildlife habitats that are impacted by border wall construction, as well as advocating for specific species that are harmed by border wall construction, including endangered jaguars and ocelots, plus Sonoran pronghorns, bighorn sheep, black bears, and mountain lions.

26. Plaintiff Center and its respective members are harmed by Defendants' constitutional violations. The proposed Big Bend Wall Project and the larger, cross-continental border project entail massive construction operations with associated noise, lighting, and other impacts, and which will likely necessitate new land clearing, grading, staging, and other associated activities that will impact the surrounding environment. The construction—which will occur without the benefit of compliance with NEPA, the ESA, NHPA, and other laws—will negatively impact the wildlife habitat and imperiled species described above, which will injure the Center and its members' aesthetic, conservation, recreational, scientific, educational, wildlife preservation, professional, and spiritual interests in those habitats and species. These injuries would be redressed

by the requested relief, as absent the Big Bend Waivers, the harmful construction either would not occur or would only occur after compliance with the requirements of NEPA, the ESA, NHPA, and other laws, which are designed to eliminate, reduce and/or mitigate the negative environmental, historic, and cultural consequences of federal agency actions and provide meaningful public notification, comment, and government transparency.

27. Plaintiffs have no other adequate remedy at law.

28. Defendant MARKWAYNE MULLIN, Secretary of DHS, is sued in his official capacity. Secretary Mullin is the official ultimately responsible under federal law for ensuring that the actions and management decisions of DHS and its component agency U.S. Customs and Border Protection comply with all applicable laws and regulations. Secretary Mullin's predecessor, Kristi Noem, invoked the IIRIRA Section 102(c) waiver authority for the West Waiver on February 17, 2026. Secretary Mullin subsequently invoked the IIRIRA Section 102(c) waiver authority for the National Park Waiver on May 15, 2026 and June 9, 2026; to amend the West Waiver on July 2, 2026; and to issue the Lower Canyons Waiver on July 27, 2026.

29. Defendant U.S. DEPARTMENT OF HOMELAND SECURITY is an agency within the executive branch of the U.S. government. The Department is responsible for ensuring border security along the U.S.-Mexico border consistent with applicable legal requirements.

30. Defendant U.S. CUSTOMS AND BORDER PROTECTION is an agency within DHS and is responsible for ensuring border security along the U.S.-Mexico border consistent with applicable legal requirements.

LEGAL BACKGROUND

A. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996

31. Congress initially enacted IIRIRA in 1996 to, for the first time, provide federal

agencies with specific direction regarding the location and extent of border barriers to be constructed. P.L. 104-208, div. C., codified at 8 U.S.C. § 1103 note. Prior to IIRIRA, the authority to construct border barriers derived from the general statutory responsibility of the Attorney General (now the DHS Secretary) to "guard the boundaries and borders of the United States against the illegal entry of aliens." Immigration and Nationality Act, § 103(a)(5), 8 U.S.C. § 1103(a)(5). That authority continues to exist independent of IIRIRA.

32. While it has been amended several times, IIRIRA Section 102 remains the primary federal statutory provision addressing border barriers. Section 102(a) remains substantively the same as originally enacted in 1996, providing the U.S. Attorney General (now the DHS Secretary) with the general policy direction to "take such actions as may be necessary to install additional physical barriers and roads . . . in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States."

33. At the time Section 102(a) was enacted, Congress also provided that "to the extent the Attorney General determines necessary to ensure expeditious construction of the barriers and roads under this Section," the specific requirements of the ESA and NEPA may be waived.

34. As originally enacted, IIRIRA Section 102(b) "carr[ied] out subsection (a)" by identifying specific border barriers to be constructed, establishing specific deadlines for the construction of such barriers, and other requirements. The only border fence segment initially mandated by Congress under IIRIRA Section 102(b) was the construction of 14 miles of fencing in San Diego, California.

B. The 2005 REAL ID Act Amendments to IIRIRA Section 102(c)

35. Enacted in 2005 as an unrelated legislative rider to the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005," Section

102 of the REAL ID Act amended the Section 102(c) IIRIRA waiver provision in two primary ways. *See* P.L. 109-13, div. B.

36. First, the REAL ID Act amendment expanded the IIRIRA Section 102(c) waiver authority beyond NEPA and the ESA to permit the DHS Secretary "to waive all legal requirements [that] such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads" in areas of high illegal entry. IIRIRA § 102(a), (c). Congress provided neither specific laws to be voided nor any further guidance in such authority granted to the Secretary.

37. Second, Section 102 of the REAL ID Act amended the waiver authority under IIRIRA Section 102(c) to severely restrict judicial review concerning any waiver decision in the following respects: (i) purporting to limit "all causes or claims" arising from any waiver determination made by the DHS Secretary to alleged constitutional violations only; (ii) requiring any such constitutional challenge to be filed not later than 60 days after the Secretary's determination, effective upon being published in the Federal Register; and (iii) eliminating appellate court review of the district court's decision on the alleged constitutional violations and instead only permitting review upon a writ of certiorari to the U.S. Supreme Court.

C. The 2006 Secure Fence Act Amendments to IIRIRA Section 102(b)

38. The Secure Fence Act further amended IIRIRA in 2006. P.L. 109-367. Section 3 of the Secure Fence Act ("Construction of Fencing and Security Improvements in Border Area from Pacific Ocean to Gulf of Mexico") significantly expanded upon IIRIRA Section 102(b). Under the Secure Fence Act amendments to IIRIRA Section 102(b), Congress removed the provisions referring specifically to the 14-miles of fencing in San Diego and instead directed DHS to "provide for at least 2 layers of reinforced fencing [and] the installation of additional physical barriers,

roads, lighting, cameras, and sensors" in five specific segments along the U.S.-Mexico border totaling approximately 850 miles. Former IIRIRA §102(b)(1)(A)(i)-(v).

D. The 2008 Consolidated Appropriations Act Amendments to IIRIRA Section 102(b)

39. Section 564 of the 2008 Consolidated Appropriations Act amended Section 102(b) of IIRIRA once again. P.L. 110-161. These modifications—which remain the law to date—include eliminating the prior Congressional parameters that border barriers be built in specific locations, and instead simply outlining that such barriers be placed "along not less than 700 miles of the southwest border where fencing would be most practical and effective," and amending the "priority areas" requirement to direct that DHS identify and construct 370 miles of border barriers by December 31, 2008. IIRIRA § 102(b)(1)(A)–(B).

40. While giving DHS this new power to unilaterally determine where to undertake environmentally destructive border barrier activities, Congress also maintained its delegation limiting IIRIRA's barrier-building authority to "areas of high illegal entry." IIRIRA § 102(a).

E. IIRIRA Section 102, As Amended

41. The relevant Sections of IIRIRA Section 102, codified at 8 U.S.C. § 1103 note, in its current version to date, provide:

> **(a) In general.--**The Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.
>
> **(b) Construction of fencing and road improvements along the border.—**
>
> **(1) Additional fencing along southwest border.—**
>
> **(A) Reinforced fencing.--**In carrying out subsection (a) [of this note], the Secretary of Homeland Security shall construct reinforced fencing along not less than 700 miles of the southwest border where fencing would be most practical and effective and provide for the installation of additional physical barriers, roads, lighting, cameras, and sensors to gain operational control of the southwest border.

(B) Priority areas.--In carrying out this Section [Pub. L. 104-208, Div. C, Title I, § 102, Sept. 30, 1996, 110 Stat. 3009-554, which amended this Section and enacted this note], the Secretary of Homeland Security shall—

(i) identify the 370 miles, or other mileage determined by the Secretary, whose authority to determine other mileage shall expire on December 31, 2008, along the southwest border where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States; and

(ii) not later than December 31, 2008, complete construction of reinforced fencing along the miles identified under clause (i).

(C) Consultation.

(i) **In general.--**In carrying out this Section, the Secretary of Homeland Security shall consult with the Secretary of the Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed

(ii) Savings provision.--Nothing in this subparagraph may be construed to—

(I) create or negate any right of action for a State, local government, or other person or entity affected by this subsection; or

(II) affect the eminent domain laws of the United States or of any State.

(D) Limitation on requirements.--Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary of Homeland Security to install fencing, physical barriers, roads, lighting, cameras, and sensors in a particular location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.

* * *

(c) Waiver.—

(1) In general.--Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this Section. Any such decision by the Secretary shall be effective upon being published in the Federal Register.

(2) Federal court review.—

(A) In general.--The district courts of the United States shall have exclusive jurisdiction to hear all causes or claims arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1). A cause of action or claim may only be brought alleging a violation of the Constitution of the United States. The court shall not have jurisdiction to hear any claim not specified in this subparagraph.

(B) Time for filing of complaint.--Any cause or claim brought pursuant to subparagraph (A) shall be filed not later than 60 days after the date of the action or decision made by the Secretary of Homeland Security. A claim shall be barred unless it is filed within the time specified.

(C) Ability to seek appellate review.--An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.

FACTUAL BACKGROUND

A. Past Use of the Waiver Authority Under IIRIRA and the Goal of a "Great Wall" Spanning the Southern Border

42. In the period between IIRIRA's 2005 amendment granting the DHS Secretary broad waiver authority through the end of 2016, the federal government relied on the Section 102(c) waiver authority five times. *See* 70 Fed. Reg. 55622 (Sept. 22, 2005); 72 Fed. Reg. 2535 (Jan. 19, 2007); 72 Fed. Reg. 60870 (Oct. 26, 2007); 73 Fed. Reg. 18293 (April 3, 2008), as amended; 73 Fed. Reg. 18294 (April 3, 2008), as amended.

43. Prior to his inauguration, President Donald J. Trump campaigned on a promise to build "the Great Wall" along America's southern border, paid for by Mexico.[3]

44. Upon entering the White House in 2017, then-President Trump directed DHS to construct a "secure, contiguous, and impassable physical barrier" along the entirety of the nearly 2,000-mile-long U.S.-Mexico border. Exec. Order No. 13767 § 3(e), 82 Fed. Reg. 8793 (Jan. 25,

[3] Louis Nelson, *Trump slams media on border wall: Mexico will pay us back*, POLITICO (Jan. 6, 2017), https://www.politico.com/story/2017/01/trump-border-wall-tweet-mexico-233265.

2017). The term "wall" was defined as "a contiguous, physical wall or other similarly secure, contiguous, and impassable physical barrier." *Id.* § 3(e).

45. Over the course of his first term, President Trump's administration utilized the waiver authority in Section 102(c) of IIRIRA over two dozen times[4] and constructed approximately 450 miles of barrier along the southern border.[5] Despite these actions, substantial portions of the "Great Wall" remained without physical barriers at the conclusion of his first term.

46. Following President Trump's departure from office, Congress sought to revive efforts to complete the border wall. On April 21, 2021, Representative Clay Higgins introduced H.R. 2729, titled *Finish the Wall Act*, which would have required DHS to resume border wall construction. *See* H.R. 2729, 117th Cong. § 2 (2021). Representative Higgins reintroduced substantively similar legislation on January 12, 2023, again titled *Finish the Wall Act*. *See* H.R. 336, 118th Cong, § 2 (2023). On March 8, 2023, Senator James Risch introduced the *Solving the Border Crisis Act*, which likewise would have required DHS to "immediately resume border wall system construction" along the southern border. *See* S. 716, 118th Cong. § 6(a) (2023). That same year, Representative Mario Diaz-Balart and Senator Ted Cruz introduced companion legislation titled *Secure the Border Act of 2023* which would have mandated the immediate resumption of border wall construction and amended IIRIRA Section 102 to eliminate the limitation that barriers be constructed only in "areas of high illegal entry," while further directing that the DHS Secretary "*shall waive* all legal requirements necessary to ensure the expeditious design, testing, construction, installation, deployment, integration, operation, and maintenance of the physical

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[4] Dr. Kenneth D. Madsen, DHS Sec. 102(c) Border Barrier Waivers, Ohio State University, https://u.osu.edu/madsen.34/dhs-waivers/ (last accessed Apr. 15, 2026).

[5] Sabrina Rodriguez, *Trump's partially built 'big, beautiful wall,'* POLITICO (Jan. 12, 2021), https://www.politico.com/news/2021/01/12/trump-border-wall-partially-built-458255.

barriers, tactical infrastructure, and technology under this section." *See* H.R. 2, 118th Cong. § 103 (2023) (emphasis added); S. 2824, 118th Cong. § 103 (2023) (same). The terms "tactical infrastructure" and "technology" were defined to include, among other things, lighting, cameras, and sensors. Congress did not enact any of these bills.

47. Upon President Trump's return to the White House, on January 20, 2025, he again directed the DHS Secretary to "construct additional physical barriers along the southern border" and declared a "national emergency at the southern border." *See* Presidential Proclamation 10886, Declaring a National Emergency at the Southern Border of the United States, 90 Fed. Reg. 8327 (Jan. 20, 2025). On the same day, President Trump issued an executive order further directing the DHS Secretary, in conjunction with the Secretary of Defense, to "take all appropriate action to deploy and construct temporary and permanent physical barriers to ensure complete operational control of the southern border of the United States." Exec. Order 14165, Securing Our Borders, 90 Fed. Reg. 8467 (Jan. 20, 2025).

48. On October 15, 2025, the DHS Secretary issued nine new waivers pursuant to Section 102(c), waiving dozens of procurement laws for barrier construction along the border. Each waiver encompasses the totality of a border patrol sector and for the first time, taken together, these waivers span the entirety of the U.S.-Mexico border. *See* 90 Fed. Reg. 48286 (Oct. 15, 2025) (Big Bend Sector) ("Big Bend Procurement Waiver"); 90 Fed. Reg. 48281 (Oct. 15, 2025) (Tucson Sector); 90 Fed. Reg. 48282 (Oct. 15, 2025) (El Centro Sector); 90 Fed. Reg. 48283 (Oct. 15, 2025) (Del Rio Sector); 90 Fed. Reg. 48284 (Oct. 15, 2025) (Rio Grande Valley Sector); 90 Fed. Reg. 48285 (Oct. 15, 2025) (Yuma Sector); 90 Fed. Reg. 48287 (Oct. 15, 2025) (Laredo Sector); 90 Fed. Reg. 48288 (Oct. 15, 2025) (El Paso Sector); 90 Fed. Reg. 48289 (Oct. 15, 2025) (San Diego Sector) (together, the "Procurement Waivers").

49. Since President Trump's 2017 executive order directing DHS to build a wall along the entirety of the U.S.-Mexico border, the executive branch has exercised its waiver authority under Section 102(c) of IIRIRA in over 60 waiver decisions.

50. Today, as a result of the Procurement Waivers, there is no segment of the U.S.-Mexico border that lacks a Section 102(c) waiver. As a result, the entirety of the border, from California through Arizona, New Mexico, and Texas, has been deemed an "area of high illegal entry."

51. On the date Plaintiffs filed the initial complaint (ECF No. 1), U.S. Customs and Border Protection's online "Smart Wall Map" indicated that 100 percent of the U.S.-Mexico border was either planned for construction, had construction contracts awarded, was under construction, complete, or planned to "be covered by detection technology."[6] Since then, the agency has repeatedly changed the map, indicating different and conflicting plans for planned border construction. At one point, the agency removed the Smart Wall Map entirely from its website.

B. The West Waiver

52. On February 17, 2026, then-Secretary Noem issued a Determination in the Federal Register purporting to invoke IIRIRA Section 102(c) in order to waive the application of NEPA, the ESA, NHPA, and numerous additional laws "with respect to the construction of physical barriers and roads," which includes "but [is] not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and

[6] U.S. Customs and Border Protection, Smart Wall Map, available at: https://www.cbp.gov/border-security/along-us-borders/smart-wall-map (last accessed June 10, 2026).

installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors" within the "project area." 91 Fed. Reg. 7297, 7298 (Feb. 17, 2026).

53. The "project area" is defined as the area in the vicinity of the border between GPS points 31.037623, −105.579877 and 29.325866, −104.046466. *Id.* at 7298.

54. The DHS Secretary characterized the Big Bend Sector as "an area of high illegal entry," noting that there were over 89,000 apprehensions over a span of half a decade. *Id.* Despite this assertion, U.S. Customs and Border Protection has announced elsewhere that the Big Bend Sector has seen "a decline of 74 percent" over the last two years and only recorded a total of approximately 3,000 apprehensions in fiscal year 2025.[7] This amounted to just over 1% of total apprehensions.

55. On July 2, 2026, Secretary of Homeland Security Markwayne Mullin issued another Determination in the Federal Register to "amend[] the February 17, 2026, notice of determination by including additional legal requirements that are being waived." 91 Fed. Reg. 40550 (July 2, 2026).

56. The West Waiver purports to waive "in their entirety" the following federal statutes—and "all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of":

i. National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*;

ii. Endangered Species Act, 16 U.S.C. § 1531 *et seq.*;

[7] U.S. Customs & Border Protection, *Illegal border crossings in Big Bend Sector fall significantly in FY 2025* (Dec. 5, 2025), https://www.cbp.gov/newsroom/local-media-release/illegal-border-crossings-big-bend-sector-fall-significantly-fy-2025.

iii. Clean Water Act, 33 U.S.C. § 1251 *et seq*.;

iv. National Historic Preservation Act, 54 U.S.C. §§ 100101 note, 300101 *et seq*.;

v. Migratory Bird Treaty Act, 16 U.S.C. § 703 *et seq*.;

vi. Migratory Bird Conservation Act, 16 U.S.C. § 715 *et seq*.;

vii. Clean Air Act, 42 U.S.C. § 7401 *et seq*.;

viii. Archaeological Resources Protection Act, 16 U.S.C. § 470aa *et seq*.;

ix. Paleontological Resources Preservation Act, 16 U.S.C. § 470aaa *et seq*.;

x. Federal Cave Resources Protection Act of 1988, 16 U.S.C. § 4301 *et seq*.;

xi. National Trails System Act, 16 U.S.C. § 1241 *et seq*.;

xii. Safe Drinking Water Act, 42 U.S.C. § 300f *et seq*.;

xiii. Noise Control Act, 42 U.S.C. § 4901 *et seq*.;

xiv. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq*.;

xv. Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq*.;

xvi. Archaeological and Historic Preservation Act, 54 U.S.C. § 312502 *et seq*.;

xvii. Antiquities Act, 54 U.S.C. § 320301 *et seq*.;

xviii. Historic Sites, Buildings, and Antiquities Act, 54 U.S.C. § 320301–320303 & 320101–320106;

xix. Eagle Protection Act, 16 U.S.C. § 668 *et seq*.;

xx. Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 *et seq*.;

xxi. Administrative Procedure Act, 5 U.S.C. § 551 *et seq*.;

xxii. Section 438 of the Energy Independence and Security Act, 42 U.S.C. § 17094;

xxiii. National Fish and Wildlife Act of 1956, 16 U.S.C. § 742a *et seq*.;

xxiv. Fish and Wildlife Coordination Act, 16 U.S.C. § 661 *et seq*.;

xxv. Farmland Protection Policy Act, 7 U.S.C. § 4201 *et seq.*;

xxvi. Wild Horse and Burro Act, 16 U.S.C. § 1331 *et seq.*;

xxvii. 43 U.S.C. § 387;

xxviii. Wild and Scenic Rivers Act, 16 U.S.C. § 1281 *et seq*.;

xxix. Federal Land Policy and Management Act, 43 U.S.C. § 1701 *et seq*.;

xxx. 33 U.S.C. § 408; and

xxxi. Rivers and Harbors Act of 1899, 33 U.S.C. § 403 *et seq*.

91 Fed. Reg. at 7298; 91 Fed. Reg. at 40551.

C. The National Park Waiver

57. On May 15, 2026, Secretary of Homeland Security Markwayne Mullin issued a Determination in the Federal Register purporting to again invoke IIRIRA Section 102(c) in order to waive the application of NEPA, the ESA, the Wild and Scenic Rivers Act, and numerous additional laws "with respect to the construction of physical barriers and roads," which includes "but [is] not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors" within the "project area." 91 Fed. Reg. at 27969 (May 15, 2026).

58. The "project area" is again defined with geographic coordinates, but here they

contain apparent errors. DHS states that the project area starts "at approximately GPS point 29.7275568-101.6848011 and extend[s] east to approximately GPS point 29.727557-102.684802." *Id.* However, the latter point is identified as "east" of the former point even though the former point is the easternmost point listed. Additionally, GPS point 29.727557-102.684802 is over two miles south of the border, in Mexico. As a result, the waiver does not define a legally sufficient geographic scope for a waiver area.

59. On June 9, 2026 Secretary Mullin again issued a determination in the Federal Register pursuant to IIRIRA Section 102, stating that the determination published on May 15, 2026 contained an "incorrect" description of the project area, and was therefore republishing the "document with the correct project area description." 91 Fed. Reg. at 34832 (June 9, 2026).

60. The determination published on June 9, 2026 defines the project area as beginning "at approximately GPS point 29.325866, -104.046466 and extending east to approximately GPS point 29.728522, -102.683945." *Id.*

61. Again, the DHS Secretary described the Big Bend Sector as "an area of high illegal entry," and cited the same low apprehension figures as the West Waiver.

62. The National Park Waiver purports to waive "in their entirety" the following federal statutes—and "all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of":

i. National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*;

ii. Endangered Species Act, 16 U.S.C. § 1531 *et seq.*;

iii. Clean Water Act, 33 U.S.C. § 1251 *et seq.*;

iv. National Historic Preservation Act, 54 U.S.C. § 100101 note, 54 U.S.C. § 300101 *et seq.*;

v. Migratory Bird Treaty Act, 16 U.S.C. § 703 *et seq.*;

vi. Migratory Bird Conservation Act, 16 U.S.C. § 715 *et seq.*;

vii. Clean Air Act, 42 U.S.C. § 7401 *et seq.*;

viii. Archeological Resources Protection Act, 16 U.S.C. § 470aa *et seq.*;

ix. Paleontological Resources Preservation Act, 16 U.S.C. § 470aaa *et seq.*;

x. Federal Cave Resources Protection Act of 1988, 16 U.S.C. § 4301 *et seq.*;

xi. National Trails System Act, 16 U.S.C. § 1241 *et seq.*;

xii. Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*;

xiii. Noise Control Act, 42 U.S.C. § 4901 *et seq.*;

xiv. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*;

xv. Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.*;

xvi. Archaeological and Historic Preservation Act, 54 U.S.C. § 312502 *et seq.*;

xvii. Antiquities Act, 54 U.S.C. § 320301 *et seq.*;

xviii. Historic Sites, Buildings, and Antiquities Act, 54 U.S.C. §§ 320301-03, 320101-06;

xix. Eagle Protection Act, 16 U.S.C. § 668 *et seq.*;

xx. Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 *et seq.*;

xxi. Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*;

xxii. Section 438 of the Energy Independence and Security Act, 42 U.S.C. § 17094;

xxiii. National Fish and Wildlife Act of 1956, 16 U.S.C. § 742a, *et seq.*;

xxiv. Fish and Wildlife Coordination Act, 16 U.S.C. § 661 *et seq.*;

xxv. Farmland Protection Policy Act, 7 U.S.C. § 4201 *et seq.*;

xxvi. Wild Horse and Burro Act, 16 U.S.C. § 1331 *et seq.*;

xxvii. 43 U.S.C. § 387;

xxviii. Wild and Scenic Rivers Act, 16 U.S.C. § 1281 *et seq.*;

xxix. Federal Land Policy and Management Act, 43 U.S.C. § 1701 *et seq.*;

xxx. Wilderness Act, 16 U.S.C. § 1131 *et seq.*;

xxxi. National Park Service Organic Act and the National Park Service General Authorities Act 54 U.S.C. §§ 100101-02, 100301-03, 100501-07, 100701-07, 100721-25, 100751-55, 100901-06, 102101-02;

xxxii. 16 U.S.C. § 156;

xxxiii. 16 U.S.C. § 157;

xxxiv. 16 U.S.C. § 157c; and

xxxv. 16 U.S.C. § 157d.

91 Fed. Reg. at 27969–70; 91 Fed. Reg. at 34832–33.

D. The Lower Canyons Waiver

63. On July 27, 2026, Secretary of Homeland Security Markwayne Mullin issued a Determination in the Federal Register purporting to again invoke IIRIRA Section 102(c) in order to waive the application of a similar slate of laws "with respect to the construction of physical barriers and roads," which includes "but [is] not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls,

safety features, lighting, cameras, and sensors" within the "project area." 91 Fed. Reg. 46939, 46940 (July 27, 2026).

64. The "project area" is defined as the area in the vicinity of the U.S. border, between GPS points 29.728522, -102.683945 and 29.449892, -101.058017.

65. Again, the DHS Secretary describes the Big Bend Sector as "an area of high illegal entry," and cites the same low apprehension figures as the earlier waivers. Because the Lower Canyons Waiver encompasses areas in both the Big Bend and Del Rio Sectors, the Secretary also describes the Del Rio Sector as "an area of high illegal entry," and states that between fiscal years 2021 and 2025, "1,410,330 illegal aliens" were apprehended in that sector.

66. The Lower Canyons Waiver purports to waive "in their entirety" the following federal statutes—and "all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of":

i. The National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*;

ii. Endangered Species Act, 16 U.S.C. § 1531 *et seq.*;

iii. Clean Water Act, 33 U.S.C. § 1251 *et seq.*;

iv. National Historic Preservation Act, 54 U.S.C. § 100101 note and 54 U.S.C. § 300101 *et seq.*;

v. Migratory Bird Treaty Act, 16 U.S.C. § 703 *et seq.*;

vi. Migratory Bird Conservation Act, 16 U.S.C. § 715 *et seq.*;

vii. Clean Air Act, 42 U.S.C. § 7401 *et seq.*;

viii. Archeological Resources Protection Act, 16 U.S.C. § 470aa *et seq.*;

ix. Paleontological Resources Preservation Act, 16 U.S.C. § 470aaa *et seq.*;

x. Federal Cave Resources Protection Act of 1988, 16 U.S.C. § 4301 *et seq.*;

xi. National Trails System Act, 16 U.S.C. § 1241 *et seq.*;

xii. Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*;

xiii. Noise Control Act, 42 U.S.C. § 4901 *et seq.*;

xiv. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*;

xv. Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.*;

xvi. Archaeological and Historic Preservation Act, 54 U.S.C. § 312502 *et seq.*;

xvii. Antiquities Act, 54 U.S.C. § 320301 *et seq.*;

xviii. Historic Sites, Buildings, and Antiquities Act, 54 U.S.C. § 320301–320303 & 320101–320106;

xix. Eagle Protection Act, 16 U.S.C. § 668 *et seq.*;

xx. Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 *et seq.*;

xxi. Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*;

xxii. Section 438 of the Energy Independence and Security Act, 42 U.S.C. § 17094;

xxiii. National Fish and Wildlife Act of 1956, 16 U.S.C. § 742a, *et seq.*;

xxiv. Fish and Wildlife Coordination Act, 16 U.S.C. § 661 *et seq.*;

xxv. Farmland Protection Policy Act, 7 U.S.C. § 4201 *et seq.*;

xxvi. Wild Horse and Burro Act, 16 U.S.C. § 1331 *et seq.*;

xxvii. 43 U.S.C. § 387;

xxviii. Wild and Scenic Rivers Act, 16 U.S.C. § 1281 *et seq.*;

xxix. Federal Land Policy and Management Act, 43 U.S.C. § 1701 *et seq.*;

xxx. Wilderness Act, 16 U.S.C. § 1131 *et seq.*;

xxxi. National Park Service Organic Act and the National Park Service General Authorities Act, 54 U.S.C. §§ 100101–100102, 100301–100303, 100501–100507, 100701–100707, 100721–100725, 100751–100755, 100901–100906, 102101–102102;

xxxii. 16 U.S.C. § 156;

xxxiii. 16 U.S.C. § 157;

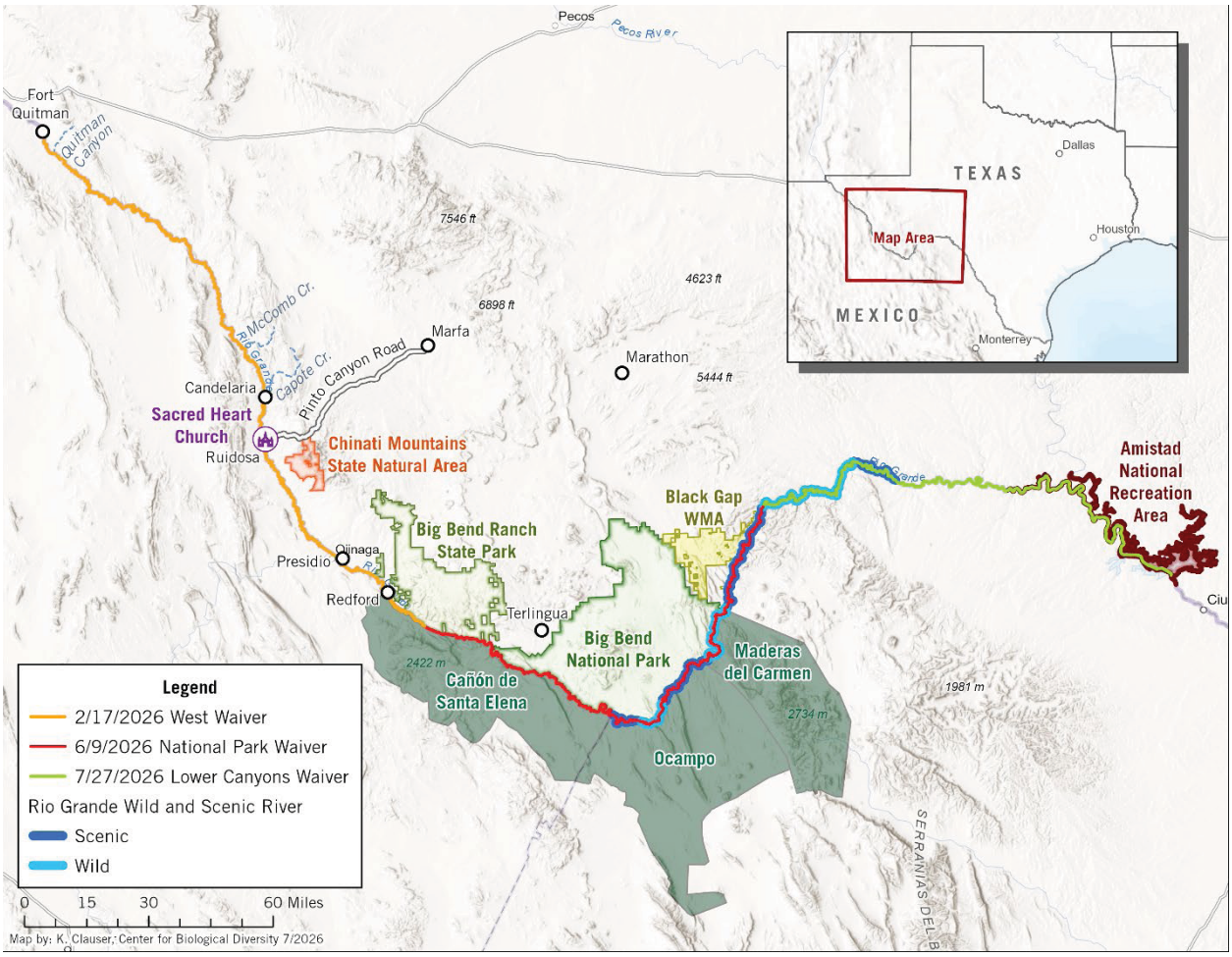
xxxiv. 16 U.S.C. § 157c; and

xxxv. 16 U.S.C. § 157d.

91 Fed. Reg. at 46940–41.

E. The Border Wall

67. The DHS Secretary's Big Bend Waivers purport to waive the application of the ESA, NEPA, NHPA, the Wild and Scenic Rivers Act, and numerous other laws as applied to the Big Bend Wall Project, which spans approximately 607 miles of the Texas-Mexico border. *See* 91 Fed. Reg. at 7298; 91 Fed. Reg. at 34832; 91 Fed. Reg. at 46940. This amounts to nearly one-third of the U.S.-Mexico border and encompasses the area with the lowest rates of illegal crossings. *See* map below.



68. Although the public lacks access to final construction plans for the Big Bend Sector and U.S. Customs and Border Protection has revised its stated plans multiple times,[8] the Big Bend Waivers purport to authorize DHS and U.S. Customs and Border Protection to execute extensive new 30-foot-high steel bollard walls across the *entirety* of the Project area. *See* 91 Fed. Reg. at 7298 (waiving laws "with respect to the construction of physical barriers and roads"); 91 Fed. Reg.

[8] *See e.g.*, Heather Richards and Mike Lee, *Trump admin rethinks border wall in Big Bend National Park*, E&E NEWS (March 10, 2026), https://www.eenews.net/articles/trump-admin-rethinks-border-wall-in-big-bend-national-park/ (no wall planned for National Park); Mary Cantrell, *Border wall plans changed to avoid Big Bend Ranch State Park*, MARFA PUBLIC RADIO (March 23, 2026), https://www.marfapublicradio.org/news/2026-03-23/border-wall-plans-changed-to-avoid-big-bend-ranch-state-park (no wall planned for state park).

at 34832 (same); 91 Fed. Reg. at 46940 (same). This sweeping waiver authority means Defendants retain discretion to augment and expand construction plans well beyond the short sixty-day window in which Plaintiffs may challenge the waivers.

69. This Project stands to fragment critical riparian and desert habitats, obstruct wildlife movement essential for endangered and transboundary species, disrupt natural river dynamics, and permanently damage fragile soils and vegetation that cannot be restored. The region provides essential habitat, migratory corridors, and breeding grounds for hundreds of species of birds, mammals, reptiles, amphibians, fish, and invertebrates. Many of these species are federally listed under the ESA or otherwise imperiled, including but not limited to the Mexican long-nosed bat, black-capped vireo, Big Bend gambusia, Rio Grande silvery minnow, and multiple endemic plant species uniquely adapted to the Chihuahuan Desert's fragile soils and hydrology. Disruption to the Rio Grande corridor risks cascading ecological impacts across the entire desert ecosystem, including groundwater depletion, habitat fragmentation, increased erosion, and permanent loss of native vegetation. It will bisect transboundary populations of mountain lions, black bears, desert bighorn sheep, and regionally unique Carmen Mountain whitetail deer, restricting critical movement, migration, and geneflow.

70. Wall infrastructure also brings with it associated roads, traffic, construction, lighting, and patrol activity that degrade dark skies, impair nocturnal wildlife behavior, and diminishes the region's scientific and aesthetic values. The Big Bend Region is internationally recognized as one of the darkest night sky locations in the continental U.S. Its low levels of light pollution provide exceptional opportunities for astronomical observation, scientific research, and public enjoyment. Dark sky conditions are essential for numerous nocturnal species, migratory birds, and pollinators whose behavior, navigation, and reproduction depend on natural light cycles.

71. The wall would also destroy, maroon, or irrevocably disturb archaeological sites and landscapes of immense cultural and historical significance to Indigenous peoples and border communities. The Rio Grande corridor has been inhabited by humans for thousands of years. Indigenous people, including descendants of the Chizo, Jumano, Apache, and Comanche Tribes have deep and enduring spiritual and cultural connections to this landscape. Archaeological sites throughout the region have abundant and irreplaceable cultural resources, including rock art, village remnants, burial grounds, and ceremonial sites. Wall construction would also create increased vibrations along the border, caused by excavations and increased heavy truck traffic. Similar to the effects of a seismic event, this could cause permanent damage to historical buildings, like the Sacred Heart Church, which is made of adobe.

72. Significantly, border wall construction would also eliminate access to the Rio Grande from the U.S., effectively ending recreational, navigational, and economic uses along long stretches of the river. The region has historically provided unparalleled recreational river access and supports a thriving ecotourism economy for river-based activities such as paddling, rafting, fishing, guided wilderness trips, and wildlife viewing. Single and multi-day river trips along the Rio Grande draw visitors from across the United States and internationally, serving as a cornerstone of the regional tourism economy. Outfitters, guides, lodging providers, restaurants, and small businesses in surrounding communities depend directly on the Rio Grande's continued ecological integrity, navigability, and scenic character.

73. The Big Bend Wall Project thus stands to cause significant adverse effects on wildlife and their habitats, cultural and historic sites, indigenous values, river economies and recreation, and numerous other resources. By exempting border wall construction from NEPA, the ESA, NHPA, the Wild and Scenic Rivers Act, and other laws, DHS cuts the public out of an

important decision-making process and short-circuits well-established federal processes designed to safeguard our environmental, cultural, and historical resources. These harms are not incidental or isolated; they are the foreseeable and direct consequences of constructing a continuous, hardened border barrier across an interconnected landscape. The Big Bend Wall Project represents one segment of a much larger undertaking that, taken together, would operate as a single, expansive system of border fortifications.

74. When viewed cumulatively, this Project is thus an essential component of the "Great Wall," a contiguous or nearly contiguous barrier spanning the entire southern border. At this scale and permanence, the undertaking is not merely an infrastructure project but a transformation of the continent itself. Spanning North America, it would sever ancient migration routes, fragment watersheds, bisect large mammal populations, and permanently interrupt ecological and geological processes that have developed over millennia. Few human-made structures rival such an intervention in scope or consequence, but historic walls like the Great Wall of China and the Berlin Wall depict how this Project stands to reshape society, the landscape, and history. This "Great Wall" would alter the patterns of ecology, movement, and evolutionary history of an entire continent. In effect, it would fundamentally reengineer the natural, ecological, and evolutionary fabric of North America, transforming it into one divided by permanent infrastructure. Decisions of this magnitude do not fall easily to unelected executive bodies under the carefully wrought architecture of the U.S. Constitution.

CLAIMS FOR RELIEF

75. Each claim set forth below is brought against all Defendants.

FIRST CLAIM FOR RELIEF

Violation of the Major Questions Doctrine Under the U.S. Constitution, Article I, Section 1

76. The preceding paragraphs are incorporated herein by reference.

77. The major questions doctrine demands a clear congressional statement before an executive body may assert authority over "decisions of vast economic and political significance." *West Virginia v. EPA*, 597 U.S. 697, 716 (2022) (cleaned up) (quoting *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 324 (2014)). The doctrine enforces the Constitution's allocation of legislative power to Congress by counseling skepticism where an agency claims sweeping authority absent unmistakably clear text.

78. The Constitution provides that "[a]ll legislative Powers herein granted shall be vested in a Congress of the United States," U.S. Const. art. 1, § 1, thereby forming "a separation of powers between the legislative and executive branches that the Framers viewed as essential to the preservation of individual liberty." *V.O.S. Selections, Inc. v. United States*, 772 F. Supp. 3d 1350, 1371 (Ct. Int'l Trade 2025) (citing The Federalist No. 48 (James Madison)). Thus, where "[t]he Constitution lodges the Nation's lawmaking powers in Congress alone . . . the major questions doctrine safeguards that assignment against executive encroachment." *Learning Res., Inc. v. Trump*, Nos. 24-1287, 25-250, 146 S. Ct. 628, 646 (Feb. 20, 2026) (Gorsuch, J., concurring).

79. The executive's project to build a "Great Wall" imposes significant economic consequences. It displaces entire regulatory regimes that ordinarily govern large infrastructure, eliminating environmental review, consultation, and mitigation duties that internalize harms and shift costs to states, tribes, local governments, landowners, and regional industries. Moreover, it permanently alters land values and access, foreclosing established economic uses such as ranching, recreation, observational astronomy, and ecotourism. The "Great Wall" also reallocates flood, drainage, and maintenance risks across thousands of miles without typical permitting and

engineering safeguards and disturbs market behavior in affected sectors (*e.g.*, construction, transportation, and tourism). Taken together, these and other effects will have vast economic impacts.

80. The breadth of Federal Defendants' asserted authority also maintains staggering political significance. Whether the U.S. should construct the "Great Wall" through cross-continental applications of IIRIRA waivers is a matter of "earnest and profound debate across the country." *Biden v. Nebraska*, 600 U.S. 477, 504 (2023) (characterizing student debt forgiveness as a "profound debate") (quoting *West Virginia*, 597 U.S. at 743 (characterizing EPA's generation-shifting regulations addressing climate change as a "profound debate") (quoting *Gonzales v. Oregon*, 546 U.S. 243, 267–68 (2006) (characterizing physician-assisted suicide as a "profound debate") (quoting *Washington v. Glucksberg*, 521 U.S. 702, 735 (1997) (same)))). Like major questions precedent, the actions challenged by Plaintiffs arise against the backdrop of sustained national debate—here, over immigration reform, border security, and the proper role of the federal government in immigration enforcement. And although Congress has repeatedly considered amending or expanding DHS's barrier-building authority since 2008, it has ultimately declined to do so. That history supports the conclusion that the sweeping authority Federal Defendants now assert is staggering—and one Congress did not clearly confer.

81. "Both separation of powers principles and a practical understanding of legislative intent suggest[] Congress would not have delegated highly consequential power through ambiguous language." *Learning Res.*, 146 S. Ct. 628, 639 (Roberts, C.J.) (cleaned up). The Big Bend Waivers purport to invoke IIRIRA Section 102(c) to waive NEPA, the ESA, NHPA, and more than two dozen other federal statutes to contribute to constructing a section of a cross-continental barrier from the Pacific Ocean to the Gulf of Mexico. However, the text of IIRIRA

contains no clear grant of authority for such a significant project. IIRIRA authorizes "additional physical barriers and roads" along the border, 8 U.S.C. § 1103(a) note, but nothing in IIRIRA's text clearly authorizes DHS to waive laws for the purpose of creating a complete, contiguous or nearly contiguous, continental border-length barrier. In fact, the plain language of IIRIRA indicates the opposite: Congress directed border construction only "in areas of high illegal entry," and the Big Bend Sector cannot be described as such. Spanning over a quarter of the entire U.S.-Mexico border, in fiscal year 2025 the Big Bend Sector accounted for just 1.3% of total apprehensions at the border. This makes the Big Bend Sector the *lowest* area of illegal entry across the entire southern border.

82. Piecemeal issuance cannot evade the major questions doctrine, whereas here, context confirms the breadth of the authority asserted by the Executive Branch. Take for example, the October 15, 2025 waivers, where the DHS Secretary issued nine sector-wide waivers that span the entire southern border, covering Tucson, El Centro, Del Rio, Rio Grande Valley, Yuma, Big Bend, Laredo, El Paso, and San Diego Sectors. These actions, alongside presidential directives calling for a "secure, contiguous, and impassable physical barrier" and "complete operational control" and expanded barrier construction, reflect an executive decision to realize a complete, border-length "Great Wall" by serial waivers, including the waivers at issue here.

83. Congress knows how to grant the Executive Branch authority to construct border barriers when it wishes to, and in fact has done so through various amendments of IIRIRA over the decades. But Congress has never directed DHS to construct a cross-continental barrier spanning the southern border. Nevertheless, Federal Defendants have chosen to pursue such a project, including as to the Big Bend Wall Project at issue here, even though IIRIRA contains no clear authorization empowering the DHS Secretary to displace dozens of federal statutes wholesale

for barrier construction on a continent-wide scope, whether attempted all at once or segment by segment.

84. Especially in situations where the Government has "never previously claimed powers of this magnitude," the major questions doctrine may be implicated. *Biden v. Nebraska*, 600 U.S. at 501. Ultimately the question "is not whether something should be done; it is who has the authority to do it." *Biden v. Nebraska*, 600 U.S. at 501; *see also Gonzales*, 546 U.S. at 265 (reasoning that the Government's sought after authority was "inconsistent with the design of the statute"). Here, the framework of IIRIRA and Congress's grant of authority extend only so far as to support waiver of laws in areas of "high illegal entry"—indicating that Congress in fact did not delegate the authority to blanket the entire border in waivers or build a cross-continental barrier.

85. Because Congress did not clearly authorize DHS or U.S. Customs and Border Protection to create a complete, cross-continental border-length wall, the Secretary's efforts to do so through serial waivers, and particularly the Big Bend Waivers, exceeds Congress's grant of authority. If anything qualifies as a "decision . . . of vast economic and political significance," requiring a clear statement under the major questions doctrine, whether the U.S. should barricade the entirety of its southern border is clearly it. *West Virginia*, 597 U.S. at 716.

SECOND CLAIM FOR RELIEF

In the Alternative, Violation of Nondelegation Doctrine of the U.S. Constitution, Article I, Section 1

86. The preceding paragraphs are incorporated herein by reference.

87. In the alternative, to the degree the Court finds that the Big Bend Waivers do not violate the major questions doctrine, Plaintiffs challenge IIRIRA Section 102(c) and the waivers as invalid because they violate the nondelegation doctrine.

88. Article I, Section 1 of the U.S. Constitution directs that "[a]ll legislative Powers herein granted shall be vested in a Congress of the United States." Article II, Section 1 of the U.S. Constitution directs that "[t]he executive Power shall be vested in a President of the United States of America."

89. Under these constitutional provisions, Congress may not delegate legislative authority to an executive branch agency—or, in the case of IIRIRA Section 102(c), may not delegate legislative authority to an individual executive branch official. *See Loving v. U.S.*, 517 U.S. 748, 758 (1996).

90. "The nondelegation doctrine is rooted in the principle of separation of powers that underlies our tripartite system of Government." *Mistretta v. United States*, 488 U.S. 361, 371 (1989). Specifically, the doctrine bars Congress from "transfer[ring] to another branch powers which are strictly and exclusively legislative." *Gundy v. U.S.*, 588 U.S. 128, 128 (2019) (cleaned up).

91. IIRIRA does not authorize a contiguous border project, and this Court should so hold. But even if IIRIRA did grant the DHS Secretary broad, standardless discretion that the Secretary now claims, it would be an unlawful delegation of authority without any intelligible governing principle.

92. IIRIRA Section 102(c) unconstitutionally delegates to the Executive Branch, namely the DHS Secretary, the quintessential legislative power of prioritizing competing public policies through the sweeping "authority to waive" any laws that, in the Secretary's "sole discretion," are "necessary to ensure expeditious construction" of physical barriers in the borders' vicinity. This capacious provision grants the Executive the classic legislative functions of: (i) considering the relative prioritization of expeditiously constructing the border wall against the

universe of all other legally protected public and private interests; and (ii) making the major policy decision of choosing which laws to disregard—and which to comply with—in pursuing border wall construction. Such an action that "[d]ecid[es] what competing values will or will not be sacrificed to the achievement of a particular objective" is "the very essence of *legislative choice*." *Rodriguez v. United States*, 480 U.S. 522, 526 (1987) (emphasis added).

93. Substantial delegation of legislative powers from Congress to the Executive may be permissible only if Congress "lay[s] down by legislative act an intelligible principle" which "clearly delineates the general policy" and "boundaries of th[e] delegated authority." *Mistretta*, 488 U.S. at 372–73 (cleaned up).

94. Congress failed to pass the permissible bar here. It proffered neither general policy nor boundaries to guide the DHS Secretary's decision-making as to which laws to strike or keep when undergoing border construction. The mere objective of building barriers does not circumscribe the Secretary's waiver discretion. Nor do the terms "necessary" and "expeditious" act as boundaries for waiving laws because they are defined exclusively by whatever the Secretary desires them to mean in the Secretary's "sole discretion." Indeed, if the Secretary may invoke IIRIRA's authority for the Big Bend Wall Project, then even "areas of high illegal entry" carries no force or meaning at all.

95. Moreover, the "degree of agency discretion that is acceptable varies according to the scope of the power congressionally conferred." *Federal Communications Commission v. Consumers' Research*, No. 24–354, 606 U.S. ___, slip op. at 11 (2025) (cleaned up). Where Congress seeks to grant the Executive broad and important authority—exemplified in IIRIRA's power to waive any statutorily-protected interest in perpetuity as applied to a vast and undefined geographical scope—concerns for liberty are heightened, and Congress is thus required to provide

more detailed instruction to channel the broad authority in keeping with legislative intent.

96. Therefore, IIRIRA and the Big Bend Waivers violate Article I, Section 1 of the U.S. Constitution, the non-delegation doctrine, and the separation of powers doctrine, rendering DHS's reliance on IIRIRA to support its waiver determinations unconstitutional.

THIRD CLAIM FOR RELIEF

Violation of the Take Care Clause of the U.S. Constitution Article II, Section 3

97. The preceding paragraphs are incorporated herein by reference.

98. Article II of the U.S. Constitution provides that the "executive Power shall be vested in a President," U.S. Const. Art. II, § 1, Cl 1, and that "he shall take Care that the Laws be faithfully executed," U.S. Const. Art. II, § 3.

99. Among the laws the Take Care Clause mandates be "faithfully executed" are NEPA, the ESA, NHPA, and the conditions and limitations of IIRIRA section 102 itself. Among the conditions and limitations of IIRIRA Section 102 are the limitations of barrier construction to areas of "high illegal entry" under subsection (a), the geographical and temporal restrictions for such construction, along with the requirements for consultation with affected entities under subsection (b), and the restriction on waiver authority under subsection (c) to the "expeditious construction of the barriers and roads" otherwise authorized by the statute.

100. The DHS Secretary's purported waivers of NEPA, the ESA, and NHPA, and more than two dozen additional laws under the Big Bend Waivers—including for the construction of barriers and roads in areas that do not experience high levels of illegal entry, as well as the installation of lighting, cameras, and sensors—failed to comply with the laws that the Executive Branch is required to "faithfully execute."

FOURTH CLAIM FOR RELIEF

Violation of the Fifth Amendment's Due Process Clause

101. The preceding paragraphs are incorporated herein by reference.

102. The Fifth Amendment to the U.S. Constitution states that nobody shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. Amend. V. At minimum, procedural due process requires notice and a meaningful opportunity to be heard. *Mathews* v. *Eldridge*, 424 U.S. 319, 335 (1976); *Armstrong v. Manzo*, 380 U.S. 545, 550, 552 (1965).

103. Through issuance of the Big Bend Waivers, Defendants violated the Fifth Amendment by depriving Plaintiffs of their protected property and liberty interests to access, navigate, and use the waters of the Rio Grande, without providing constitutionally required procedural safeguards.

104. Plaintiffs rely on reasonable physical access to Texas's navigable waters, including the Rio Grande. Such state-created entitlements to navigable waters are held in trust for the public. *See Ill. C. R. Co. v. Illinois*, 146 U.S. 387, 455 (1892) ("property is held by the State, by virtue of its sovereignty, in trust for the public. The ownership of the navigable waters . . . is a subject of public concern to the whole people of the State."); Tex. Const. Art. XVI, § 59 ("The conservation and development of all of the natural resources of this State . . . the waters of its rivers and streams . . . the navigation of its inland and coastal waters, and the preservation and conservation of all such natural resources of the State are each and all hereby declared public rights and duties."); *State v. Bradford*, 50 S.W.2d 1065, 1069 (Tex. 1932) ("From its earliest history this state has announced its public policy that lands underlying navigable waters are held in trust for the use and benefit of the public."). Additionally, Plaintiff Miller maintains ongoing personal and established commercial interests in using the Rio Grande as a commercial river guide whose work depends on

accessing the Rio Grande partly through state-maintained access points as well as an access point from his personal property.

105. DHS's issuance of the Big Bend Waivers authorizes large scale border wall construction along the north bank of the Rio Grande. This wall will physically block Plaintiffs from reaching the river at traditional access points. Plaintiffs, as members of the public and regular users of the Rio Grande, are beneficiaries of the public trust and have legitimate expectations of continued, reasonable access to the river for navigation and recreation. Plaintiff Miller, a commercial river outfitter, also holds a protected interest in continued access to the river as necessary to pursue an established occupation. As such, Plaintiffs have constitutionally protected interests in continued access and use of the Rio Grande's waters.

106. Defendants issued and authorized the Big Bend Waivers and Project without affording Plaintiffs even the bare minimum procedural protections of notice and a meaningful opportunity to respond. *Armstrong*, 380 U.S. at 552. "The opportunity to present reasons, either in person or in writing, why proposed action should not be taken is a fundamental due process requirement." *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 546 (1985).

107. Defendants have not issued any meaningful notice of where additional barriers and infrastructure will be constructed, when construction will begin, or how construction will affect access to the river, nor have Defendants provided Plaintiffs with any opportunity to be heard. Indeed, Plaintiffs have received conflicting and inconsistent information about the Agency's plans for wall construction, impeding efforts to inform other members of the public and direct community organizing efforts toward elected officials—and the statutory frameworks like NEPA that would ordinarily provide public notice of the planned actions and an opportunity to comment have been waived.

FIFTH CLAIM FOR RELIEF

Violation of the Presentment Clause
Article I, Section 7 of the U.S. Constitution

108. The preceding paragraphs are incorporated herein by reference.

109. Article I, § 7 of the Constitution provides that any federal statute must pass both houses of Congress, and "before it become a Law, be presented to the President of the United States: If he[/she] approve he shall sign it, but if not he shall return it, with his Objections to that House it which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it."

110. The "[a]mendment and repeal of statutes, no less than enactment," must conform with the presentment and bicameralism requirements of Article I. *INS v. Chadha*, 462 U.S. 919, 954 (1983). Specifically, the Supreme Court has stated that the Executive Branch cannot void any law without Congress passing a law voiding the previous law and presenting it to the President for signature. *Clinton v. City of New York*, 524 U.S. 417 (1998).

111. IIRIRA Section 102(c), as written, is facially invalid because it vests unilateral power in the DHS Secretary to, in effect, repeal portions of duly-enacted statutes via its delegation of waiver authority in areas along the border for purpose of border construction without Congress passing a law to void or amend the specific laws at issue or limit their application, and presenting it to the President, as required by Article I, Section 7 of the U.S. Constitution.

112. Separately, the statute is also invalid as applied to this case. The National Park and Lower Canyons Waivers purport to waive the Wild and Scenic Rivers Act and numerous other laws that would otherwise apply to the Big Bend Wall Project at issue in this litigation. In so doing, the Secretary unilaterally repealed legal protections provided by statute for certain Congressionally

designated areas. For example, the National Park and Lower Canyons Waivers remove legal protections provided under the Wild and Scenic Rivers Act for a segment of the Rio Grande specifically designated for such protections by Congress. *See* 16 U.S.C. § 1274(a)(17) (designating the segment of the Rio Grande in Texas "on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line" as a "component[] of the national wild and scenic river system"); *see also id.* §§ 1271(b) (declaring the national policy that "certain selected rivers" and their immediate environments that "possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values" be preserved in free-flowing condition and that they be protected for the benefit and enjoyment of present and future generations), 1281(a) (mandating that responsible agencies administer components of the national wild and scenic rivers system "in such a manner as to protect and enhance the values which caused it to be included in said system . . ."). The Secretary's waiver of the Wild and Scenic Rivers Act for the construction of border barriers and roads in the vicinity of this Congressionally-protected segment of the Rio Grande would degrade or destroy the scenic, geologic, fish and wildlife, and recreational values that make the area eligible for inclusion as part of the wild and scenic river system, and thus preclude the responsible agency—here, the National Park Service—from administering the area in a manner that would protect and enhance these values. Once the values that make this specified portion of the Rio Grande eligible for inclusion and serve as the basis for protection as a component of the wild and scenic river system are permanently diminished or destroyed by such construction, the statute no longer has the same legal effect as when it was enacted by Congress. In other words, through the National Park and Lower Canyons Waivers, the Secretary struck the portion of the Wild and Scenic Rivers Act designating this specific area for its "outstandingly remarkable" values

and guaranteeing its protection, effectuating an amendment or partial repeal of the statute. 16 U.S.C. §§ 1271(b), 1272(b), 1274(a)(17), 1283(a).

113. Accordingly, the IIRIRA Section 102(c) waiver authority generally, and the DHS Secretary's National Park and Lower Canyons Waivers specifically, are unconstitutional infringements upon the lawmaking procedures required under Article I, § 7 of the Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Friends of the Ruidosa Church, Danny William Miller Junior, and the Center for Biological Diversity pray that this Court grant the following relief:

1. Declare that IIRIRA grants no individual or agency the authority to waive laws across the entirety of the U.S.-Mexico border;

2. Declare that IIRIRA does not authorize Section 102 waivers in areas lacking high levels of illegal entry;

3. Declare that IIRIRA does not authorize Section 102 waivers for the installation of technologies like lights, cameras, sensors, or other equipment falling outside the scope of "barriers and roads";

4. Declare that the Big Bend Waivers specifically and the IIRIRA Section 102(c) waiver authority generally violate the U.S. Constitution;

5. Set aside and declare null and void the Big Bend Waivers to avoid constitutional infirmities;

6. Enjoin Defendants from implementing the Big Bend Wall Project, until and unless Defendants comply with NEPA and all other laws that would apply absent the unlawful waivers;

7. Retain jurisdiction in this action to ensure compliance with the Court's Orders;

8. Award Plaintiffs their reasonable costs of litigation, including reasonable attorneys'

fees and costs, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and/or other authority; and

9. Grant such other and further relief as the Court may deem just and proper.

DATED: August 7, 2026

Respectfully submitted,

/s/ Emma Yip

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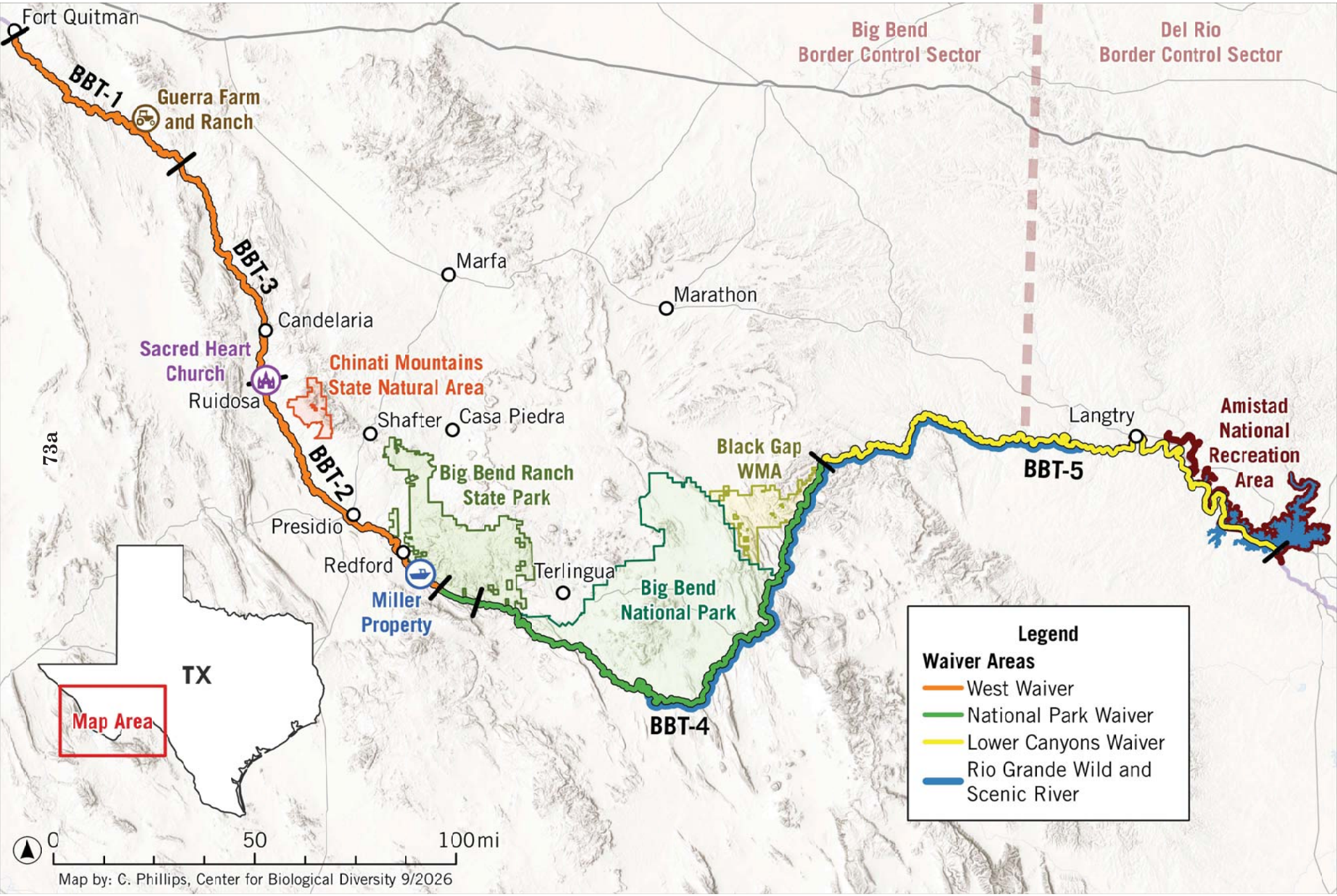
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** Admitted Pro Hac Vice*

Attorneys for Plaintiffs

PI Hearing, Plaintiffs' Exhibit 1:
C. Phillips, Big Bend Area Map (Sep. 2026)


Fort Quitman
BBT-1
Guerra Farm and Ranch
BBT-3
Marfa
Marathon
Big Bend Border Control Sector
Del Rio Border Control Sector
Candelaria
Sacred Heart Church
Ruidosa
Chinati Mountains State Natural Area
Shafter
Casa Piedra
73a
BBT-2
Big Bend Ranch State Park
Presidio
Redford
Miller Property
Terlingua
Big Bend National Park
Black Gap WMA
BBT-5
Langtry
Amistad National Recreation Area
BBT-4
TX
Map Area
0
50
100mi
Legend
Waiver Areas
West Waiver
National Park Waiver
Lower Canyons Waiver
Rio Grande Wild and Scenic River
Map by: C. Phillips, Center for Biological Diversity 9/2026

PI Hearing, Plaintiffs' Exhibit 2:
B. Krumenaker, Table of Illegal Migrant Activity In Big Bend National Park (Sep. 23, 2026)

Illegal Migrant Activity In Big Bend National Park (BBNP)

Compiled by Bob Krumenaker, Keep Big Bend Wild

Updated 9/23/2026

	Apprehensions by the Border Patrol						
Year	Inside Big Bend National Park (BBNP)	Entire Big Bend Sector	Entire Southwest Border	Apprehensions Inside BBNP Per Mile Per Month	BBNP % of Total Southwest Border	BBNP % of Entire Big Bend Sector	Big Bend Sector % of Total Southwest Border
2016	20	6,366	408,870	0.014	0.005%	0.314%	1.557%
2017	2	6,002	303,916	0.001	0.001%	0.033%	1.975%
2018	60	8,045	396,579	0.042	0.015%	0.746%	2.029%
2019	615	9,637	851,508	0.434	0.072%	6.382%	1.132%
2020	20	8,628	400,651	0.014	0.005%	0.232%	2.153%
2021	797	37,266	1,659,206	0.563	0.048%	2.139%	2.246%
2022	268	31,948	2,370,000	0.189	0.011%	0.839%	1.348%
2023	130	11,823	2,475,669	0.092	0.005%	1.100%	0.478%
2024	102	4,921	2,135,005	0.072	0.005%	2.073%	0.230%
2025	133	3,096	443,671	0.094	0.030%	4.296%	0.698%
2016-2025 Total	2147	127,732	11,445,075	0.152	0.019%	1.681%	1.116%
2021-2025 Total	1430	89,054	9,083,551	0.202	0.016%	1.606%	0.980%
Miles of Border	**118**	**517**	**1952**		6%	23%	26%

NPS /BBNP counts by calendar year; BP counts by fiscal year

NPS/BBNP data source: NPS Response to FOIA Request, updated/revised 9/21/26
File Name: "BIBE_Operational Summary Memo_Updated9.15.26.pdf"

Border Patrol Sector and Total data by fiscal year FY16-18 from
https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/BP%20Apps%20by%20Sector%20and%20Citizenship%20FY07-

Border Patrol Sector and Total data by fiscal year FY16-22 from
https://ohss.dhs.gov/topics/immigration/yearbook/2022/table35

Border Patrol Southwest Border data FY23-25 from
https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters

Declaration of Danny William Miller Junior in Support of Plaintiffs' Motion for Summary Judgment, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Jul. 17, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH, et al., *Plaintiffs,* v. MARKWAYNE MULLIN, et al., *Defendants.*	Case No. 3:26-cv-01099-KC

DECLARATION OF DANNY WILLIAM MILLER JUNIOR IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Danny William Miller Junior, declare as follows:

1. This declaration is based on my personal knowledge. If called as a witness in this proceeding, I could and would competently testify to the facts stated below.

2. I have lived and worked in the Big Bend region of Texas since approximately March of 2005, building my life, my career, and sense of community around the Rio Grande and the Big Bend landscape.

3. I am a professional river guide and have worked continuously in the outdoor recreation industry in this region for more than twenty-one years. I began guiding trips on the Rio Grande in March 2005 and have guided both commercial and private river trips since that time. Over the course of my career, I have worked for several guiding companies in the region, including Far Flung Outdoor Center, where I worked for approximately ten years, Desert Sports, where I worked for about ten years, and Further Adventures, where I worked for about two years. I guide river trips along the Rio Grande for almost every regional outdoor recreational company in the area.

4. I live with my family near the historic ghost town of Terlingua, Texas. My wife, Brittany Lowe, was born and raised in the Big Bend National Park and Terlingua areas, and her connection to its geography is multi-generational. Her father was a guide on the river before he got a job with the National Park Service in Big Bend National Park, where he worked for thirty years. Through him, she gained a close familiarity with the Rio Grande, the National Park, and its surrounding landscape.

5. In 2014, my wife and I were married on the banks of the Rio Grande at Contrabando movie set. When our son was born in 2015, the river took on new importance for me as a parent. We chose "Rio" as his middle name because we knew the river would remain the heart of our family. I wanted him to grow up knowing how to connect with nature through fishing, canoeing, and tracking animals along the river. Over time, the Rio Grande ecosystem became more and more essential to who we are as a family, shaping our values and how we spend time together.

6. When river conditions allow, I visit and use the Rio Grande multiple times each week for professional guiding. For example, on February 14, 2026, I spent three days guiding a group of Boy Scouts. During the trip, we canoed, camped, and hiked, moving at a pace that let them experience the river rather than just passing through it. I could see their confidence grow throughout the trip as they became more comfortable being on the water, setting up camp, and paying attention to the plants and animals along the river. By the end of the trip, the group had changed. The boys were more self-assured and aware of their surroundings. When the trip ended, I felt that I had made a meaningful impact, helping them build practical outdoor skills and an understanding of the river and ecosystem's value.

7. When I'm not working, I return to the river with my family, friends, or by myself. For example, every year my family and I do a river trip to celebrate my son's birthday. For years, we've

been exploring the Rio Grande together. Spending time with my son and watching him experience parts of the river he hasn't seen before is always an incredibly meaningful moment for me as a father. I'm proud to say he has seen more of the Rio Grande than most professional river guides in the area. In December 2024, we did a nine-day trip to the Lower Canyons—a wild and isolated stretch of the Rio Grande downstream from the National Park and the last section of the river he hadn't seen. We hiked to see preserved dinosaur tracks near upper Madison Falls, an experience my son and I still talk about today.

8. As another example, at the end of April, I went on a three-day river trip with my wife. We boated, swam, and fished the whole time. I've experienced my most profound moments on the river, watching wildlife in its natural element or showing humans that there is more than just humanity—that there is an ecosystem that we are a part of. Spending time on the Rio Grande with my wife, son, and clients gives me a chance to share this with others.

9. I regularly access the Rio Grande from a family property located approximately forty-five minutes from my residence, in Presidio County near Redford. This property borders state park land and provides one of the few practical and reliable access points to the river in this region. I have personally relied on this access point for more than a decade to launch and retrieve boats, as well as to camp, fish, and recreate along the Rio Grande. Other river guides and friends also regularly rely on this same access point for river-based recreation.

10. When water levels are too low to run boat trips, my family and I frequently use this property for camping, hiking, and other outdoor recreation. For example, in April this year, I camped on the property with my wife, my son, and three of my son's friends. Although the river was too low for boating, we spent hours fishing and swimming along the Rio Grande. The kids gathered sticks to build a fort, made their own campfires, and explored the riverbank looking for

hellgrammites underneath wet rocks. I showed them how to toast tortillas over the fire, and we spent the evening enjoying the sounds of the river corridor. The next morning, we woke up to a chorus of leopard frogs. Experiences like these are a meaningful part of my family's life. They allow us to enjoy the Rio Grande and surrounding landscape, connect with nature, and spend time together. It is also a key reason why this area is so important to us.

11. Access to the river from this property location is essential to our continued use and enjoyment of both the property and the Rio Grande. Construction of a border wall in this area would block or render this access point unusable, entirely cutting off my access to the river from my family's property. I would no longer be able to run river trips, fish, or swim from my property due to a lack of river access. The wall would also diminish my enjoyment of the property by altering the character of the landscape itself, which I enjoy precisely because the lack of large, manmade structures helps me and my family connect with nature. The presence of a border wall would replace a sense of openness and connection to the natural landscape with a permanent, industrial barrier. These losses would end our regular river trips, fundamentally changing how we spend time together and connect as a family, harming our use and enjoyment of the Rio Grande, and destroying the reason we built our lives and community here.

12. River access along the Rio Grande is inherently dynamic. The river carries heavy sediment loads and floods frequently, reshaping banks and altering or eliminating access routes. Over the course of my career, I have seen floods destroy specific access points, forcing me and other guides to find new places to launch boats and exit the river. As a result, safe and functional access requires flexibility and the ability to adapt to changing conditions. Fixed barriers, walls, gates, or controlled access points cannot accommodate the constantly shifting nature of the river.

A single access point could easily be destroyed in a flood, and if other areas along the river are walled off, it would be impossible to find and use newly created access points.

13. Even if access was not completely cut off, but still restricted to fixed gates or corridors, launch and landing sites could be hundreds or thousands of feet away from exit points in an emergency, making it impossible to get to safety quickly if needed. Based on my decades of experience guiding on the Rio Grande, the idea that river guiding or recreational boating could continue alongside a border wall is not realistic. I certainly would not feel safe taking my family or clients on river trips through the Rio Grande if the wall was built.

14. My livelihood depends directly on an open, barrier-free, and ecologically intact Rio Grande. Clients visit from all over the United States to experience the full desert ecosystem, including the landscape, canyons, geology, night skies, plants, wildlife, and sense of remoteness. No one comes to Big Bend to see steel barriers and razor wire. A thirty-foot tall steel border wall, flood lights, and roads would irreparably damage the wild character of the Big Bend region and make guided river trips and other commercial recreation on the Rio Grande undesirable and unsafe.

15. On February 17, 2026, the Secretary of Homeland Security issued a waiver in the Federal Register of dozens of laws for construction of border barrier between GPS points 31.037623, −105.579877 and 29.325866, −104.046466 in the vicinity of the Rio Grande. My family's property lies along the river, between these two points. Since February, more waivers have been issued that, together, authorize the government to build wall infrastructure across my property, all of Big Bend Ranch State Park, all of Big Bend National Park, and beyond. 91 Fed. Reg. 7297 (Feb. 17, 2026); 91 Fed. Reg. 40550 (July 2, 2026); 91 Fed. Reg. 27969 (May 15, 2026); 91 Fed. Reg. 34831 (June 9, 2026).

16. Information about the location, timing, and scope of the proposed border wall has been limited, inconsistent, and frequently changing. I have received little clear or reliable information from the government about where the wall would be constructed or how it would affect specific access points along the Rio Grande. At various times, a map of planned border wall construction on Customs and Border Protection's website has indicated physical infrastructure will be built along my property and other areas vital to accessing the Rio Grande. At other times, the map showed scaled down construction plans that may not affect my property or the nearby river access locations. Then, the map was completely removed from the website for a period. This uncertainty has caused significant anxiety for me and others who live and work in the region and has made it difficult to plan our lives, protect our livelihoods, or engage in any meaningful way to inform our community or oppose the government's project. Despite the lack of publicly available information on the planned construction activities, the government has already awarded billions of dollars in construction contracts, building materials are arriving near the border, and construction is expected to start this summer.

17. The planned border wall will destroy my ability to continue working as a professional river guide. Restricted access, safety hazards, and destruction of the landscape would eliminate my primary source of income and end the profession I have practiced for more than two decades.

18. Loss of river access would also severely impair my recreational, aesthetic, and spiritual use of the Rio Grande. I would lose the ability to boat and fish from the family property I have used for years, and wall construction would permanently alter the surrounding landscape through visual intrusion, wildlife disruption, noise, and light pollution, affecting my ability to hike, camp, fish, observe wildlife, photograph nature, experience dark skies, and connect with nature.

19. I have personally observed a wide range of wildlife along the river and its banks, including black bears, mountain lions, bighorn sheep, aoudad, badgers, porcupines, rabbits, reptiles, turtles, catfish, and countless bird species. I once observed a Mexican wolf traveling toward the river in approximately 2009. I have also observed animal tracks nearly every time I stop along the river, demonstrating how essential the Rio Grande is as a lifeline to wildlife in this desert ecosystem. Being able to view and experience wildlife along this corridor brings me tremendous joy.

20. Wildlife on both sides of the border depends on an open, connected river corridor to breed, maintain genetic diversity, and survive. Animals in Mexico require access to habitat north of the river, and animals in the United States similarly depend on cross-border movement for survival throughout the seasons. Construction of a wall would fragment this habitat by effectively cutting the ecosystem in half, preventing seasonal migration and limiting the habitat, food, and movement wildlife depend on. Animals on the U.S. side of the Rio Grande would lose access to the river altogether. This would imperil the survival of animals already existing in the extremes of the Chihuahuan desert, diminishing my ability to observe and enjoy these spectacular wildlife habitats as I have done for decades.

21. Based on my experience living, working, and recreating along the Rio Grande, I do not believe a border wall could be constructed in this region without destroying the wild character of the Rio Grande corridor. Construction would require blasting, heavy machinery, soil displacement, water extraction, power infrastructure, and artificial lighting in areas that are remote and have very little development. These activities would degrade water quality, destroy habitat, eliminate dark skies, and send debris downstream, significantly impacting my enjoyment of the river and surrounding landscape. I've personally seen several major flood events on the Rio Grande

over the years and how floodwaters carry large amounts of debris downstream. I am concerned that construction-related debris will create additional hazards for me and others navigating on the river.

22. My connection to the Rio Grande is deeply personal and spiritual. I and other guides often refer to it as our church or cathedral. There are specific places along the river where I go to reflect, fish, and recharge. I believe humans are part of the ecosystem and have a responsibility to act as stewards of the land for future generations. Sharing this connection, particularly with young people, is one of the most meaningful parts of my work, my life, and my relationship with my son and wife. It would be impossible to continue sharing this connection in the presence of a massive steel barrier dominating the landscape. The visual impact of the wall as well as the environmental impact to wildlife would destroy my ability to enjoy the natural beauty of the region and share this with others.

23. If the proposed wall is constructed, my family would be forced to leave the region due to the loss of river access, destruction of the tourism economy, and irreversible damage to the landscape that defines our home and my career.

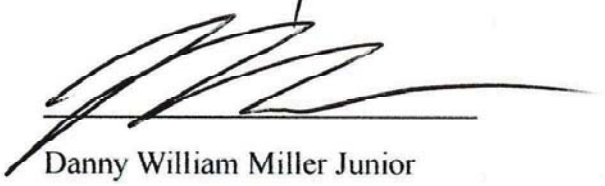
24. The proposed wall and infrastructure would permanently damage the river, wildlife, my livelihood, my property, and my way of life.

25. I intend to return to the Rio Grande corridor on a weekly, if not daily, basis for as long as I physically can. In fact, I intend to return to the river as soon as I sign this declaration.

26. My personal, professional, financial, recreational, and spiritual interests in this area would be protected if I prevailed in this lawsuit and this breathtaking river corridor was not irrevocably altered by a waiver of environmental laws and subsequent, rushed, and secretive construction of a border wall.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 10th, 2026, in Terlingua Texas.



Danny William Miller Junior

Declaration of Laiken Jordahl in Support of Plaintiffs' Motion for Summary Judgment, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Jul. 17, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH, et al., *Plaintiffs,* v. MARKWAYNE MULLIN, et al., *Defendants.*	Case No. 3:26-cv-01099-KC

DECLARATION OF LAIKEN JORDAHL IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Laiken Jordahl, hereby declare as follows:

1. I have personal knowledge of the facts set forth in this declaration. If called as a witness, I could and would competently testify to these facts.

2. I live in Tucson, Arizona. I have been a member of the Center for Biological Diversity (the "Center") since 2017. As a Borderlands Campaigner, Southwest Conservation Advocate, and National Public Lands Advocate for the Center, I work to protect wildlife, ecosystems, and public lands throughout the West with a specific focus on the U.S.-Mexico borderlands. My work focuses on protecting endangered species and their habitats, and people's access to public lands and wild places, with a specific focus on wildlife and wildlands in the border region.

3. Before joining the Center, I served as a National Park Service Wilderness Fellow, where I worked with stakeholders to monitor conditions in five national parks and monuments, including Big Bend National Park and Organ Pipe Cactus National Monument, and prepared in-depth reports assessing threats to wilderness character. My work was published in a series of reports entitled "Wilderness Character Narrative and Baseline Monitoring Assessments" for

specific national parks and monuments. At Big Bend National Park, I analyzed threats to wilderness character and examined, among many other factors, how border security activities impact natural soundscapes and dark night skies, interfering with both the biotic community and people's ability to enjoy solitude and sounds of nature in wilderness. Attached as Exhibit 1 is a true and correct copy of the report I authored titled *Big Bend Recommended and Potential Wilderness: Building Blocks for Wilderness Stewardship*, December 2015.

4. My time working and living in the Big Bend region in 2015 was incredibly formative to my personal, professional, and spiritual development. The Big Bend region is the least populous place in the continental United States. It holds the best dark night skies in the country, and the feeling of looking up at the Milky Way in Big Bend is unlike any stargazing experience I've had anywhere else in the world. I was immediately intrigued by the incredible desert plant life that can survive in the region, even though the area only averages seven inches of rainfall annually. In many ways, Big Bend made me fall in love with the deserts of the American Southwest. This love has only grown, and in the time since I worked and lived in the region, I have devoted much of my life to exploring and protecting desert ecosystems across the border region.

5. In addition to my professional work protecting ecosystems, wildlife, and public lands in the Big Bend region, I enjoy many recreational activities in Big Bend National Park, Big Bend Ranch State Park and surrounding areas where waivers of law have been issued. These activities include whitewater boating, swimming, bird and wildlife watching, camping, stargazing, admiring the breathtaking geology while thinking about geologic time, and relaxing, picnicking and recharging along the Rio Grande. These activities bring me professional, recreational, aesthetic, spiritual and moral benefit. I am harmed by the U.S. Department of Homeland Security's ("DHS") waiver of applicable environmental and historical preservation laws—which would

normally prevent a project like this from occurring at all, or at minimum, require review, public input, and minimum standards to be met prior to commencing construction; and I will be harmed by border wall construction carried out in these areas.

6. There is no place I've ever been that can match the rugged, remote and expansive beauty of the Big Bend region. Simply put, it's the most wild, intact, unspoiled and hard-to-reach place left anywhere along the 2,000-mile U.S.-Mexico border. It brings me a deep sense of hope to visit this place and imagine it existing outside of the modern era of border walls and militarization. When I'm looking south into Mexico from Big Bend Ranch State Park, I feel like I'm at the edge of the known world. It is incredible to realize that just south of the Rio Grande is a massive network of roadless, wild Mexican protected areas that are much larger than Big Bend National Park. This sense of scale is mind-boggling. It makes me feel small, but connected to the natural world, and part of a deeper universal nature that knows no borders.

7. In many ways, Big Bend is my north star. For more than a decade now, I've had the dream of seeing an International Peace Park, modeled after Waterton-Glacier International Peace Park on the U.S.-Canada border, established along the Southern border. This park would encompass Big Bend National Park, Big Bend Ranch State Park, the Black Gap Wildlife Management Area, the Maderas del Carmen, Ocampo, and Cañón de Santa Elena flora and fauna protection areas—all of which together, at 3.3 million acres, would encompass the largest expanse of protected desert ecosystem in all of North America. This dream is grounded in my belief that that a world is possible where border security can exist without destroying desert ecosystems and livelihoods. If the wall is built between these cross-border protected areas, the possibility of achieving this long-term goal would be greatly diminished, as would my conviction to work towards this future.

8. I plan on continuing to return to the Big Bend region and Big Bend Ranch State Park as long as I'm alive. In the modern world where everything moves so quickly, true presence is hard to come by. I feel this sense of peace and presence when I'm swimming in the Rio Grande or gazing at the stars in Big Bend that I haven't felt anywhere else. I am especially excited to return to Big Bend in late summer/early fall of 2026 when I hope the river flow is high enough for a multi-day river trip through the state and national parks. If the border wall is built, even through a portion of the Big Bend region, it will significantly impact my ability to enjoy this place and find peace, and will directly cut off my access to the Rio Grande wherever wall is constructed. These harms seriously degrade my spiritual and aesthetic interests rooted in experiencing Big Bend as the interconnected, vast, and remote place it has been for thousands of years. It will also harm my professional livelihood, as I will lose access to the one place left on the U.S.-Mexico border where I can bring colleagues and journalists to experience a non-militarized version of the U.S.-Mexico borderlands where border security and the environment are existing largely in harmony. Significantly, the border wall would also harm my recreational interests because it would eliminate access to the Rio Grande or at least degrade the river beyond recreational use.

9. I've spent much of my free time since 2019 documenting wall construction. I have seen firsthand the horrific damage that wall construction has wrought, aided by legal waivers and the total absence of environmental law. At Organ Pipe Cactus National Monument, I witnessed construction crews butcher ancient saguaro cactuses, some of which were likely 200 years old—older than the establishment of the border itself. I've watched construction crews dynamite mountainsides to clear pathways for the border wall—including through Native American gravesites—leading to severe damage and erosion issues that continue to make the area unstable for people and wildlife. At the San Bernardino National Wildlife Refuge, I documented wall

contractors drilling 1,000-foot-deep wells to pump millions of gallons of groundwater to mix concrete for the border wall, leading sensitive desert springs home to federally protected species to drop so significantly that they no longer functioned as natural systems without human intervention. None of these activities would have been legal without the use of the waivers.

10. If laws like the National Environmental Policy Act (NEPA), the Endangered Species Act, the Wild and Scenic Rivers Act, and the Native American Graves Protection and Repatriation Act were adhered to, so many of these devastating elements of wall construction could be avoided by proper consultation with expert agencies, Tribes, and people with local knowledge like me. For example, NEPA would require DHS to prepare a detailed statement considering, among other things, the reasonably foreseeable environmental effects of the proposed agency action in an environmental analysis that considers information provided by other agencies and the public. Had NEPA not been waived, I would have reviewed the government's environmental analysis and submitted comments documenting my concerns to help avoid unnecessary devastation in such a magnificent landscape. Additionally, the Endangered Species Act would prohibit the unauthorized "take" of threatened and endangered species and require DHS to consult with the U.S. Fish and Wildlife Service prior to initiating such an ecologically devastating project as border wall construction. But with waivers in hand, I have watched DHS act with reckless impunity as the agency blasts, bulldozes, and pumps millions of gallons of groundwater with little thought and no accountability. The waivers thus harm my procedural, aesthetic, and moral interests.

11. I have taken at least six river trips down the Rio Grande in the Big Bend region, through the state and national parks, and also on adjacent land upriver. I find incredible joy canoeing down the Rio Grande—it's one of my favorite recreational opportunities on public lands anywhere in America. Watching birds like great blue herons, flycatchers, kingfishers, cormorants

and phainopeplas while floating downriver makes me feel connected to the natural world and at peace. The experience of floating down the Rio Grande is especially unique, as you are physically floating along the dividing line between two nations, which is entirely unrecognizable in the landscape. Looking up at the stars from inside one of the canyons on the Rio Grande makes me feel like time does not exist and like I'm a part of something much bigger than myself. The night sky, so free of light pollution, provides an extreme sense of remoteness and solitude, free from visual reminders of our developed society. Beyond cutting off all river recreation and destroying the wilderness character of the river, I am extremely concerned that wall construction will alter the world-class dark night skies in the region. I have seen stadium lighting installed along the wall and massive lighting installations around construction operations and man camps in Arizona as wall construction happened in 2019 and 2020. These lights disrupt seasonal migration and reproduction patterns for species and cause harms to nocturnal wildlife.

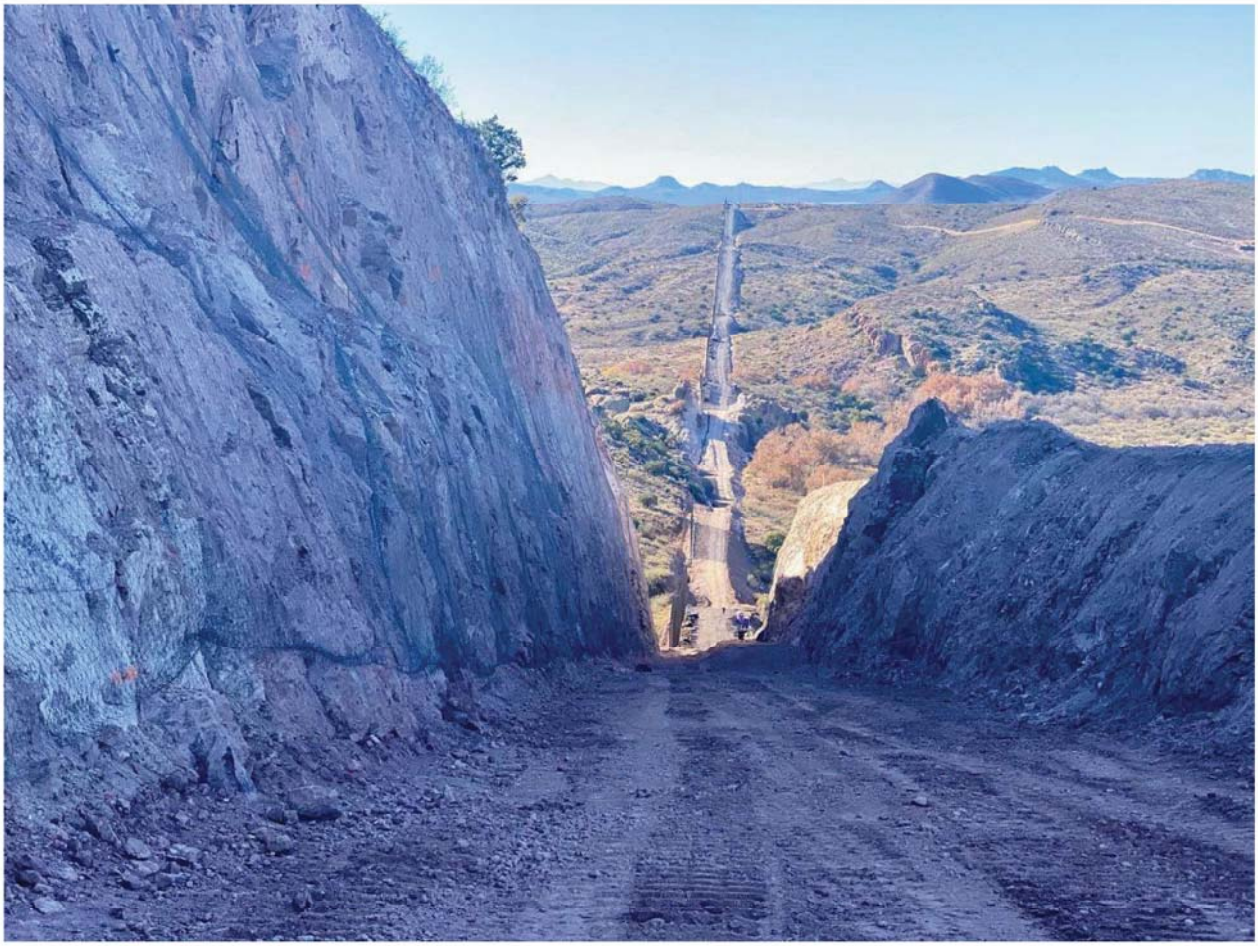
12. I've also seen firsthand how wildlife is blocked by construction of 30-foot high steel bollard border wall, but humans are not. I have seen mule deer, pronghorn and javelinas blocked by walls in Arizona. I have also documented sections of wall that have been cut through by a simple angle grinder that anyone can purchase at a hardware store, which I know because I have found numerous grinder blades scattered along the wall where I've seen cuts made. Especially during peak cross-border migration in 2020, I watched people cross through cuts in the newly built wall at Organ Pipe Cactus National Monument. All of this reinforces my belief that border walls do not have a significant effect on slowing human migration, but they cause devastating and permanent harm to wildlife and ecosystems.

13. Embedded below and attached as Exhibit 2 is a true and correct copy of a photograph that I took on February 19, 2020, of a bulldozed saguaro cactus at Organ Pipe Cactus

National Monument along the Mexico-Arizona border. The photo embedded below and contained in Exhibit 2 is a true, accurate, and unedited depiction of the conditions that I witnessed and described in this declaration.



14. Embedded below and attached as Exhibit 3 is a true and correct copy of a photograph that I took on December 21, 2020, of a blasted path for border wall construction in the Peloncillo Mountains in Arizona. The photo embedded below and contained in Exhibit 3 is a true, accurate, and unedited depiction of the conditions that I witnessed and described in this declaration.



15. Since new border walls went up in Arizona, spreading across the majority of the state's border, I've watched landscapes and ecosystems suffer profoundly. This construction has fundamentally changed the Arizona borderlands region, destroying ecosystems and severing critical corridors that wildlife have used to move across the border for millennia. Before a wall is even erected, construction often necessitates new roads or road improvements/widening, increased heavy truck traffic, excavations, dynamite to clear paths, and new lighting, all of which destroys or degrades sensitive borderland ecosystems. Once the wall is built, it stops migrating wildlife in their tracks, preventing animals like desert bighorn sheep, mule deer, pronghorn, kit foxes, javelina, jaguar, ocelot, and black bears from finding water, food and mates. The Big Bend region provides essential habitat for hundreds of species of birds, mammals, reptiles, amphibians, and fish, many of

which are endangered or otherwise imperiled such as the Mexican long-nosed bat, black-capped vireo, Big Bend gambusia, Rio Grande silvery minnow, and multiple plant species, including the endemic Chisos hedgehog cactus, found only in Big Bend. Wall construction has caused severe soil erosion, and if built along the Rio Grande, would disrupt natural river flows and cause heightened risks from flooding. I am terrified of seeing this level of destruction come to the Big Bend region in Texas.

16. I believe new walls built across the Big Bend region will pose severe danger to both wildlife and people. Additionally, the deployment of concertina wire, which I have already seen along private lands upriver from Big Bend Ranch State Park, poses extreme danger to the public and wildlife. With one heavy flood—which is a common seasonal occurrence on this stretch of the Rio Grande—these seemingly endless coils of razor wire will wash downstream into the state and national parks, where hundreds of boaters and various species run the risk of being entangled in razor wire. The Wild and Scenic Rivers Act, waived for border wall construction in Big Bend, would otherwise prevent this type of destruction on the Rio Grande, which was congressionally designated for protection under this statute in 1978 because of its "outstandingly remarkable" scenic, geologic, wildlife, recreational, and other values.

17. DHS has waived dozens of environmental and cultural resource protection laws in order to rush this border wall construction. I fear for the severe and irreversible damage that's being inflicted on our environment with all of our nation's most important environmental and cultural resource protection laws suspended.

18. My interests in the Big Bend region would be protected if the waivers were found invalid, rescinded, or otherwise withdrawn, because DHS would not proceed with these incredibly destructive plans for border barrier construction. Or, at a minimum, DHS would be required to

comply with environmental, cultural, and historic preservation laws before proceeding. This compliance would ensure harm does not occur, or is avoided and minimized, to protect the region's unique environmental and cultural resources.

19. The Big Bend Waivers are alarmingly massive in scale. The West Waiver encompasses a border segment starting just south of Fort Quitman, Texas, and runs through Candelaria, Ruidosa, Presidio, Redford, the Hoodoos, and ends midway through Big Bend Ranch State Park. The National Park Waiver picks up where the West Waiver ends in Big Bend Ranch State Park, continuing through Lajitas, spanning all of Big Bend National Park (including Santa Elena Canyon, Castolon, Mariscal Canyon, Hot Springs, and Boquillas), and ending at the northeastern-most edge of the Black Gap Wildlife Management Area.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 17, 2026, in Port Townsend, WA.

Laiken Jordahl

Expert Report of Adam B. Isacson,
Friends of the Ruidosa Church, et al. v. Mullin, et al.,
No. 3:26-cv-01099-KC (W.D. Tex. Jul. 17, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH, et al., *Plaintiffs,* v. MARKWAYNE MULLIN, et al., *Defendants.*	Case No. 3:26-cv-01099-KC

EXPERT REPORT OF ADAM B. ISACSON

1. I am the Director for Defense Oversight at the Washington Office on Latin America ("WOLA"), a nonprofit research and advocacy organization based in Washington, D.C., committed to advancing human rights in the Americas. Since 2011, a significant part of my work has been focused on border security in the United States. I have visited the U.S.-Mexico border approximately 40 times and the Mexico-Guatemala border 4 times. Since 2020 alone, I have overseen WOLA's publication of over 110 reports, memos, and multimedia projects about border and migration trends, the successes and failures of border security and migration policies, and human rights impacts. In addition to those products, since September 2020, I have published a Weekly Border Update with over 500 email subscribers and more than 400,000 downloads over the past year. I have testified about border and migration issues in the U.S. Congress three times since November 2023. My professional opinions and work product are cited in major media outlets, on average, a few times monthly.

ASSIGNMENT

2. I have been retained by counsel for Center for Biological Diversity (the "Center") to opine on the number of unlawful border crossings in the Big Bend Border Patrol Sector in Texas (the "Big Bend Sector"); to compare those figures with unlawful border crossing data from other U.S. Border Patrol sectors along the U.S.-Mexico border; and to determine whether the Big Bend Sector, or any subdivision thereof, reflect comparatively elevated unlawful-entry activity.

3. I have declined to be compensated for my time.

DOCUMENTS REVIEWED

4. As part of my assignment, I have reviewed the complaint filed by Plaintiffs in this case. I have also reviewed:

a. A Border Patrol table detailing annual migrant apprehensions by U.S.-Mexico border sector from fiscal years 1960 to 2020, available online at https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/US59B8~1.PDF.

b. A Border Patrol table detailing monthly migrant apprehensions by U.S.-Mexico border sector from fiscal years 2000 to 2020, available online at https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/U.S.%20Border%20Patrol%20Monthly%20Encounters%20(FY%202000%20-%20FY%202020)%20(508).pdf.

c. A CBP dataset of monthly migrant encounters nationwide from fiscal years 2020 through May 2026, identifying sectors where encounters occurred, updated monthly and available at https://www.cbp.gov/document/stats/nationwide-encounters. I have created a

web resource that allows easy searching of this dataset at https://cbpdata.adamisacson.com.

d. A CBP dataset of the agency's nationwide drug seizures since fiscal year 2020, updated monthly and available at https://www.cbp.gov/document/stats/nationwide-drug-seizures.

e. I have combined all yearly data from sources a, b, and c, covering fiscal years 1960 to the present, into a single table, publicly available at https://docs.google.com/spreadsheets/d/16TROMDMHLAJF7ch_UUctdZCm0FcuN8McGne__osrkN4/edit?usp=sharing.

f. I have combined all monthly data from sources b and c, covering fiscal years 2000 to the present, into a single table, publicly available at https://docs.google.com/spreadsheets/d/1dINyDcCWRB0efJvdHGaBzmHmoCNYi_oEMTdqhU6gmNU/edit?usp=sharing.

g. A great deal of secondary-source coverage of the Big Bend barrier construction plan, which I have saved in a database with links to sources available at https://defenseoversight.adamisacson.com/permanews.php?region%5B%5D=U.S.-Mexico%20Border&tag%5B%5D=Fencing&tag%5B%5D=Border%20Security&search_terms%5B%5D=Big%20Bend.

h. Determinations pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as published in the Federal Register.

i. Defendants' Objections and Responses to Plaintiff's First Set of Interrogatories and Defendants' Objections and Responses to Plaintiff's First Set of Requests for Production.

5. All of the documents I have considered in forming my opinions are cited in this report. I reserve the right to supplement this report based on any additional materials I may review.

QUALIFICATIONS

6. I earned a B.A. in Social Science from Hampshire College and an M.A. in International Relations from Yale University. Though I do a lot of fieldwork, my work as a researcher and advocate is centered in Washington. This gives me a "higher-altitude" view of trends border-wide, in all nine geographic sectors into which Border Patrol divides the U.S.-Mexico border. I gather information by consuming media, government, non-governmental, and academic articles and reports. I gather numerical data from Customs and Border Protection's (CBP) datasets, which I analyze with tools I have coded myself, and from the datasets of other nations along the U.S.-bound route that share data. While in Washington, I also gather information through constant contact with service providers, scholars, and journalists along the border over the phone, via email, via text messaging services, and via social media. I participate in weekly or biweekly virtual meetings with multiple coalitions, many of them based along the border, to share information and stay informed about developments on the ground.

7. A copy of my curriculum vitae, listing all publications authored in the previous ten years, is attached as Appendix I.

8. I have not previously testified as an expert at trial or by deposition during the previous four years.

SUMMARY OF OPINIONS

9. Section 102(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA, 8 USC 1103 note), as amended, permits the Secretary of Homeland Security to waive other laws to install physical barriers and roads "in areas of high illegal entry into the United States."

10. CBP's own data includes ample evidence that Border Patrol's Big Bend Sector is not an area of high illegal entry. In fact, it is by far the least active of all the nine geographic sectors into which Border Patrol divides the U.S.-Mexico border. Even though it makes up about a quarter of all U.S.-Mexico border miles, it is not a significant zone of entry for undocumented migrants or illicit drugs.

11. The lack of activity in the Big Bend Sector is notorious. Of all nine Border Patrol sectors along the U.S.-Mexico border, it is the only one that I have never visited. Until the current administration issued its border barrier proposals, there was little security or humanitarian reason to carry out research visits there, and it would have been difficult to convince the individuals and foundations that support my work to fund such a trip.

METHODOLOGY

12. In order to determine whether the Big Bend Sector is an area of "high illegal entry," I examined migrant apprehension and drug seizure data compiled by CBP and shared on the agency's website. This data is noted in the "Documents Reviewed" section above.

13. CBP presents yearly Border Patrol apprehensions by sector from 1960 to 2020 in a single PDF table. I was able to save that table in spreadsheet (Microsoft Excel) format using a MacOS app ("PDF Expert"), and verified the conversion by ensuring that the totals for each column matched those presented in the PDF.

14. CBP presents monthly Border Patrol apprehensions by sector from 2000 to 2020 in a series of PDF tables. I was able to save those tables in spreadsheet (Microsoft Excel) format using a MacOS app ("PDF Expert"), and verified the conversion by ensuring that the totals of all columns matched those presented in the PDF.

15. CBP presents monthly Border Patrol apprehensions according to several metrics, including sectors, between 2020 and 2026 in a dataset that is updated monthly and available online. That data is in "Comma Separated Values" (CSV) format, which any spreadsheet program can read. I combined all years' CSV files into a single file, then imported that into the MySQL database format for use in a web resource that I coded myself and share publicly. Using the PHP programming language, the resource at cbpdata.adamisacson.com allows users to generate custom data tables of migrant apprehensions, covering 2020-2026, in HTML (web page) format.

16. Combining data from all three sources enabled me to generate single tables of Border Patrol apprehensions by U.S.-Mexico border sector: one with annual data since 1960, and one with monthly data since 2000. I've shared both updated tables using Google Sheets.

17. For drug seizures data by sector, CBP offers a public CSV dataset going back to 2020 that is updated monthly. I combined all years' CSV files into a single file, then imported that into the MySQL database format. I hand-coded PHP pages to show monthly seizures since 2020, by kind of drug, for (a) the Big Bend Sector (https://cbpdata.adamisacson.com/all_drugs_month_big-bend.php), for (b) all Border Patrol sectors (https://cbpdata.adamisacson.com/all_drugs_month_all-sectors.php), and for (c) all Border Patrol sectors and CBP field offices (https://cbpdata.adamisacson.com/all_drugs_month_all-sectors-all-cbp.php, including the ports of entry, where most non-marijuana drug seizures occur). By copying-and-pasting the resulting HTML tables into a spreadsheet and comparing

corresponding cells and totals, I was able to determine the percentage of all drug seizures that occurred in the Big Bend Sector.

OPINION

18. During President Trump's first term in office, his administration completed 458 miles of new or replacement border barrier—but of those 458 miles, just 87 miles were of new, pedestrian border wall along previously unwalled stretches of the southern border (*Southwest Border: Additional Actions Needed to Address Cultural and Natural Resource Impacts from Barrier Construction*. 2023. GAO-23-105443. Washington: U.S. Government Accountability Office. https://www.gao.gov/products/gao-23-105443.)

19. In 2023, after President Trump's first term in office, a total estimated 741 miles of border barrier existed along the southern border. (I derive this estimate, using U.S. Government Accountability Office data, at https://adamisacson.com/u-s-mexico-border-barriers-now-total-741-miles/.)

20. Border Patrol's Big Bend Sector web page notes that the Sector "is responsible for patrolling 517 miles of river front along the Rio Grande River which is the international boundary between the United States and Mexico. The Sector's border boundary is almost one-quarter of the country's Southwest Border."[1]

21. Along that one quarter (approximately 25 percent) of the border, Border Patrol has apprehended:

a. 1.6 percent of all migrants since 1960 (797,128 out of 51,097,057 apprehensions over nearly 67 years). That is about 1.9 migrant apprehensions

[1] "Big Bend Sector Texas," U.S. Customs and Border Protection, Washington, August 6, 2025, https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/big-bend-sector-texas.

per border mile per month. The border-wide average over these nearly 67 years is 17 times greater: 32 apprehensions per mile per month.

b. 1.1 percent of all migrants this century (248,551 out of 22,661,502 apprehensions). That is about 1.5 migrant apprehensions per border mile per month. The border-wide average over these nearly 27 years is 24 times greater: 35 apprehensions per border mile per month.

c. 1.2 percent of all migrants in the 2020s (99,042 out of 8,141,918 apprehensions). That is about 2.4 migrant apprehensions per border mile per month, during a period (2021-2023) that broke migrant apprehension records along the border. The border-wide average over these nearly seven years is 21 times greater: 51 apprehensions per border mile per month.

d. 2.5 percent of all migrants during the second Trump administration (3,029 out of 119,715 apprehensions between February 2025 and May 2026). That is about 0.4 migrant apprehensions per mile per month. The border-wide average over these 16 months is 10 times greater: 4 apprehensions per border mile per month.

Embedded below as Figure 1 is a true and correct copy of a table I created, compiling this data and comparing total apprehensions by sector.

Border Patrol Migrant Apprehensions by Sector

Sector	Sector Land Border Miles	1960-May 2026		2000-May 2026		2020-May 2026		Trump administration through May 2026	
		Migrant Apprehensions	Per mile per month	Migrant Apprehensions	Per mile per month	Migrant Apprehensions	Per mile per month	Migrant Apprehensions	Per mile per month
San Diego	60	13,155,787	274.08	2,677,415	139.45	984,489	205.10	16,023	16.69
El Centro	70	3,184,707	56.87	1,399,439	62.47	233,315	41.66	2,340	2.09
Tucson	262	9,259,397	44.18	6,353,487	75.78	1,399,075	66.75	21,079	5.03
El Paso	268	7,318,766	34.14	2,514,179	29.32	1,297,754	60.53	24,042	5.61
Laredo	136	3,487,243	32.05	1,464,967	33.66	370,538	34.06	14,651	6.73
Yuma	126	2,884,859	28.62	1,525,410	37.83	670,504	66.52	2,684	1.33
Rio Grande Valley (formerly McAllen)	320	6,764,849	26.43	4,186,989	40.89	1,630,010	63.67	22,898	4.47
Del Rio	245	4,244,321	21.65	2,291,065	29.22	1,457,191	74.35	12,969	3.31
Big Bend (formerly Marfa)	**517**	**797,128**	**1.93**	**248,551**	**1.50**	**99,042**	**2.39**	**3,029**	**0.37**
Southwest Border Total	**2,004**	**51,097,057**	**31.87**	**22,661,502**	**35.34**	**8,141,918**	**50.79**	**119,715**	**3.73**
Big Bend Percentage of Border-Wide	25.8% of total	1.6% of total	6% of average	1.1% of total	4% of average	1.2% of total	5% of average	2.5% of total	10% of average

Figure 1

22. When I attempt to represent this data graphically, charting Border Patrol apprehensions by sector, the Big Bend Sector barely appears. Embedded below as Figure 2 is a true and correct copy of a graph I created, which shows the Big Bend Sector's migrant apprehensions in dark brown; the reader may have to look closely to spot them.

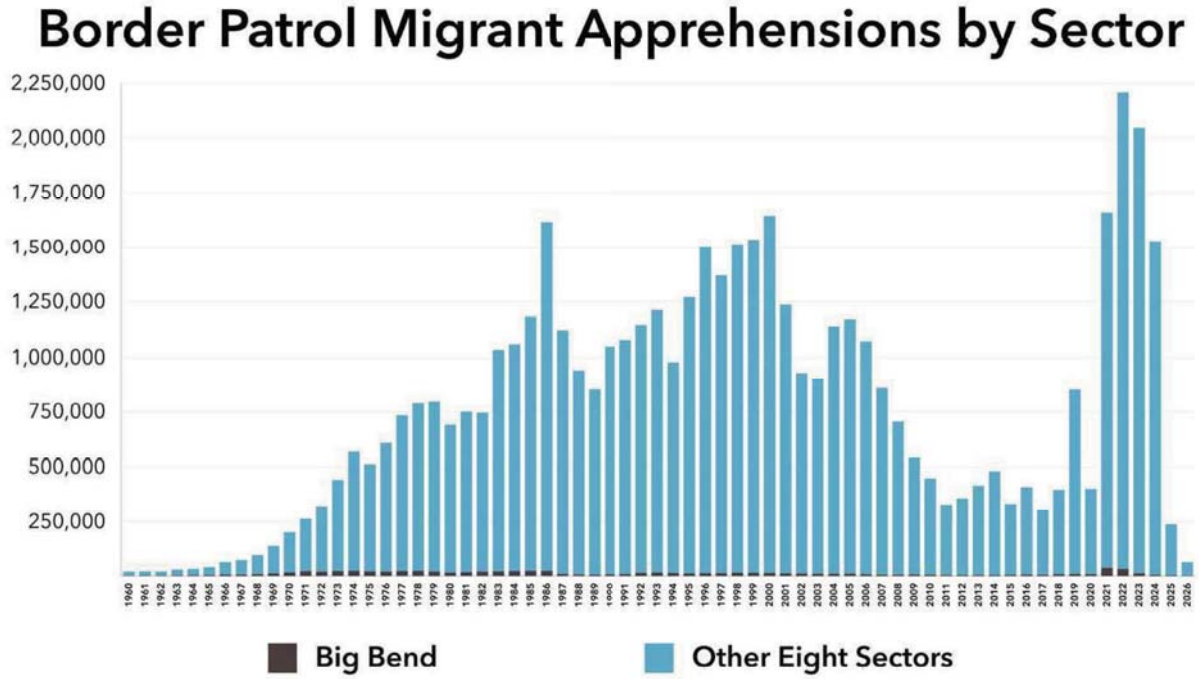


Figure 2

23. The available primary-source data only reports Border Patrol apprehensions aggregated across the entire 517-mile-long Big Bend Sector. Within the 118-mile boundary of Big Bend National Park itself, apprehensions appear even scarcer. Data compiled by a former park superintendent "suggests that agency apprehensions within National Park boundaries have constituted an average of 0.02% of nationwide totals over the past decade." Sam Karas, "Former National Park Superintendents Ask DHS Not to Waive Laws for Border Wall Construction," *Big Bend Sentinel*, May 27, 2026, https://bigbendsentinel.com/2026/05/27/former-national-park-superintendents-ask-dhs-not-to-waive-laws-for-border-wall-construction/. Over the 10 years between Fiscal Year 2016 and Fiscal Year 2025, Border Patrol apprehended people 10,041,222 times at the entire U.S.-Mexico border; 0.02 percent of that would be just 2,008 people in 10 years across 118 border miles, or 0.14 apprehensions per border mile per month.

24. Data since 2020 reports nationalities and demographics of people apprehended in the Big Bend Sector. It shows that 43 percent of those entering Border Patrol custody during those years came from countries other than Mexico, and that 9 percent were either unaccompanied children or parents traveling with children. Children, families, and people from farther-away countries are more likely to be asylum seekers. While Border Patrol does not report the number of apprehended migrants who willingly turn themselves in to agents to seek asylum or other protection, a conservative estimate based on nationality and demographic characteristics would be 1 in 10 people apprehended in the Big Bend Sector since 2020 who did not seek to evade capture at all: they were trying to reach U.S. soil in order to turn themselves in to U.S. agents. U.S. law (Section 208 of the Immigraiton and Nationality Act, 8 U.S.C. 1158) affords the right to seek asylum to people who have "arrived" in the United States: who are physically on U.S. soil. As it is impossible to build a wall flush against the bank of the Rio Grande, there will always be U.S.

soil on which to stand south of any barrier and await apprehension. The existence of a border wall is irrelevant to, and does not deter, asylum seekers, so the true population of Big Bend border crossers who might be stopped by a wall is even smaller than the apprehensions figure suggests.

25. Data about drug seizures similarly indicates that the Big Bend Sector is not an area of high illegal entry. CBP publicly reports monthly border drug seizures by sector since fiscal year 2020. During that period, the Big Bend Sector has accounted for 20 percent of all Border Patrol's seizures of marijuana, a drug that, due to legal recreational sales in other border states, is rarely seized outside of Texas. Big Bend accounts for just 1.4 percent of Border Patrol's seizures of all other drugs (cocaine, ecstasy, fentanyl, heroin, methamphetamine, and others). These estimates leave out ports of entry, the official border crossings where CBP seizes the overwhelming majority of all drugs except marijuana. Including ports of entry would reduce Big Bend's share of border drug seizures even further. Embedded below as Figure 3 is a true and correct table I created that compares total drug seizures in the Big Bend Sector across the rest of the U.S.-Mexico border patrol sectors.

U.S.-Mexico Border Drug Seizures

Drug	2020-2026 Big Bend Sector Seizures, Pounds	2020-2026 All Border Patrol U.S.-Mexico Border Seizures, Pounds	Big Bend Share of Border Patrol Total	2020-2026 All CBP U.S.-Mexico Border Seizures, Including Ports of Entry, Pounds	Big Bend Share of All-CBP Total
Cocaine	**981**	98,715	**1%**	489,540	0.2%
Ecstasy	**14**	207	**7%**	6,351	0.2%
Fentanyl	**137**	12,840	**1%**	99,150	0.1%
Heroin	**22**	2,102	**1%**	18,031	0.1%
Marijuana	**126,029**	637,914	**20%**	1,794,297	7.0%
Methamphetamine	**1,640**	100,988	**2%**	1,140,182	0.1%
Other Drugs**	**348**	9,438	**4%**	1,369,959	0.0%
Total	129,171	862,204	**15%**	4,917,510	2.6%
Non-Marijuana	3,142	224,290	**1%**	3,123,213	0.1%

Figure 3

26. Further supporting the position that the Big Bend Sector is not an area of high illegal entry, DHS has applied this label indiscriminately across the entire border. As of October 15, 2026, there are no longer any segments of the U.S.-Mexico border that lack an IIRIRA waiver. 90 Fed. Reg. 48286 (Oct. 15, 2025) (waiving procurement laws across the entirety of the Big Bend Sector); 90 Fed. Reg. 48281 (Oct. 15, 2025) (waiving procurement laws across the entirety of the Tucson Sector); 90 Fed. Reg. 48282 (Oct. 15, 2025) (waiving procurement laws across the entirety of the El Centro Sector); 90 Fed. Reg. 48283 (Oct. 15, 2025) (waiving procurement laws across the entirety of the Del Rio Sector); 90 Fed. Reg. 48284 (Oct. 15, 2025) (waiving procurement laws across the entirety of the Rio Grande Valley Sector); 90 Fed. Reg. 48285 (Oct. 15, 2025) (waiving procurement laws across the entirety of the Yuma Sector); 90 Fed. Reg. 48287 (Oct. 15, 2025) (waiving procurement laws across the entirety of the Laredo Sector); 90 Fed. Reg. 48288 (Oct. 15, 2025) (waiving procurement laws across the entirety of the El Paso Sector); 90 Fed. Reg. 48289 (Oct. 15, 2025) (waiving procurement laws across the entirety of the San Diego Sector). As a result, the entire southern border is now characterized as an "area of high illegal entry."

27. The publicly available data about migrant apprehensions and drug seizures in the Big Bend Sector leads to the inescapable conclusion that the Big Bend is not a region of high illegal entry. This is true in relative terms: even though it comprises a quarter of the U.S.-Mexico border Big Bend falls far behind Border Patrol's other U.S.-Mexico border sectors—including sectors with large amounts of recently built border wall segments—accounting for about 1 percent of migrant apprehensions and non-marijuana drug seizures. It is also true in absolute terms: the 67-year average of 1.9 Border Patrol apprehensions per mile per month means that, in a typical mile of the Big Bend Sector's border, agents have encountered just one migrant every 16 days. This sector is, in fact, very quiet, and the very definition of "low" illegal entry.

CONCLUSION

28. Seeking to waive all other laws in order to build barriers in a sector as quiet as Big Bend runs afoul of the letter and the intent of Section 102(a) of IIRIRA. The intent to build border barrier in the Big Bend seems to reflect the amount of funding DHS has on hand from recently approved legislation, rather than any urgency over illegal entries.

Pursuant to 28 U.S.C. § 1746, I, Adam Isacson, declare under penalty of perjury that the foregoing is true and correct.

Executed on July 16, 2026, in Washington, DC.



Adam Isacson

Declaration of Zeynep Graves in Support of Plaintiffs' Motion for Summary Judgment, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Jul. 17, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH; DANNY WILLIAM MILLER JUNIOR; and CENTER FOR BIOLOGICAL DIVERSITY, *Plaintiffs*, v. MARKWAYNE MULLIN, in his official capacity as Secretary of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; and U.S. CUSTOMS AND BORDER PROTECTION, *Defendants.*	Case No. 3:26-cv-01099-KC

DECLARATION OF ZEYNEP J. GRAVES IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Zeynep J. Graves, declare as follows:

1. I have personal knowledge of the facts contained in this Declaration and, if called upon to do so, could and would testify competently thereto under oath.

2. I am a member in good standing of the Bar of the State of California and am admitted pro hac vice in this matter. I am a senior attorney at the Center for Biological Diversity, and represent all Plaintiffs in the above-captioned case. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.

3. Attached hereto as **Exhibit 1** is a true and correct copy of a news article published by TIME on or about June 16, 2015, titled *Here's Donald Trump's Presidential Announcement Speech*, which is publicly available online at https://time.com/3923128/donald-trump-announcement-speech/ and was last accessed on July 17, 2026. The article quotes Donald Trump's

2015 Presidential Announcement Speech which states, in relevant part, "I would build a great wall, and nobody builds walls better than me, believe me, and I'll build them very inexpensively, I will build a great, great wall on our southern border. And I will have Mexico pay for that wall."

4. Attached hereto as **Exhibit 2** is a true and correct copy of a webpage published by The American Presidency Project on or about July 18, 2024, titled *Address Accepting the Presidential Nomination at the Republican National Convention in Milwaukee*, which is publicly available online at https://www.presidency.ucsb.edu/documents/address-accepting-the-presidential-nomination-the-republican-national-convention-milwaukee and was last accessed on July 17, 2026. The article quotes Donald Trump's Address Accepting the Presidential Nomination at the Republican National Convention in Milwaukee which states, in relevant part, "I will end the illegal immigration crisis by closing our border and finishing the wall, most of which I've already built."

5. Embedded in the Facebook webpage linked below is a video posted by Fox Business, titled *DHS Secretary Markwayne Mullin pledges to complete the border wall from the Pacific to the Gulf of America by mid-2027 as the administration ramps up construction*. The webpage reflects a posting date of May 7, 2026. The video is publicly available online at https://www.facebook.com/FoxBusiness/videos/new-dhs-secretary-markwayne-mullin-pledges-to-complete-the-border-wall-from-the-/1685170129649459/ and was last accessed on July 17, 2026. The video shows DHS Secretary Markwayne Mullin discussing the Trump Administration's border wall construction efforts and stating, in relevant part:

> The President had made it an initiative in his first term, he's made it a strong initiative to finish the wall in his second term. We're building miles of wall every single week. We expect to have the first preliminary wall put up that's going to go from the Pacific to the Gulf of America by hopefully April or June of next year. Now, we still have a secondary wall we've got build with that, but we'll be done before the President's out of office.

6. The C-SPAN webpage located at the URL below contains a video of a congressional hearing before the House Homeland Security Committee titled *Department of Homeland Security Fiscal Year 2027 Budget Request*. The video is publicly available online at https://www.c-span.org/program/house-committee/department-of-homeland-security-fiscal-year-2027-budget-request/680394 and was last accessed on July 17, 2026. In this video Defendant Secretary of Homeland Security Markwayne Mullin testified on various issues, including border wall construction. At approximately 1:17:45, Secretary Mullin states, in part:

> We are on track to have the primary wall done, completed, from the Pacific to the Gulf of America this time next year. We'll have all contracts out by the end of this month. We're having great progress. Now, the primary wall's not the secondary wall. The primary wall is the first wall up. Because of the way the cartels adjust and their criminals, and their thugs, and their terrorists, we have to push out a secondary wall because they've been going in and cutting the wall and before we can respond in some of these remote areas, they've been able to get through . . . so we're putting 150-foot, some places, sometimes it's smaller than that, for a secondary wall that they've got to go over plus a smart wall which will tell us approximately how many people are there . . . So, we're well within track . . . We'll probably complete [the secondary wall] the Summer of '28 and so all of it will be fully completed.

7. Linked below is a YouTube video posted by the Newsmax YouTube channel, titled *Markwayne Mullin: We're Building a Permanent Border Wall with Technology*, which is publicly available online at https://www.youtube.com/watch?v=5J_WTEansSE and was last accessed on July 17, 2026. The video features an interview with DHS Secretary Markwayne Mullin and shows Secretary Mullin stating, in part, at approximately 5:02:

> It will be done. So, this time next year, if we're on the track that we're projected to be and that we're currently on, this time next year, you and I can have the same meeting right here. In fact, we'll go to the wall. And the first primary, the preliminary wall, will be built from the Pacific to the Gulf of America. And then we're going to be already building the secondary wall. . . . So now we're building the primary wall with technology on it that we can see when it's being tampered with. What the secondary wall does, is it gives us time to respond as they're trying to get through the second wall. So some of those are 150 ft apart. Some are 60 ft apart.

8. Attached hereto as **Exhibit 3** is a true and correct copy of the USASPENDING.gov webpage for Contract No. Contract No. 70B01C26F00000169, awarded by the Department of Homeland Security ("DHS") to Fisher Sand & Gravel Co., which is publicly available online at: https://www.usaspending.gov/award/CONT_AWD_70B01C26F00000169_7014_70B01C26D00000012_7014 and was last accessed on July 17, 2026. The webpage reflects that the contract was for over $1.2 billion with a start date of Feb 13, 2026, and a contract description that states "BORDER WALL CONSTRUCTION - VERTICAL BARRIER, BIG BEND TEXAS SECTOR (BBT-2)."

9. Attached hereto as **Exhibit 4** is a true and correct copy of the USASPENDING.gov webpage for Contract No. Contract No. 70B01C26F00000152, awarded by DHS to Barnard Construction Co., Inc., which is publicly available online at: https://www.usaspending.gov/award/CONT_AWD_70B01C26F00000152_7014_70B01C26D00000006_7014 and was last accessed on July 17, 2026. The webpage reflects that DHS awarded over $1 billion for this contract with a start date of March 05, 2026, and a project description that states "BORDER BARRIER CONSTRUCTION IN HUDSPETH COUNTY, TX."

10. Attached hereto as **Exhibit 5** is a true and correct copy of the USASPENDING.gov webpage for Contract No. Contract No. 70B01C26F00000201, awarded by DHS to Barnard Construction Co., Inc., which is publicly available online at: https://www.usaspending.gov/award/CONT_AWD_70B01C26F00000201_7014_70B01C26D00000006_7014 and was last accessed on July 17, 2026. The webpage reflects that DHS awarded over $960.4 million for this contract with a start date of March 05, 2026, and a project description that states "BBT-3 BORDER BARRIER CONSTRUCTION PROJECT."

11. Attached hereto as **Exhibit 6** is a true and correct copy of the USASPENDING.gov webpage for Contract No. 70B01C26F00000345, awarded by DHS to Southwest Valley Constructors Co., which is publicly available online at: https://www.usaspending.gov/award/CONT_AWD_70B01C26F00000345_7014_70B01C26D00000007_7014 and was last accessed on July 17, 2026. The webpage reflects that DHS awarded over $1.7 billion for this contract with a start date of May 11, 2026, and a contract description that states "AWARD OF CONSTRUCTION TASK ORDER FOR BORDER WALL IN BIG BEND TEXAS, SEGMENT IDENTIFIED AS BBT-4."

12. Attached here to as **Exhibit 7** is a true and correct copy of the USASPENDING.gov webpage for Contract No. 70B01C26F00000405, awarded by DHS to Fisher Sand & Gravel Co., which is publicly available online at: https://www.usaspending.gov/award/CONT_AWD_70B01C26F00000405_7014_70B01C26D00000012_7014 and was last accessed on July 16, 2026. The webpage reflects that DHS awarded over $2.59 billion for this contract with a start date of June 3, 2026, and a contract description that states "BORDER BARRIER DESIGN BUILD FOR BBT-5."

13. Attached hereto as **Exhibit 8** is a true and correct copy of a National Park Service webpage, titled *Rio Grande Wild & Scenic River: Learn About the Park*, which is publicly available online at: https://www.nps.gov/rigr/learn/index.htm and was last accessed on July 17, 2026. The webpage states, in part, that "For 1,250 miles, the Rio Grande forms the boundary between the United States and Mexico."

14. Attached hereto as **Exhibit 9** is a true and correct copy of an excerpt from a Center for Big Bend Studies Advisory Council report. This report is titled *A Sampling of Archeological Resources in Big Bend National Park, Texas: Report Submitted to Big Bend National Park and the*

Intermountain Archaeology Program National Park Service, which is publicly available online at: https://pubs.nps.gov/eTIC/ARPO-BLCA/BIBE_155_188242_0001.pdf and last accessed on July 17, 2026. The report states, in relevant part, that Big Bend National Park contains "evidence of nearly 12,000 years of human occupation from Paleoindian to historic times" and that "a total of 2,755 sites have been recorded within the park boundaries and over 287,000 museum objects (including biological, geological, and paleontological specimens in addition to archeological materials) have been cataloged."

15. Attached hereto as **Exhibit 10** is a true and correct copy of relevant excerpts from the U.S. Department of the Interior, National Park Service's *Rio Grande Wild and Scenic River Final General Management Plan / Environmental Impact Statement*, which is publicly available online at: https://www.nps.gov/rigr/learn/management/upload/RIGR_gmp-eis.pdf and was last accessed on July 17, 2026.

16. Attached hereto as **Exhibit 11** is a true and correct copy of a U.S. Fish and Wildlife Services webpage titled *Rio Grande*, which is publicly available online at: https://www.fws.gov/rivers/river/rio-grande-texas and was last accessed on July 17, 2026. The webpage displays a map of the Rio Grande with color coded sections indicating which portions of the Rio Grande are designated as recreational, scenic, and wild.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Los Angeles, California on July 17, 2026.

Zeynep Graves

Zeynep J. Graves

GRAVES DECLARATION

EXHIBIT 10

A true and correct copy of relevant excerpts from the U.S. Department of the Interior, National Park Service's *Rio Grande Wild and Scenic River Final General Management Plan / Environmental Impact Statement*

Rio Grande Wild and Scenic River

Final General Management Plan / Environmental Impact Statement



Final
General Management Plan / Environmental Impact Statement
RIO GRANDE WILD AND SCENIC RIVER

Brewster and Terrell Counties, Texas
August 2004

Congress designated a segment of the Rio Grande in Texas as the Rio Grande Wild and Scenic River in 1978 because of its "outstandingly remarkable" scenic, geologic, fish and wildlife, and recreational values. A 196-mile strip of land on the American side of the Rio Grande in the Chihuahuan Desert protects the river. The National Park Service (NPS) at Big Bend National Park is responsible for managing the wild and scenic river. This *General Management Plan / Environmental Impact Statement* will define a direction for the management of the Rio Grande Wild and Scenic River for the next 15 to 20 years, specifying the resource conditions and visitor experiences that the National Park Service would like to achieve.

To establish the desired experiences and resource conditions for the wild and scenic river, a partnership team was established with representatives from Texas Parks and Wildlife, local counties, an international environmental organization, river user groups, and private landowners. On the basis of public comments and within the framework established by legislation and mandates, the planning team and partners developed a no-action alternative (continuation of current management) and an "action" alternative for managing the wild and scenic river.

Alternative A, the no-action alternative, would continue current management practices into the future. Its goal would be to retain the existing visitor experiences. No new management plan would be implemented. The National Park Service would respond to future needs and conditions associated with the existing wild and scenic river designation without major actions or changes in course. Compliance with the Wild and Scenic Rivers Act and associated guidelines requires a river management plan, which would not be prepared under this alternative. No agreements with landowners would be initiated, and there would be no changes in river access from federal land. Private and state landowners could open or close public access as they wished. The river boundary would remain at the default 0.25 mile from the ordinary high water mark on the United States side of the river.

The intent of **Alternative B, the preferred alternative,** would be to enhance resource protection and offer high-quality visitor experiences. The protection of natural and cultural resources would be emphasized, as would the visitor experience. A permanent boundary for the wild and scenic river would be established to reflect the river's outstandingly remarkable values. The National Park Service would negotiate individual agreements with each nonfederal landowner to specify the rights and responsibilities of the National Park Service and each landowner. The National Park Service would recommend to Congress that the upper segment of the Rio Grande in Big Bend National Park be designated a wild and scenic river, bringing the total federal and state ownership along the river to more than 50%.

Alternative A (which would continue the management pattern of the past 25 years) would not ensure the protection of outstandingly remarkable values on private lands. It would mean that no partnership for resource protection would be established between the National Park Service and private landowners. Resources could be damaged, and private lands now available to the public for recreational use at the sufferance of landowners could be closed off. The National Park Service would not assist private landowners in resource protection or law enforcement, and there could be continued mistrust of NPS intentions with respect to regulations and land acquisition.

Landowner agreements in **alternative B** would foster a cooperative relationship, allowing the National Park Service to play a role in protecting resources and values on nonfederal lands. NPS assistance would be available to landowners to protect outstandingly remarkable values on their land. An increase in Big Bend National Park staff would be included in this alternative. Beneficial effects on landowner relations, natural resources, cultural resources, scenic values, and recreational use would result from alternative B.

Declaration of Connor Phillips in Support of Plaintiffs' Motion for a Preliminary Injunction, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Aug. 17, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH, et al., *Plaintiffs,* v. MARKWAYNE MULLIN, et al., *Defendants.*	Case No. 3:26-cv-01099-KC

DECLARATION OF CONNOR PHILLIPS IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

I, Connor Phillips, declare as follows:

1. I have personal knowledge of the matters contained in this declaration and, if called and sworn as a witness, I can and will completely testify to all of the matters contained herein.

2. I hold a Geographic Information System ("GIS") graduate certificate from University of Wisconsin – Madison and a Master of Science in Geography from Northern Arizona University, and have career experience in GIS analysis for non-profit organizations and federal agencies such as the U.S. Geological Survey ("USGS"). I currently serve as an associate GIS specialist for the Center for Biological Diversity (the "Center") and have over five years of experience in GIS analysis and cartography.

3. In my previous declaration filed in this matter, Declaration of Connor Phillips in Support of Plaintiffs' Motion for Summary Judgment, ECF No. 19-2 ("Phillips Summ. J. Decl."), I discussed how I prepared the map relied upon in this case by Plaintiffs regarding the probable geographic scope of a nearly contiguous pedestrian border wall along the full length of the U.S.-

Mexico border (the "Wall").[1] *See* Phillips Summ. J. Decl. ¶¶3-12 (describing my modeling and calculations used to estimate the Wall's route, the corresponding border mileage, and the acreage south of the Wall that would become restricted borderlands).

4. In my previous declaration, at ¶ 8, I explained that two Big Bend waivers (the "West Waiver" and "National Park Waiver"), as subsequently amended,[2] issued pursuant to the Illegal Immigration Reform and Immigrant Responsibillity Act, collectively waived laws to build border barrier along a total of 431 miles of the border in the Big Bend Sector. Those two waivers spanned 339 miles of uncompleted Wall in my map (the Wall is shorter than the length of the border because it contours less than the Rio Grande and does not follow the river's natural curving path). These waivers encompassed over one third of the Wall's remaining unbuilt sections in my map at the time.

5. On July 27, 2026, the Secretary of Homeland Security issued a new waiver. *See* 91 Fed. Reg. 46939 (July 27, 2026) ("Lower Canyons Waiver"). The Lower Canyons Waiver, which starts where the National Park Waiver ends (at GPS point 29.728522, -102.683945), follows the Rio Grande's Lower Canyons until the eastern edge of Lake Amistad. The Lower Canyons Waiver waives laws to build border barrier along a total of 176 miles of the border and spans 166 miles of

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[1] For the purposes of this project, I define the Wall as a nearly contiguous pedestrian border barrier spanning the length of the U.S.-Mexico border. Pedestrian border reflects barrier types that are considered "high enough, with slats close together enough, to block someone crossing on foot (and unwilling to climb)." Adam Isacson, *U.S.-Mexico Border Barriers Now Total 741 Miles*, Sept. 10, 2023, https://adamisacson.com/u-s-mexico-border-barriers-now-total-741-miles/. Nearly contiguous reflects small gaps in the wall for border crossings and large bodies of water (such as Lake Amistad).

[2] The two Big Bend waivers I originally assessed are the "West Waiver," 91 Fed. Reg. 7297 (Feb. 17, 2026), *as amended by* 91 Fed. Reg. 40550 (July 2, 2026) and the "National Park Waiver," 91 Fed. Reg. 27969 (May 15, 2026), *as amended by* 91 Fed. Reg. 34831 (June 9, 2026).

uncompleted Wall in my map (again, the Wall is shorter than the length of the border because it does not follow the river's curving path).

6. Now, including the additional Lower Canyons Waiver alongside the National Park and West Waivers,[3] these Waivers waive laws to build border barrier along a total of 607 miles of the border, and span 507 miles of Wall in my map (again, the Wall is shorter than the length of the border because it does not follow the river's curving path). These waivers encompass just under half of the Wall's remaining unbuilt sections in my map, and reach from just south of the Quitman Mountains to the Southern edge of Lake Amistad.

7. The Texas portion of the Rio Grande's Wild and Scenic River designation is 197 river miles, and the National Park and Lower Canyons Waivers encompass the entirety of that designated segment.

8. Based on the Wall route described in this declaration, I estimate that a total of 312,068 acres will become restricted borderlands if the Wall is completed. These areas fall between the international border and Wall, limiting the public's access or use of them. Eliminating waterbodies from this calculation, the total acreage is 283,606. Of the 312,068 acres of restricted borderlands, I estimate that 186,326 acres are encompassed by the Big Bend Waivers. Of that, 34,652 acres of restricted borderlands fall under the West Waiver area; 11,440 acres fall under the National Park Waiver area; and 140,234 acres fall under the Lower Canyons Waiver area.

I declare under penalty of perjury that the foregoing is true and correct.

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[3] The Big Bend waivers include: the "West Waiver," 91 Fed. Reg. 7297 (Feb. 17, 2026), as amended by 91 Fed. Reg. 40550 (July 2, 2026), the "National Park Waiver," 91 Fed. Reg. 27969 (May 15, 2026), as amended by 91 Fed. Reg. 34831 (June 9, 2026), and the "Lower Canyons Waiver," 91 Fed. Reg. 46939 (July 27, 2026).

Executed on AUGUST 14, 2026, in TUCSON, ARIZONA.

Connor Phillips

Declaration of Bernadette Devine in Support of Plaintiffs' Emergency Motion for Temporary Restraining Order or Preliminary Injunction, F*riends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Aug. 17, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH, et al., *Plaintiffs,* v. MARKWAYNE MULLIN, et al., *Defendants.*	Case No. 3:26-cv-01099-KC

DECLARATION OF BERNADETTE DEVINE IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION

I, Bernadette Devine, hereby declare as follows:

1. I have personal knowledge of the facts set forth in this declaration. If called as a witness, I could and would competently testify to these facts.

2. I am a resident of Terlingua, Texas and have lived and worked in the Big Bend region for over thirty years. I have been a member of the Center for Biological Diversity ("the Center") since 1994 and rely on the Center to represent my interests in protecting the Big Bend region and the Rio Grande.

3. I am an educator with the Terlingua Common School District, where I have taught students from Pre-K through eighth grade. I also serve as the *English as a Second Language* (ESL) coordinator. In my professional role, I regularly incorporate outdoor education into my teaching and have led multiple educational trips along the Rio Grande to locations including Colorado Canyon, the Madera-to-Lajitas river stretch, Hot Springs Canyon, Barton Warnock Center, and Fort Leaton. These trips are an important component of my work, fostering students' understanding

of and connection to the river, surrounding ecosystems, and public lands. For example, in my previous declaration, Declaration of Bernadette Devine in Support of Plaintiffs' Motion for Summary Judgment (ECF No. 19-2), I described a binational student trip I led in 2016.

4. I have a longstanding personal and professional connection to the Big Bend region, particularly the Rio Grande corridor. I am a former river guide, and over the years I have regularly recreated and run trips on the Rio Grande, most regularly starting at Rancherias Canyon. I often participate in day trips through Big Bend Ranch State Park, largely through Colorado Canyon, or Madera-to-Lajitas river stretch, and occasionally launching in Redford or the Hoodoos area depending on water levels. Additionally, we run day trips and overnight trips through Santa Elena Canyon, Mariscal Canyon, Boquillas Canyon, and Hot Springs Canyon in and around the National Park.

5. Over the course of many years, I have used the above-referenced areas for a wide range of recreational, educational, and personal purposes, including river trips, camping, dark sky viewing, hiking, and gathering with family, friends, students, and members of my community. These experiences provide me with aesthetic, recreational, educational, spiritual, community, and emotional benefits.

6. The Lower Canyons are especially important to me. I have taken approximately six weeklong trips through these remote stretches of the Rio Grande over the years, both as a professional river guide and on personal trips. During the 1990s, while working with Far Flung Adventures, I guided and participated in trips that launched at La Linda or from access points in the Black Gap Management Area. I have visited Temple Canyon, which marks the beginning of the Lower Canyons, at least a dozen times. Through exploring this remarkable stretch of the Rio

Grande, and sharing its beauty with others, I have developed a deep appreciation for its remote character, rugged beauty, wildlife, opportunities for recreation, and solitude.

7. My enjoyment of the area depends on its natural appearance, ecological integrity, and sense of remoteness.

8. I plan to return to the Lower Canyons over the 2026 Christmas and New Years break, and regularly thereafter, as I have done for decades. Shortly after Christmas, I intend to take an approximately eight-day river trip with friends and family. We plan to launch at La Linda or one of the Black Gap Management Area access points and travel downstream through the Lower Canyons to Dryden Crossing. During that trip, I look forward to revisiting places that I have enjoyed in the past, including Hot Springs, Upper and Lower Madison Falls, and other areas along the river corridor.

9. Since early August 2026, I have personally observed and monitored border-related construction activities in and around Big Bend National Park. On August 4, 2026, I observed orange trucks branded with the Southwest Valley Constructor logos and workers wearing hardhats at Cottonwood Campground. On August 5, 2026, I observed construction activity near the Santa Elena Canyon river takeout area, approximately one mile downstream of the canyon, where a roadway was being graded and widened adjacent to an existing road. On August 8, 2026, I returned to the Santa Elena Canyon area with my husband and could hear and see heavy machinery operating in the distance. I could also hear the sound of large desert shrubs and other vegetation being broken and cleared by construction equipment. I have further observed equipment staging areas and stockpiles of vehicles, bulldozers, and construction machinery along Highway 118 approximately 23 miles outside the National Park.

10. I have lived in the Big Bend region for more than thirty years and deeply understand how slowly this desert ecosystem recovers from disturbance. In my experience, tracks left by off-road vehicles can remain visible for years, if not longer. When vegetation is removed and soil is disturbed in this arid environment, recovery can take decades or longer. As I listened to vegetation being crushed and cleared near Santa Elena Canyon, I thought about the care my husband and I exercised when building our own home in the desert landscape, striving to disturb as little of the surrounding environment as possible. By comparison, watching large-scale construction occur so rapidly and with such little effort to minimize impacts to the landscape is heartbreaking.

11. On August 16, 2026, I returned to the National Park along with other volunteers to rescue native plants near the Cross Canyon trail that would otherwise be destroyed by border barrier-related construction impacts. In the early morning, I walked with the other volunteers along the trail. We rounded a bend in the trail and the foothills of Mariscal Mountain came into view. What is typically a majestic vista was obstructed by the sight of heavy machinery ripping into the landscape. I observed an excavator digging into the side of the mountain. The other volunteers and I were stunned as we watched the excavator work. It was near the edge of the mountain digging up dirt and dropping it down the mountain slope, sending plumes of dust into the air. As we worked to salvage desert plants throughout the day, we could hear the excavator beeping and scraping at the mountain. Hearing these sounds in such a remote place, and one that I've visited numerous times over the course of my life, was a surreal and heartbreaking experience. Right by this mountain is Mariscal Canyon—one of my favorite river canyons to canoe through precisely because of its sense of remoteness and solitude.

12. Seeing these impacts in person was deeply disturbing and diminishes my ability to enjoy and appreciate the natural character, scenic beauty, and ecological integrity of the landscape.

The experience further heightened my concern that, unless construction is halted, additional areas of the Park will suffer similar damage to native vegetation, wildlife habitat, and the wilderness qualities that draw me to these places.

13. Places that I have known, visited, and cared about for decades are being disturbed and harmed by road building, vegetation removal, heavy equipment, noise, dust, and other industrial activities. These changes damage and degrade the scenic beauty, natural character, and sense of solitude that draw me to these areas and that I seek to share with my students, family, friends, and community.

14. I am also concerned about the effects of the ongoing construction on wildlife and sensitive river corridor habitats. Over the years, I have spent considerable time looking for wildlife in and around the Rio Grande, including the yellow-billed cuckoo in the Santa Elena Canyon area. The ongoing clearing of vegetation, operation of heavy machinery, and broader construction activities degrades habitat, disrupts wildlife use of these areas, and diminishes opportunities for wildlife observation that are important to my recreational, educational, and aesthetic interests.

15. The harm occurring from these activities is ongoing. Each day that construction continues brings additional destruction and degradation to native vegetation, wildlife habitat, scenic values, and the wilderness character of the Big Bend landscape. Even if construction were later halted, much of the injury to these areas would remain for years, if not decades or longer, because of the extremely slow rate of ecosystem recovery in the Chihuahuan Desert. The opportunities I lose to experience and enjoy these places in their current condition cannot be restored. As a result, the ongoing construction activities, imminent future construction, and the planned installation of border barrier infrastructure directly and irreparably harm my aesthetic,

recreational, educational, professional, and spiritual interests in the Big Bend region, including Big Bend National Park, the Lower Canyons and the surrounding Rio Grande corridor.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2026, in _____.

SIGNATURE ON FOLLOWING PAGE

_____

Bernadette Devine

recreational, educational, professional, and spiritual interests in the Big Bend region, including Big Bend National Park, the Lower Canyons and the surrounding Rio Grande corridor.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 17 August, 2026, in Terlingua, TX.

Bernadette Devine

Declaration of Danny William Miller Junior in Support of Plaintiffs' Motion for a Preliminary Injunction, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Aug. 17, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH, et al., *Plaintiffs,* v. MARKWAYNE MULLIN, et al., *Defendants.*	Case No. 3:26-cv-01099-KC

DECLARATION OF DANNY WILLIAM MILLER JUNIOR
IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

I, Danny William Miller Junior, declare as follows:

1. This declaration is based on my personal knowledge. If called as a witness in this proceeding, I could and would competently testify to the facts stated below.

2. I have lived and worked in the Big Bend region of Texas since approximately March of 2005, building my life, my career, and my sense of community around the Rio Grande and the Big Bend landscape.

3. I am a professional river guide and have worked continuously in the outdoor recreation industry in this region for more than twenty-one years. I began guiding trips on the Rio Grande in March 2005 and have guided both commercial and private river trips since that time. Over the course of my career, I have worked for several guiding companies in the region, including Far Flung Outdoor Center, where I worked for approximately ten years, Desert Sports, where I worked for about ten years, and Further Adventures, where I worked for about two years. I guide river trips along the Rio Grande for almost every regional outdoor recreational company in the area.

4. I live with my family near the historic ghost town of Terlingua, Texas. My wife, Brittany Lowe, was born and raised in Big Bend National Park and Terlingua areas, and her connection to its geography is multi-generational. Her father was a guide on the river before he got a job with the National Park Service in Big Bend National Park, where he worked for thirty years. Through him, she gained a close familiarity with the Rio Grande, the National Park, and its surrounding landscape.

5. In 2014, my wife and I were married on the banks of the Rio Grande at Contrabando movie set. When our son was born in 2015, the river took on new importance for me as a parent. We chose "Rio" as his middle name because we knew the river would remain the heart of our family. I wanted him to grow up knowing how to connect with nature through fishing, canoeing, and tracking animals along the river. Over time, the Rio Grande ecosystem became more and more essential to who we are as a family, shaping our values and how we spend time together.

6. I visit and use the Rio Grande corridor multiple times each week for both professional guiding and to spend time with my family. The Lower Canyons, a wild and isolated stretch of the Rio Grande downstream of Big Bend National Park, is probably my favorite section of the entire river. Few clients undertake the remarkable 84-mile journey through the Lower Canyons because the trip is demanding and often takes more than a week by boat. Those who do make the journey, however, are rewarded with some of the clearest spring-fed waters and most dramatic canyon scenery in the Big Bend region. What makes the Lower Canyons especially meaningful to me is its remoteness. It remains one of the few places where a person can spend days on the river immersed in the landscape, seeing little evidence of modern development and experiencing the Rio Grande as generations of people have before us.

7. I've floated the Lower Canyons well over two dozen times to guide clients and to go on personal trips. In my previous declaration, titled Declaration of Danny William Miller Junior in Support of Plaintiffs' Motion for Summary Judgment, I testified about a trip I took with my son for his birthday in 2024. We spent nine days on the river to reach the Lower Canyons and explore this final stretch of the river he hadn't seen before. The trip was unforgettable. We woke to ice along the riverbank on our first morning and spent the following days exploring some of the most remarkable places in the Lower Canyons. We explored Oso Canyon, Silber Canyon, Palmas Canyon, San Francisco Canyon, and smaller canyons like Red House and Sanderson; fished and soaked near the warmer water at Asa Jones; explored the Caballo Blanco pour-off and the caves and natural tunnels at Complejo del Caballo; and spent an hour surfing our canoes in the wave at Rodeo Rapid. Along the way, we followed tracks left by bears and bighorn sheep, camped beside the river beneath towering canyon walls, and discovered places neither of us will ever forget. After nine days on the river, we weren't ready for the long and rugged drive home. Spending this time together in one of the wildest and most remote landscapes in Texas remains one of our most special memories together.

8. I plan to journey back to the Lower Canyons later this fall. My friend, who is also a professional river guide, and I are planning a fourteen-day canoe trip through around 138 miles of the river. We'll start at either Lajitas or La Linda, and journey through Santa Elena Canyon, the Great Unknown, Mariscal Canyon, San Vicente and Hot Springs Canyon, and finally Boquillas Canyon. After that, in October, I will be guiding a group of geologists on a multiday trip starting at either La Linda or Maravillas Canyon in Black Gap, depending on the water level, and take out just south of Dryden, Texas.

9. I've watched border-related construction in the Big Bend region begin and increase in intensity over the last few weeks. After seeing construction crews arrive in Terlingua, I attended a vigil on August 3, 2026, at Santa Elena Canyon in opposition to the planned border barriers in Big Bend. On August 9, 2026, I observed heavy equipment, including bulldozers, stationed at Cottonwood Campground in Big Bend National Park. Over the following days, I watched bulldozers and heavy machinery tear up vegetation to clear a dirt road near Santa Elena Canyon. I've also seen videos of large clear-cut and flattened areas off Old Maverick Road within the National Park. On August 12, 2026, I attended a protest in the National Park and saw the aftermath of the construction activities, including torn up and cleared vegetation.

10. These activities sent plumes of dust into the air and drove families of javelinas out of the vegetation that was being ripped up.

11. Seeing how quickly these areas I've known and loved for decades transform into something unrecognizable is deeply disturbing. Since the construction began, I've been struck by the contrast between the speed of the destruction and the immense amount of time required to create what is now damaged. Natural processes took thousands of years to shape the sandy washes, desert grasslands, native plant communities, and geologic features that define this landscape. Yet much of that character can be removed in a matter of hours by heavy machinery. Even if active construction were halted, the harm to the vegetation, soils, and natural appearance of these areas would linger. In my experience living and working in Big Bend, recovery would take years, decades, or longer, and some of the wilderness character that has been lost may never be fully restored.

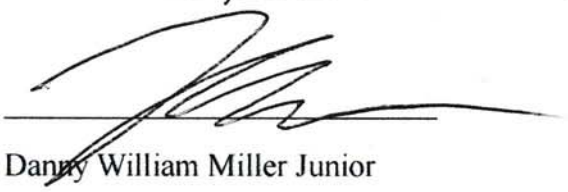
12. The harm extends beyond the areas where bulldozers are currently operating. The Rio Grande corridor and Big Bend National Park are valuable to me because they offer an

opportunity to experience a landscape that remains largely wild and undeveloped. It is the reason I have built my career here, raised my family here, and continue to return to the river week after week, month after month, and year after year. My clients come to the region for many of the same reasons. Ongoing construction activity, vegetation clearing, road building, dust, heavy equipment traffic, and the expected installation of border barrier infrastructure fundamentally alter that experience. They diminish the sense of remoteness, naturalness, and connection to the landscape that make these places special and interfere with my ability to enjoy and share them with others.

13. I am particularly concerned because the damage is already occurring and continues to expand. Native vegetation has already been removed. Wildlife has already been displaced. Previously undisturbed areas have already been graded and disturbed. Every additional day of construction risks further damage to the scenery, wildlife habitat, ecological integrity, and wilderness character of Big Bend. Even if construction ultimately stops, the time I lose experiencing these places in their current condition cannot be recovered, and much of the physical damage to the landscape cannot be quickly or easily undone. These injuries to my aesthetic, recreational, spiritual, and professional interests are ongoing and will only accumulate as construction progresses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 14, 2026, in Terlingua, Texas.



Danny William Miller Junior

Declaration of Willard "Bill" Guerra-Addington in Support of Plaintiffs' Emergency Motion for TRO or Preliminary Injunction, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Sep. 19, 2026)

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

FRIENDS OF THE RUIDOSA CHURCH et al., *Plaintiffs*, v. MARKWAYNE MULLIN et al., *Defendants.*	Case No. 3:26-cv-01099-KC

DECLARATION OF WILLARD "BILL" GUERRA-ADDINGTON IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION FOR TRO OR PRELIMINARY INJUNCTION

I, Willard Guerra-Addington, declare as follows:

1. This declaration is based on my personal knowledge. If called as a witness in this proceeding, I could and would competently testify to the facts stated below.

2. I have been a supporter of the Center for Biological Diversity since 2018 and became a member in 2026. The organization is one of the few groups that I believe truly works to protect my interests in species and habitat protection—especially in the borderlands.

3. I have lived and worked in the greater Big Bend region of Texas for most of my life. I am a third-generation rancher and farmer in southern Hudspeth County. In 1915, my grandfather immigrated from Merida, Yucatán to Galveston, Texas on a U.S. Naval ship. He walked with other immigrants from Galveston to Valentine, Texas, where he met my grandmother, who was visiting her brother, the owner of a big hardware store in Valentine, Texas, a thriving steam railroad water stop community 40 miles from Sierra Blanca. They fell in love and married in Valentine. Seeing opportunity, my grandparents moved to Sierra Blanca and built an Adobe

home. My grandfather borrowed money from a good friend in El Paso and sold goods delivered by mules and a wagon down a dirt road to small communities and railroad camps on the Southern Pacific Railroad. The wagon trip was 170 miles to Sanderson, Texas. He built a small Adobe grocery and general store south of the railroad tracks which was known as the "Mexican Town" or *Pueblo Mexicano* in Sierra Blanca. In 1926, they built a much larger general store and lumberyard in downtown Sierra Blanca when Highway 80 was constructed through Sierra Blanca. Years later, after expanding the general store and finding success, my grandfather, purchased a large ranch (100 sections, or 100 square miles) and also purchased river and ranch lands on the Rio Grande.

4. I was born in Fort Hancock 30 miles from Sierra Blanca. As a young boy, I worked my family's ranch for years into adulthood. Our ranch consistently had at least 300 head of cattle and grew alfalfa, pecans, watermelons and Pima cotton. Today, I reside in my Sierra Blanca rock home, in a house my grandfather built in 1928. I am very proud of my heritage and the hard work, sweat and blood my grandfather put into these lands.

5. Today, I own my family's land, called Guerra Farm and Ranch. This property abuts the Rio Grande and U.S.-Mexico border. It falls within the pathway of the planned border wall construction for Big Bend Project 1 and is encompassed by waivers issued by the Secretary of Homeland Security (91 Fed. Reg. 7297 (Feb. 17, 2026), as amended by 91 Fed. Reg. 40550 (July 2, 2026), referred to in this case as the "West Waiver"). Customs and Border Protection's online plans for this area show 30-foot-tall steel bollard walls along the entirety of my property. I would lose hundreds of acres to border wall construction if it is completed.

6. Words barely scratch the surface of the great love and connection I have and feel for this region and my deeply held historic, aesthetic, recreational, scientific, and spiritual interests

on my land and all of the Rio Grande borderlands. I know I can't protect the whole river, but I'll do my best to protect this stretch of it in southern Hudspeth County because it has given so much to my family and myself since 1918. The Guerra Farm and Ranch and the vast unspoiled undeveloped greater Big Bend region is a part of me.

7. The Rio Grande does not flow like it used to through this region—but it still brings life-sustaining water to the land, wildlife, and ecosystem. The dramatic landscape is covered with mesquite, creosote, catclaw, ocotillo, great yucca dagger "forests," and many species of cactus. The greater Big Bend region, part of the Chihuahuan Desert, is said to be as biodiverse as the Amazon rainforest. The greater Big Bend region has the darkest sky I've ever seen. Since I was a child, I have spent countless nights gazing for hours at the dark sky, sleeping under countless stars. I have slept outside, one with this sacred land, more nights than I have under a roof. The roots of my spirituality flow through this region—it is my home, it is embedded in my spirit. The great mountains, the gentle hills, and the life-sustaining river are my church and Cathedral where I worship God and creation. The Rio Grande and the great Eagle and Indio Mountains, where a portion of my ranch resides, are the most beautiful and sacred living things to me. A 30-foot steel bollard wall with patrol roads and stadium lighting would cause me great damage and insult, and degrade my ranch and farm and the entire Rio Grande region. I probably would not be able to ever grow crops again after being cut off from the Rio Grande waters. The nights would never be as dark. And the natural wildlife and habitats of this region would be severed.

8. My interests in the species here are aesthetic, scientific, and spiritual. On and around my ranch, I have lived with and seen mule deer, javelina, skunks, Mexican freetail bats, mountain lions, bobcats, foxes, porcupines, river beavers, and countless other wild animals. Threatened species like the Texas horned lizard live on my farm, as do the most beautiful Night

Blooming Cereus cactus. Three weeks ago, in mid-August 2026, for the first time, I was amazed to see and hear a large black bear walking not far from my farmhouse at night. Seeing these wild animals live and roam the lands I love so much fills me with profound joy. Bears are coming back to their home immigrating from Mexico, on our ranch and throughout the greater Big Bend region. A wall would stop black bear's re-introduction to Big Bend and would also stop their back-and-forth movements, necessary to find food and mate, thereby weakening their genetic pool. The Rio Grande often serves as the sole source of drinking water for animals in this region, wild and domestic. Wild animals will walk for many miles to the Rio Grande to find and drink water. I pray to God every night and every morning when I awake that this violent outrage on my ranch, farm and Rio Grande region will not happen.

9. I visit and work at my ranch around 3-5 times or more per week. I tend to and work on my land, enjoying the majestic scenery and beauty of the land and wildlife, while I still can. I take long hikes, ride my horse Escondido for miles, and check on the cattle and burros living on our farm. When I spend the night, I sit and lay on a cot around a Mesquite campfire, and gaze at the stars in our beautiful dark sky. I do this for hours, until I fall asleep. I prefer to sleep outside instead of in the farmhouse unless it's very cold in the winter. In the daytime, you can clearly see for 70 miles or more in many places. The beautiful feeling of living in the moment in quiet space and time cannot be put into words. My ranch and farm and all of the greater Big Bend region is the last virtually wild and undeveloped region in Texas. This region is a treasure to Texas and our great nation. It is sacred to me. Witnessing some of this beautiful borderland degraded and destroyed has caused me great sadness, grief and trauma. I'm not sure if I could ever begin to recover and live on my ranch if a 30-foot wall becomes a reality. My great and deeply held interests and beliefs span spirituality, recreation, and aesthetics. Like many of us living in this great expanse

on the border frontier, I am deeply connected and part of this land. Any living being including humans will protect what they love. And I love this land just as much as I love my own son and family. As humans and animals we protect what we love. My family's ranch and farm has given us so much and continues to.

10. I also have historic interests in preserving and maintaining my property because it contains one of the last remaining 1-room schoolhouses in Texas, built in 1920. I intend to further restore this adobe building under guidance of the Texas Historical Commission, so that it can continue to be used as my second home.

11. If the wall is built on my ranch, I will lose access to significant sections of my property and the Rio Grande.

12. Visible from my property is an active 200-acre construction project staging area, situated approximately 2 miles away. This staging area was cleared and built around June 2026 and is operated by Barnard—the contractor responsible for the design/build border wall project Big Bend 1. I have driven by and stopped to witness this staging area multiple times since this native grass and chaparral was cleared by bulldozers. It makes me break down and cry every time I see it. Tears run down my face when I see what has been destroyed and cannot be replaced. Witnessing this for several months has caused me great stress and sadness. Recently, I visited the site on September 4, 7, and 9, 2026 and observed great amounts of dust clouds and smoke billowing from disparate corners of the massive clearing, approximately 50 industrial vehicles, many working on this large area, including large excavators, D9 caterpillar bulldozers, front end loaders, mining dump trucks, water trucks, and gravel trucks. In the center of this enormous industrial wasteland, a colossal water tank with something like a million-gallon capacity was constructed. You can see water trucks on a nearly constant rotation pulling up to make a deposit. A water well

is actively being drilled. This landscape used to be beautiful grama grass and chaparral bushes. It is now reshaped with man-made mounds of dirt and sand and industrial equipment that are constantly under operation. They have transformed this once beautiful area into a dystopian nightmare, an approximately 200-acre Mad Max wasteland. This construction site is omnipresent and horrific. It harms my aesthetic, spiritual, and recreational interests in using and enjoying my property, its solitude, and magnificent wildlife. Much of the wildlife that used to be near this large industrial site have now fled to safer quiet, secluded areas. Additional activity to build the wall on the river will further displace wildlife. A true and correct video depicting this staging area, taken on September 4, 2026, is available at https://drive.google.com/file/d/1oMUvMyVCzXY_dgRlhl610btcwFJ8wajr/view?usp=sharing.

13. The traffic on the dirt road that leads to my ranch from Sierra Blanca and the massive construction site has increased dramatically since May 2026. Prior to this year, it was normal to see 2 to 3 pickup trucks or SUV's pass by every day on the 38-mile county Bramlett Road that comes from Sierra Blanca. Now, when I visit my ranch on a typical day, I see at least forty 18-wheeler diesel trucks over the course of around 8 hours making round trip journeys to pick up gravel and water near Sierra Blanca. Many of the large 18-wheeler trucks and nearly all of the smaller white trucks speed on this dirt road, going 10-20 miles per hour above the posted 30-mile-per-hour limit, kicking up dust clouds so thick that you need to turn headlights on to drive at high noon on a clear day. I've nearly had head on collisions with these 18-wheelers while driving to my land on the river. This unprecedented increase in traffic and the associated dust storms have completely changed the way I connect to my ranch and the larger landscape. What was once a peaceful place for reflection, recreation, and experiencing the wilderness is now a high traffic industrial construction zone. This traffic causes harm to the air, the plants, pollinators, and land-

bound critters. Last week, I picked a dead porcupine from the middle of this county road, run over near the Barnard construction and staging area. Out of respect, I laid the porcupine off the road to rest under the shade of a Mesquite tree.

14. On September 4, 2026 I travelled past my ranch, past the Barnard staging area, to one of my favorite places on the Rio Grande: Box Canyon. I have deep aesthetic, spiritual, and recreational interests in this location. This narrow winding slot canyon hugs the river, providing idyllic opportunities to experience the region's awesome geologic formations and for abundant wildlife viewing. Since my younger years camping with the Boy Scouts, I have spent weekends fishing and hiking in the beautiful Box Canyon countless times. In fact, Box Canyon is the favorite fishing spot for many of us in Sierra Blanca. Channel catfish and bass live in the Rio Grande at Box Canyon, and at our farm and ranch. Spending time here makes me feel complete, and I always feel like I am one with the earth.

15. Box Canyon lies along the U.S.-Mexico border in an area encompassed by the West Waiver. It falls within the pathway of the planned border wall construction for Big Bend Project 1, where Customs and Border Protection plans to install 30-foot-tall steel bollard walls along the entirety of the Rio Grande corridor.

16. Box Canyon has already been irreparably harmed by border wall construction: contractors began carving new roads into its hills and cliffs in June. What was once a seemingly untouched landscape has now been forever changed and scarred. Seeing that destruction to one of my favorite places on this planet continues to fill me with great sorrow. Concerningly, additional destruction is imminent. To build 30-foot-tall steel bollards here, contractors will need to dynamite and blast over large sections of Box Canyon, through and along the rock faces of the canyon, destroying a sacred and most beautiful place that many of us hold in our hearts,

17. When I visited on September 4, I was horrified to discover that these plans are imminent. New bore holes had been recently drilled along the new road in the Canyon, positioned and ready for explosives with orange plastic blast cones fitted inside. The blast site is 10-15 feet from the river and will permanently and irreparably destroy one of my favorite places. If and when they blast that hill to make a road through Box Canyon, large amounts of broken rock will inevitably fall into the Rio Grande. Certainly, I fear a wall being erected here because it will cut off my ability to access this place and strand animals who depend on cross-river migration and on the river's water and fish to survive. The wall will completely change this habitat in an unforgivable and permanent way. But as I write this declaration, most prescient in my mind is how much change and destruction will come from preparing this landscape for this wall—this work will detonate the massive Box Canyon walls, pollute the river, and forever change a place I and my community have cherished and used for camping and fishing for decades. Below is a true and correct photograph of the Rio Grande, a new road that has been recently built into Box Canyon, and the bore holes and blast cones that I observed on September 4, 2026.



18. On September 12, 2026, Hudspeth County Constable Abel Ramirez informed me that explosives would be detonated in Box Canyon as early as September 14, 2026.

19. On September 16, 2026, I witnessed five trucks transporting steel bollards passing by my ranch from a traffic camera posted on my property.

20. Each of us have the responsibility of doing everything that we can. Otherwise, the law of concentrated benefit over diffuse injury would create hell on earth.

21. I own my rock home in Sierra Blanca, and my family's historic ranch and farm adjacent to the Rio Grande. I intend to continue returning and living in these places for the rest of my life, including regular visits to Box Canyon and the surrounding Rio Grande corridor. If a wall destroys my ranch and farm or Box Canyon, it would break my heart and spirit. As human beings, we protect what we love, our families and the land that has nurtured and sustained us. My spiritual, recreational, aesthetic, and historical interests in this area would be protected if the Plaintiffs in this lawsuit prevail and this sacred borderland frontier, that my Guerra Farm and Ranch are a part of, was not permanently altered by a waiver of environmental and historic preservation laws and the subsequent rushed, destructive construction of a border wall.

I declare under penalty of perjury that the foregoing is true and correct.

Signed on this 16th day of September, 2026 in Sierra Blanca, Texas.

Willard Guerra-Addington

Willard Guerra-Addington

Declaration of Robert J. Krumenaker in Support of Plaintiffs' Motion for a Preliminary Injunction, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Sep. 19, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH, et al., *Plaintiffs,* v. MARKWAYNE MULLIN, et al., *Defendants.*	Case No. 3:26-cv-01099-KC

DECLARATION OF ROBERT J. KRUMENAKER IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

I, Robert J. Krumenaker, declare as follows:

1. This declaration is based on my personal knowledge. If called as a witness in this proceeding, I could and would competently testify to the facts stated below.

2. I serve as Chair of Keep Big Bend Wild, a citizen initiative dedicated to protecting the wilderness character of Big Bend National Park. Keep Big Bend Wild and another non-profit organization, The Coalition to Protect America's National Parks, filed an amicus brief in this case on August 14, 2026. ECF No. 19-1. I make this declaration in my individual capacity, not on behalf of either amicus organization.

3. Prior to my retirement, I served as Superintendent of Big Bend National Park and the Rio Grande Wild and Scenic River from September 2018 through July 2023. I submit this declaration based on my personal knowledge and experience as a former Superintendent.

4. As Superintendent, I was the senior National Park Service official responsible for the management and operation of Big Bend National Park and the Rio Grande Wild and Scenic River. My role encompassed law enforcement operations, natural and cultural resource management,

visitor services, budgeting, personnel, and coordination with federal, local, and international partners.

5. The areas under my supervision included approximately 245 miles of the international border with Mexico, from the upstream boundary of Big Bend National Park at approximately river mile 902.2, just below the village of Lajitas, TX, to the downstream boundary of the Rio Grande Wild & Scenic River, at approximately river mile 657.5 at the Terrell – Val Verde (TX) County line, which amounts to approximately 12.5% of the entire U.S.-Mexico border.

6. During my tenure, border security in the Big Bend region functioned through cooperation among the Border Patrol, National Park Service, and county sheriffs rather than through extensive physical infrastructure.

7. As Superintendent, I was part of that collaborative effort to promote border security. I worked closely with U.S. Border Patrol and other law enforcement agencies. I regularly met with Border Patrol leadership and participated in efforts to coordinate National Park Service and Border Patrol activities within the region. Additionally, I started a record system that tracked the annual number of apprehensions for unauthorized crossings within Big Bend National Park. The data was provided to the National Park Service by Border Patrol agents stationed in the park and compiled in an Excel sheet.

8. The National Park Service maintained up to eighteen to twenty commissioned law enforcement rangers within the area during my tenure. Although National Park Service rangers were not responsible for enforcing federal immigration laws, they frequently coordinated with Border Patrol personnel and often served as first responders when activity was detected in remote portions of the park.

9. During my tenure, there were no human-made border barriers of any kind within Big Bend National Park or along the Rio Grande Wild and Scenic River. Instead, border enforcement relied on personnel, patrols, aircraft, remote sensors, intelligence, and interagency coordination. Wireless remote sensors were deployed throughout the region. In my experience, these systems were effective, inexpensive, and adaptable. Sensor alerts were shared among agencies, allowing personnel to respond quickly when activity was detected.

10. The National Park Service also operated aerial patrols, and the Border Patrol regularly conducted aerial surveillance throughout the region.

11. Throughout my service as Superintendent, Border Patrol leadership never indicated that existing security operations within the park were inadequate or that substantially different enforcement mechanisms were necessary.

12. Based on my experience, the combination of terrain, surveillance technology, law enforcement personnel, and interagency cooperation was effective in supporting border enforcement operations in Big Bend National Park.

13. I am very familiar with the geography and terrain of Big Bend National Park and the adjacent region in Mexico.

14. Big Bend National Park is naturally isolated by surrounding deserts, canyons, and mountains. In my experience, these geographic features function as substantial natural barriers to travel. Big Bend is a desert environment characterized by extreme remoteness, steep mountains, deep canyons, rugged desert terrain, dense riparian vegetation along portions of the Rio Grande, substantial elevation changes, limited water sources, and extreme temperatures.

15. The highest point within the park exceeds 7,800 feet in elevation, more than a mile above the Rio Grande. The lowest point is where the Rio Grande exits the park at approximately

1,800 feet. Many areas contain steep slopes, rugged canyon systems, and sharp vegetation that is difficult to traverse. Travel through much of the region is slow, difficult, and potentially dangerous. Most areas lack readily available water. Summer temperatures commonly exceed 110 degrees Fahrenheit near the border. The landscape also contains numerous natural hazards, including steep terrain, thorny vegetation, venomous wildlife, and other environmental dangers.

16. I have visited the region across the international border in Mexico on numerous occasions. In my experience, the terrain on the Mexican side of the border is similarly remote, rugged, and difficult to traverse.

17. The rugged terrain, natural barriers, isolation, and distance from major transportation routes are principal reasons why the Big Bend region experiences low levels of illegal crossing activity. In my experience, of those who did migrate through this region, many of them sought humanitarian assistance or medical aid due to the arduous journey through the landscape.

18. I prepared the table attached hereto as Exhibit 1, titled "Illegal Migrant Activity in Big Bend National Park."

19. The figures contained in that table were derived from publicly available Customs and Border Protection data and information provided to the National Park Service by the Border Patrol and later produced by the National Park Service in response to a Freedom of Information Act request I filed on May 27, 2026 (the "FOIA Request").

20. The apprehension figures reflected in Exhibit 1 demonstrate that Big Bend National Park accounts for a very small proportion of activity along the southern border. For example, in both 2023 and 2024, the park accounted 0.005% of all unauthorized crossing apprehensions along the southern border. To illustrate how remarkably small this number is in relation to the park's

expansive geography, there were just 0.092 apprehensions per mile per month along the park's 118-mile border in 2023. In 2024, this number dropped to 0.072 apprehensions per mile per month of the park's border.

21. With the exception of figures from 2025, the figures produced in response to my FOIA Request largely match those I compiled as Superintendent during the years of my tenure. The 2025 figures are an outlier. In response to my FOIA Request, the National Park Service produced two documents. Attached hereto as Exhibit 2 are true and correct copies of records produced by the National Park Service in response to my FOIA Request. One reflected an annual total of 613 apprehensions for 2025. The second contained monthly figures that did not correspond to that annual total and appeared to inconsistently report different categories of activity, including encounters and individuals who were not formally apprehended but returned to their country of origin shortly after crossing the border. Much of the data in that second document included activity that did not take place inside the National Park, which was the intended scope of the FOIA Request. When I totaled the monthly figures of just the apprehensions inside the national park, reflected in that document, the sum was 123, which is substantially lower than the 613 reported. The 123 figure is more consistent with my understanding of conditions in the park.

22. The very qualities that make Big Bend National Park remote and difficult to traverse are also central to its significance as a national park and the visitor experience. One of the defining characteristics of Big Bend National Park is its sense of remoteness, wildness, open space, and lack of visible human development away from the existing roads. During my service as Superintendent, visitors routinely expressed appreciation for the park's undeveloped character, expansive vistas, wildlife, solitude, and exceptionally dark night skies. Many visitors traveled long

distances to experience this, and the communities neighboring the National Park have shaped their businesses and operations around this tourism.

23. Proposed construction of additional border infrastructure could involve barriers, roads, lighting, cameras, fixed sensors on poles or towers, communications and power lines and related infrastructure, staging areas, man camps, wells, excavation, grading, and related operations and facilities. Such development would alter portions of the landscape that currently retain a largely undeveloped and wilderness character.

24. Based on my observations and experience managing the park, the sense of wildness and the opportunities for solitude a short distance from the existing park infrastructure are significant aspects of what makes Big Bend National Park such an iconic and loved destination for Americans that visit the park. New roads and associated infrastructure in currently undeveloped areas would create lasting visual impacts, fragment otherwise intact landscapes, and diminish visitors' ability to experience the park's natural and wilderness qualities. Human-made infrastructure, including roads and vehicle barriers, fragment the expansive wilderness that visitors are aesthetically drawn to. Additionally, visible surveillance equipment makes lawful visitors uneasy, and the feeling of being watched detracts from a sense of being immersed in nature, replacing it with self-consciousness. Vehicle barriers would prevent recreational visitors and outfitters from being able to back their trailers carrying canoes and other boats up to the river's edge, reducing or eliminating recreational opportunities.

25. Many of the same border-security objectives currently achieved through remote, wireless sensors and coordinated law-enforcement operations can be accomplished without the construction of extensive, permanent infrastructure within the park.

26. Based on my personal observations as Superintendent, the existing geography of Big Bend and the current law-enforcement framework already in place provide substantial deterrence to unauthorized crossings.

27. Based on my experience managing Big Bend National Park and coordinating with Border Patrol personnel, a temporary pause lasting weeks or months in the construction activities currently proposed for the park would not materially impair border enforcement operations within Big Bend National Park. Existing terrain, surveillance systems, law-enforcement personnel, and cooperative enforcement mechanisms would remain in place during such a period, and these measures have proved effective.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 18, 2026.

Robert J. Krumenaker

EXHIBIT 1

Illegal Migrant Activity In Big Bend National Park (BBNP)

Compiled by Bob Krumenaker, Keep Big Bend Wild — Updated as of 9/17/2026

	Apprehensions by the Border Patrol						
Year	Inside Big Bend National Park (BBNP)	Entire Big Bend Sector	Entire Southwest Border	Apprehensions Inside BBNP Per Mile Per Month	BBNP % of Total Southwest Border	BBNP % of Entire Big Bend Sector	Big Bend Sector % of Total Southwest Border
2016	20	6,366	408,870	0.014	0.005%	0.314%	1.557%
2017	2	6,002	303,916	0.001	0.001%	0.033%	1.975%
2018	60	8,045	396,579	0.042	0.015%	0.746%	2.029%
2019	615	9,637	851,508	0.434	0.072%	6.382%	1.132%
2020	20	8,628	400,651	0.014	0.005%	0.232%	2.153%
2021	797	37,266	1,659,206	0.563	0.048%	2.139%	2.246%
2022	268	31,948	2,370,000	0.189	0.011%	0.839%	1.348%
2023	130	11,823	2,475,669	0.092	0.005%	1.100%	0.478%
2024	102	4,921	2,135,005	0.072	0.005%	2.073%	0.230%
2025	613	3,096	443,671	0.433	0.138%	19.800%	0.698%
2016-2025 Total	2627	127,732	11,445,075	0.186	0.023%	2.057%	1.116%
2021-2025 Total	1910	89,054	9,083,551	0.270	0.021%	2.145%	0.980%
Miles of Border	**118**	**517**	**1952**		6%	23%	26%

NPS /BBNP counts by calendar year; BP counts by fiscal year

NPS/BBNP data source: NPS Response to FOIA Request dated 8/7/26 "Yearly Border Apprehension totals for BIBE" (File Name "BIBE_Operational Summary Memo.pdf")

Border Patrol Sector and Total data by fiscal year FY16-18 from https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/BP%20Apps%20by%20Sector%20and%20Citizenship%20FY07-FY18.pdf

Border Patrol Sector and Total data by fiscal year FY16-22 from https://ohss.dhs.gov/topics/immigration/yearbook/2022/table35

Border Patrol Southwest Border data FY23-25 from https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters

Illegal Migrant Activity In Big Bend National Park (BBNP)

Compiled by Bob Krumenaker, Keep Big Bend Wild — Updated as of 9/17/2026

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2023	130	11,823	2,475,669	0.092	0.005%	1.100%	0.478%
2024	102	4,921	2,135,005	0.072	0.005%	2.073%	0.230%
2025	123	3,096	443,671	0.087	0.028%	3.973%	0.698%
2016-2025 Total	2137	127,732	11,445,075	0.151	0.019%	1.673%	1.116%
2021-2025 Total	1420	89,054	9,083,551	0.201	0.016%	1.595%	0.980%
Miles of Border	**118**	**517**	**1952**		6%	23%	26%

NPS /BBNP counts by calendar year; BP counts by fiscal year

NPS/BBNP data source: NPS Response to FOIA Request dated 8/7/26, parsed to extract apprehension data inside BBNP only
File Name: "2016-2026 Immigration numbers in BIBE.pdf"

Border Patrol Sector and Total data by fiscal year FY16-18 from
https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/BP%20Apps%20by%20Sector%20and%20Citizenship%20FY07-FY18.pdf

Border Patrol Sector and Total data by fiscal year FY16-22 from
https://ohss.dhs.gov/topics/immigration/yearbook/2022/table35

Border Patrol Southwest Border data FY23-25 from
https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters

EXHIBIT 2

United States Department of the Interior

NATIONAL PARK SERVICE
Big Bend National Park
Rio Grande Wild and Scenic River
P.O. Box 129
Big Bend National Park, Texas 79834-0129

August 7, 2026
Electronic Transmission – no hard copy to follow

MEMORANDUM

To:	Alison Yamato, Regional FOIA Coordinator, IMR - Serving Interior Regions 6, 7 & 8
From:	Steven Cape, Chief Ranger, Big Bend National Park (BIBE)
Subject:	Yearly Border Apprehension totals for BIBE
Memo Type:	Informational
Due Date(s):	08/04/2026
Contact:	Steven Cape, Office: 432.477.1185, Steven_Cape@nps.gov

Reason for Request
Operational summary information of illegal border crossing apprehensions submitted for compilation in response to FOIA request 2026-006568.

Background Information
This information was compiled for operational summary and in response to FOIA request.

Data: Total annual summary of illegal border crossing apprehensions at BIBE

2016 - 20
2017 - 02
2018 - 60
2019 - 615
2020 - 20
2021 - 797
2022 - 268
2023 - 130
2024 - 102
2025 - 613

Outlook

Border Stats request for FOIA

From Gupman, Rick R <John_R_Gupman@nps.gov>
Date Mon 7/20/2026 15:11
To Herndon, Eric <Eric_Herndon@nps.gov>; Cape, Steve <Steve_Cape@nps.gov>

Good afternoon,
These are the numbers that I was able to come up from my emails. I could not find any reports anywhere that summed all of this up. This is what I previously reported.

2016- 20
2017-2
2018-60
2019- 615
2020- no data
2021 -797
2022 - 268
2023 - 130
2024-102
2025 - 200 (may not be final)
Rick

Good afternoon

From: Herndon, Eric <Eric_Herndon@nps.gov>
Sent: Friday, February 27, 2026 3:19 PM
To: Gupman, Rick R <John_R_Gupman@nps.gov>; Cape, Steve <Steve_Cape@nps.gov>
Cc: Thomason, Carlye <Carlye_Thomason@nps.gov>
Subject: Border Stats request for 2025

Jan 2025

Border Activity inside Big Bend National Park
Total Subjects: 98
Apprehensions: 91
Turn-backs: 2
Got Away: 5
Outbound (to Mexico): 0
No Violation/Unresolved/Outstanding: 0
Seizures: 0

Border Activity That Likely Crossed through Big Bend National Park
Total Subjects: 19
Apprehensions: 14
Turn-backs: 0
Got Away: 5

No Violation/Unresolved/Outstanding: 0
Seizures: 0

Feb 2025

Border Activity inside Big Bend National Park
Total Subjects: 24
Apprehensions: 9
Turn-backs: 1
Got Away: 11
Outbound (to Mexico): 3
No Violation/Unresolved/Outstanding: 0
Seizures: 0

Border Activity That Likely Crossed through Big Bend National Park
Total Subjects: 17
Apprehensions: 17
Turn-backs: 0
Got Away: 0
No Violation/Unresolved/Outstanding: 0
Seizures: 0

Mar 2025

In BIBE:
4 detected
4 Turn backs
0 apprehended

Went through BIBE:
6 detected
5 apprehended
0 Turn backs

Apr 2025
With all the new Alpine and DOD involvement, I know that there are some things missing. For example, I had to add apprehension of 2. Apparently, it never got done on the day of arrest. You're welcome to swing by and see if it jives with your memory and notes. This will be biggest headache. It was hard enough to stay on top of three agents inputting things properly.

Total Subjects: 24
Apprehensions: 8
Turn-backs: 0
Got Away: 5
Outbound (to Mexico): 0
No Violation/Unresolved/Outstanding: 11
Seizures: 0

May 2025
0 Apps

We had 12 turnbacks cases pulled for the month of May.

Jun 2025
For the month of June we had 3 apprehensions north of the Park that possibly passed through the Park. everything else in June was Sanderson or BCSO stops on 118.

Jul 2025
We only had one apprehension in BIBE on July 4. Alpine had no apprehensions that had passed through BIBE.
There was also 4 apprehensions in Sanderson AOR that passed through RIGR on July 13.

Aug 2025
BIBE - Zero apps in the park or that crossed through it
RiGr- 27 apprehensions and 2 got-aways that crossed through the river park.

Sep 2025
BIBE- 3 turn backs **in** Park
6 apps North of Park - passed through

RIRG- 43 apps passed through
3 got-aways passed through

Oct 2025
BIBE - 4 apps and 2 Got-aways
RIGR - 51 apps and 23 Got-aways

Nov 2025
BIBE - 7 apps attempting to circumvent the checkpoint on 385.
RIGR - 74 Apps, 28 got-aways, and 11 turnbacks.

Dec 2025
BIBE
Apprehensions - 10
Turnback - 1

RIGR
Apprehensions - 285
Turnback - 19
Got-away -30

Eric Herndon
Chief Ranger (a)
Deputy Chief Ranger
Big Bend National Park
Rio Grande Wild and Scenic River
(432) 213-5722
Hours 1st Week: Sunday-Wednesday 8A-5:30P
Hours 2nd Week: Sunday-Thursday 8A-5:30P

Supplemental Expert Report of Adam B. Isacson, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Sep. 19, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH et al., *Plaintiffs*, v. MARKWAYNE MULLIN et al., *Defendants.*	Case No. 3:26-cv-01099-KC

SUPPLEMENTAL EXPERT REPORT OF ADAM B. ISACSON

1. I am the Director for Defense Oversight at the Washington Office on Latin America ("WOLA"), a nonprofit research and advocacy organization based in Washington, D.C., committed to advancing human rights in the Americas. Since 2011, a significant part of my work has been focused on border security in the United States. I have visited the U.S.-Mexico border approximately 40 times and the Mexico-Guatemala border 4 times. Since 2020 alone, I have overseen WOLA's publication of over 110 reports, memos, and multimedia projects about border and migration trends, the successes and failures of border security and migration policies, and human rights impacts. In addition to those products, since September 2020, I have published a Border Update with over 500 email subscribers and more than 400,000 downloads over the past year. I have testified about border and migration issues in the U.S. Congress three times since November 2023. My professional opinions and work product are cited in major media outlets, on average, a few times monthly.

ASSIGNMENT

2. I was retained by counsel for Center for Biological Diversity (the "Center") to opine on the number of unlawful border crossings in the Big Bend Border Patrol Sector in Texas (the "Big Bend Sector"); to compare those figures with unlawful border crossing data from other U.S. Border Patrol sectors along the U.S.-Mexico border; and to determine whether the Big Bend Sector, or any subdivision thereof, reflect comparatively elevated unlawful-entry activity.

3. I previously submitted an expert report for this lawsuit that detailed my opinions on this matter, ECF No. 19-2 (APX-V1-328) ("First Report" or "First Isacson Report").

4. Counsel for the Center requested that I provide additional context in support of my overall conclusion that the Big Bend Sector is not an area of high illegal entry. Specifically, Counsel for the Center asked that I break down annual entries by sector and provide additional details to characterize the overall apprehension counts provided by Customs and Border Protection ("CBP").

5. I have declined to be compensated for my time.

DOCUMENTS REVIEWED

6. As part of my assignment, I reviewed the documents outlined in paragraph 4 of my First Report. Additionally, I have reviewed:

a. CBP spreadsheets, published to the agency's "Document Library" of items released pursuant to Freedom of Information Act requests, providing details about individuals apprehended by Border Patrol from fiscal years 2010 to 2025. Those spreadsheets are all Excel (.xlsx) files with the string "usbp_encounter_subject_detail" in their filenames. (Available at: https://www.cbp.gov/document/foia-record/cbp-border-patrol-statistics)

b. Information about "At Large" and "At Entry" apprehensions across the entire U.S.-Mexico border, provided for fiscal years 2024 through 2026 at CBP's "Nationwide Encounters" webpage. (Available at: https://www.cbp.gov/newsroom/stats/nationwide-encounters)

c. Declaration of Paul Enriquez, ECF No. 38-1, which Defendants filed in support of their Opposition to Plaintiffs' Emergency Motion for a Temporary Restraining Order or Preliminary Injunction.

d. U.S. Government Accountability Office, *Border Patrol Lacks Important Information about Immigration Checkpoints Within the United States* (2022). (Available at: https://www.gao.gov/blog/border-patrol-lacks-important-information-about-immigration-checkpoints-within-united-states)

QUALIFICATIONS

7. My qualifications are as stated in paragraphs 6–8 of my First Report.

SUMMARY OF OPINIONS

8. Review of these additional documents further supports my conclusion that the Big Bend Sector is not an area of high illegal entry. Looking at disaggregated statistics of Border Patrol apprehensions in this and other border sectors, as I did in my First Report, already shows that illegal entries are extremely infrequent in the Big Bend Sector, far fewer than any other U.S.-Mexico border sector. The number falls still further, however, when we subtract people who had crossed the border long ago, perhaps in other sectors, only to be apprehended at vehicle checkpoints or while otherwise "at large" in a sector that covers more than 135,000 square miles.

METHODOLOGY

9. In order to further support my conclusion that the Big Bend Sector is not an area of high illegal entry, I examined annual apprehension figures for all border patrol sectors per border mile per month for every year since 1996. This data is noted in paragraph 4 of my First Report.

10. In order to better characterize individual apprehensions within the Big Bend Sector, I relied on annual CBP files offering further details about each individual encountered (apprehended) by Border Patrol, as well as "at large" apprehension statistics from CBP. This data is noted in the "Documents Reviewed" section above.

11. Data with details about individuals apprehended by Border Patrol are available in a series of Excel spreadsheets, often with hundreds of thousands of rows of data: one row for each apprehended individual. Columns provide significant detail about each apprehended individual, including—for the purposes of this analysis—in which Border Patrol sector the apprehension occurred, whether it occurred at a Border Patrol highway checkpoint, and how long the individual had been present in the United States before apprehension. I used Python scripts to aggregate these spreadsheets' contents into a database (using SQLite), and then to query that database to determine how many Big Bend Sector apprehensions took place at checkpoints, and of those apprehended at checkpoints, how long they had been in the United States. I compared the Big Bend apprehension totals to those reported by CBP over the years and presented in my First Report: during most years from 2010-2025 they matched exactly, though there was minor variation in 2020 (total apprehensions 0.01% lower in the spreadsheet), 2021 (total apprehensions 0.1% higher in the spreadsheet), 2022 (total apprehensions 0.2% higher in the spreadsheet), and 2023 (total apprehensions 0.1% higher in the spreadsheet). These very slight variances, which I confirmed by manually inspecting the spreadsheets, likely owed to Border Patrol's data challenges when

implementing the pandemic-era "Title 42" expulsion policy. Under the policy, in effect from March 2020 to May 2023, expelled migrants were not fully processed or considered to have officially entered the United States, which is why the agency used the term "encountered" instead of "apprehended" to describe the people in its custody. That custody was usually very brief, and agents did not gather as much information about those whom they encountered before removing them from U.S. soil.

12. CBP provides "at large" border-wide apprehensions on a monthly basis for the past three fiscal years in tables presented on its website, which I copy-and-pasted into a spreadsheet and totaled up by year.

OPINION

13. In my First Report, I concluded that although the Big Bend Sector encompasses nearly one-quarter of the U.S.-Mexico border, it has the lowest rates of illegal entry. First Isacson Decl. ¶¶ 21, 27. There, I provided two figures that illustrate how low apprehensions are in the Big Bend Sector: Figure 1 (depicting total apprehensions per sector over various spans of years, plus totals per mile per month for each sector), and Figure 2 (depicting a graph of total apprehensions at the U.S.-Mexico border with the Big Bend Sector representing a nearly invisible proportion of the total). *Id.* at 9.

14. To better contextualize these figures, attached hereto as Exhibit 1 are true and correct copies of tables I created for each year, beginning in 1996, depicting the total land border miles for each U.S. Border Patrol sector along the U.S.-Mexico border, total apprehensions for each sector, corresponding totals per mile per month, and overall percentages. For each year, I also provide a pie chart showing the Big Bend Sector's share of apprehensions.

15. The annual tables show that in every year since 1996, total apprehensions per mile per month in the Big Bend Sector have not exceeded 6, and in most years are below 2, often below 1. Other sectors see hundreds of apprehensions per mile per month.

16. The year 1996 is a relevant starting point for this data because that was the year Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), and authorized the U.S. Attorney General (now the DHS Secretary) to "take such actions as may be necessary to install additional physical barriers and roads . . . in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States." P.L. 104-208, div. C., codified at 8 U.S.C. § 1103 note. In 1996, there were 2.1 apprehensions per border mile per month in the Big Bend Sector—by far the lowest rates across the entire border. Ex. 1 at 2. Comparatively, there were over 600 apprehensions per border mile per month in the San Diego Sector (the sector with the highest per mile apprehensions) and 18.7 apprehensions per border mile per month in the Yuma Sector (the sector with the second lowest per mile apprehensions that year). *Id.* In other words, when Congress passed IIRIRA, the Big Bend Sector was both the sector with the *lowest* rates of unlawful entry—about one-ninth of the next-smallest sector in apprehensions per mile—and a sector with undisputably *low* rates of unlawful entry. Over the years, this has not changed.

17. Further supporting that the Big Bend Sector is not an area of high illegal entry, the total apprehension figures on which CBP relies strongly appear to overstate the number of individuals who unlawfully crossed the U.S.-Mexico border within the Sector.

18. The Big Bend Sector encompasses a large geographic area that includes 77 Texas counties and all of the State of Oklahoma. According to CBP, the sector covers more than 135,000 square miles.

19. CBP's sector-wide apprehension data is not limited to individuals encountered while unlawfully crossing the international border. Rather, it includes both individuals apprehended "at entry" and individuals apprehended "at large." CBP defines an apprehension "at entry" as involving "an alien who has entered the United States without admission and has not yet reached his/her destination, regardless of the amount of time since entry." CBP defines an apprehension "at large" as involving "an alien who has illegally entered the United States, has already reached their destination, and is encountered or who was legally admitted and has since overstayed their permitted time, illegally remaining in the U.S."

20. CBP's apprehension data therefore is not a measure of how many people unlawfully crossed the U.S.-Mexico border within the Big Bend Sector. Defendants in this case have asserted that "[b]etween fiscal year 2021 and fiscal year 2025, Border Patrol apprehended over 89,000 illegal aliens attempting to enter the United States between border crossings in the Big Bend Sector." Decl. of Paul Enriquez, ECF No. 38-1, ¶ 42. However, that statistic should not be interpreted as a count of unlawful border crossings occurring within the Big Bend Sector because the apprehension data reflects encounters occurring through a large enforcement area that extends beyond the border itself. The figures include individuals encountered throughout the Sector, regardless of where they crossed the border, as well as individuals who were lawfully admitted but later encountered within the Sector after overstaying or otherwise lacking lawful status.

21. To my knowledge, data on "at large" apprehensions broken down by sector is not publicly available. However, across the U.S.-Mexico border, approximately 3.4% of apprehensions between Fiscal Years 2024 and 2026 were classified as "at large." In Fiscal Year 2026 through July 2026, that figure rose to approximately 15.6%. This indicates that a significant portion of apprehensions involve non-recent border-crossers who may not have crossed the border

illegally in the first place. Border Patrol does not offer this data by sector; without more data, there is no reason to assume that the Big Bend sector varies from the border-wide trend of "at large" apprehensions.

22. Additionally, apprehensions at CBP checkpoints are also included in the Sector's overall apprehension totals, even though they do not necessarily involve individuals who crossed the border in the Big Bend Sector. As the U.S. Government Accountability Office ("GAO") reported in 2022, Border Patrol maintains "more than 110 checkpoints, located generally 25 to 100 miles from the southwest and northern borders along U.S. highways and secondary roads. All vehicles traveling through a checkpoint may be subject to a checkpoint inspection." GAO's report included a map, covering 2016-2020, showing four Border Patrol checkpoints in the Big Bend sector. (https://www.gao.gov/blog/border-patrol-lacks-important-information-about-immigration-checkpoints-within-united-states)

23. CBP apprehension data reflects that, between Fiscal Years 2013 and 2025, 12,652 of the 140,654 apprehensions recorded in the Big Bend Sector, or approximately 9%, occurred at Border Patrol checkpoints. In Fiscal Year 2025, 27.3% of all apprehensions in the Big Bend Sector occurred at a checkpoint, the highest percentage during the period examined. The lowest percentage occurred in Fiscal Year 2021, when checkpoint apprehensions accounted for 4.5% of all apprehensions in the Sector.

24. Available CBP data further reflects that many individuals apprehended at checkpoints were present in the U.S. for extended periods of time prior to their apprehension. Among checkpoint apprehensions in the Big Bend Sector for which the relevant data is publicly available, 42.7% involved individuals who had been present in the U.S. for more than one month, and one-third (33%) involved individuals who had been present in the U.S. for more than one year.

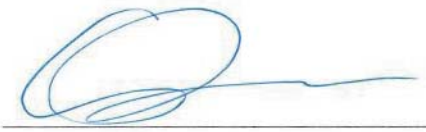
25. This data demonstrates that the number of people apprehended after crossing the border in the Big Bend Sector is even smaller than the numbers indicated in my First Report, which were based on apprehension data not broken down by checkpoint or "at-large" status. In fiscal 2025, for instance, Border Patrol reported apprehending people 3,096 times in the Big Bend Sector: that is the number reported in Exhibit 1, on the page showing data for 2025. Of those 3,096, though, 506 were apprehended at checkpoints after being in the United States for over a month (i.e., not recent border crossers, and may have entered the United States elsewhere). Excluding those checkpoint apprehensions of non-recent border crossers would reduce the 2025 total by 16%, to 2,590. Of that smaller figure, at least some would have been "at large" apprehensions of non-recent crossers that did not occur at checkpoints; excluding them would reduce the total by another few percentage points.

CONCLUSION

26. Reported Border Patrol apprehensions—in total, or per mile; absolutely or comparatively—in the Big Bend Sector are already low. Excluding checkpoint apprehensions of individuals who have been in the United States for some time, and excluding other "at large" apprehensions, lowers the numbers even further. This strongly reinforces the conclusion, presented in my First Report, that the Big Bend Sector is not an area of high illegal entry.

Pursuant to 28 U.S.C. § 1746, I, Adam Isacson, declare under penalty of perjury that the foregoing is true and correct.

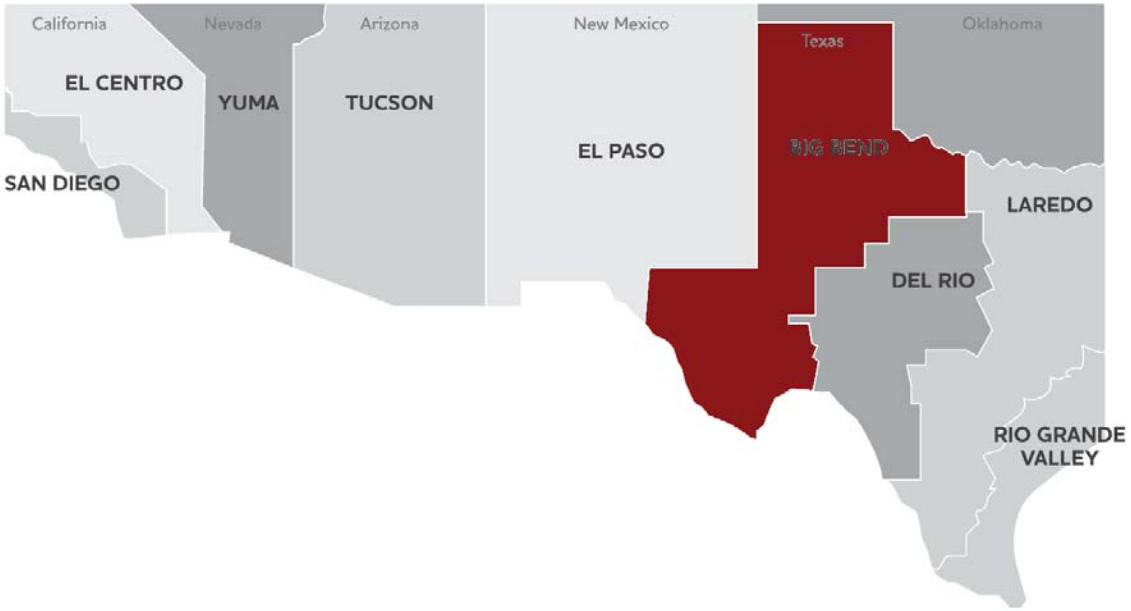
Executed on September 17, 2026, in Washington, DC.

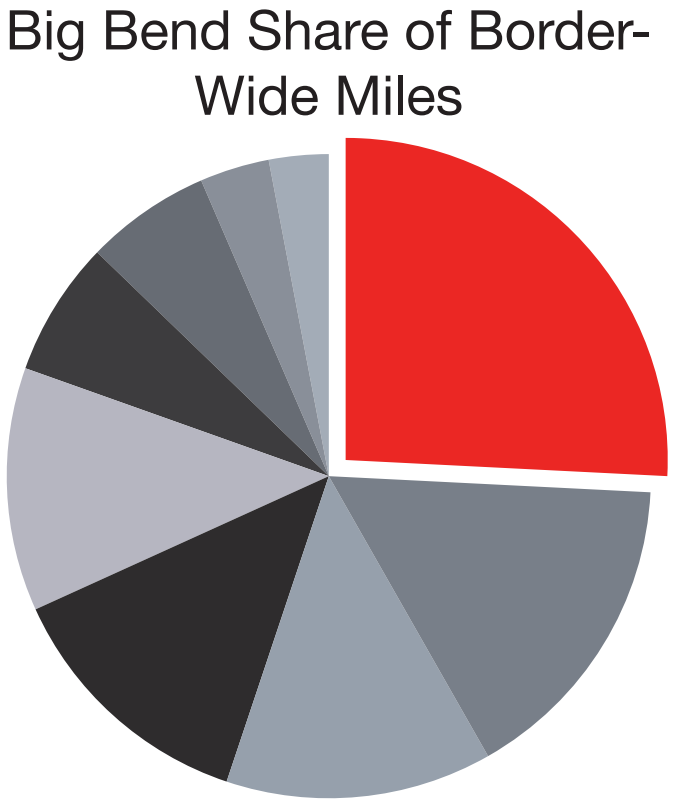


Adam Isacson

EXHIBIT 1

Nine U.S.-Mexico Border Patrol Sectors

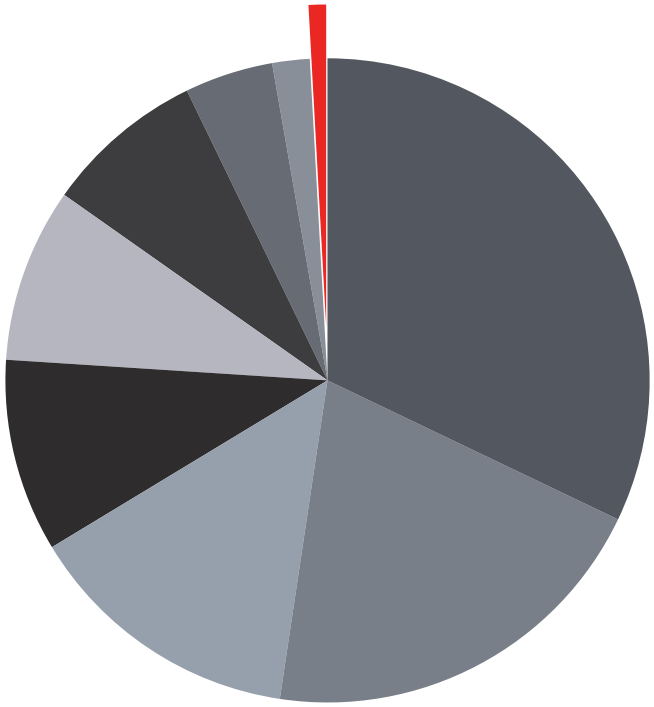




U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 1996

Fiscal Year 1996 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
San Diego	60	483,815	672.0	32.1%
Tucson	262	305,348	97.1	20.3%
Rio Grande Valley	320	210,553	54.8	14.0%
El Paso	268	145,929	45.4	9.7%
Laredo	136	131,841	80.8	8.7%
Del Rio	245	121,137	41.2	8.0%
El Centro	70	66,873	79.6	4.4%
Yuma	126	28,310	18.7	1.9%
Big Bend	**517**	**13,214**	**2.1**	**0.9%**
Southern Border Total	**2,004**	**1,507,020**	**62.7**	
Big Bend:	25.8% of total	0.9% of total	1/29th of border-wide	

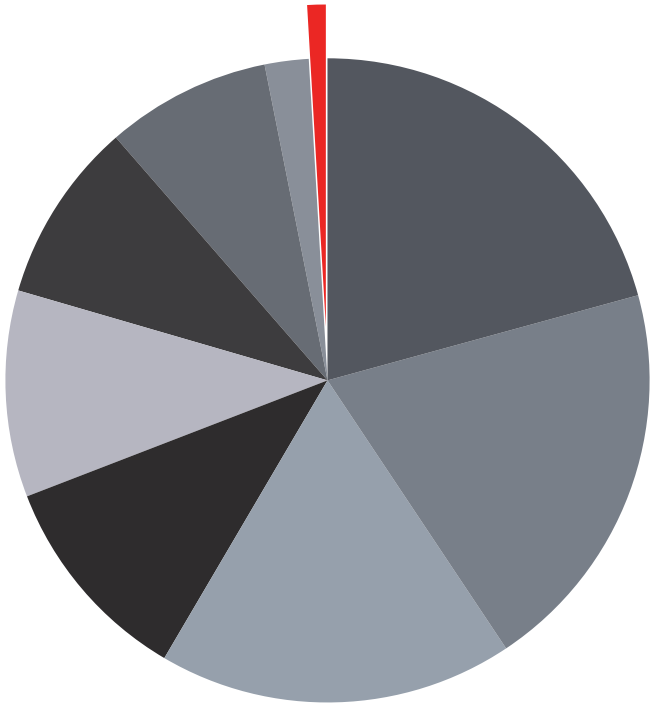
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 1997

Fiscal Year 1997 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
San Diego	60	283,889	394.3	20.7%
Tucson	262	272,397	86.6	19.9%
Rio Grande Valley	320	243,793	63.5	17.8%
El Centro	70	146,210	174.1	10.7%
Laredo	136	141,893	86.9	10.4%
El Paso	268	124,376	38.7	9.1%
Del Rio	245	113,280	38.5	8.3%
Yuma	126	30,177	20.0	2.2%
Big Bend	**517**	**12,692**	**2.0**	**0.9%**
Southern Border Total	**2,004**	**1,368,707**	**56.9**	
Big Bend:	25.8% of total	0.9% of total	1/28th of border-wide	

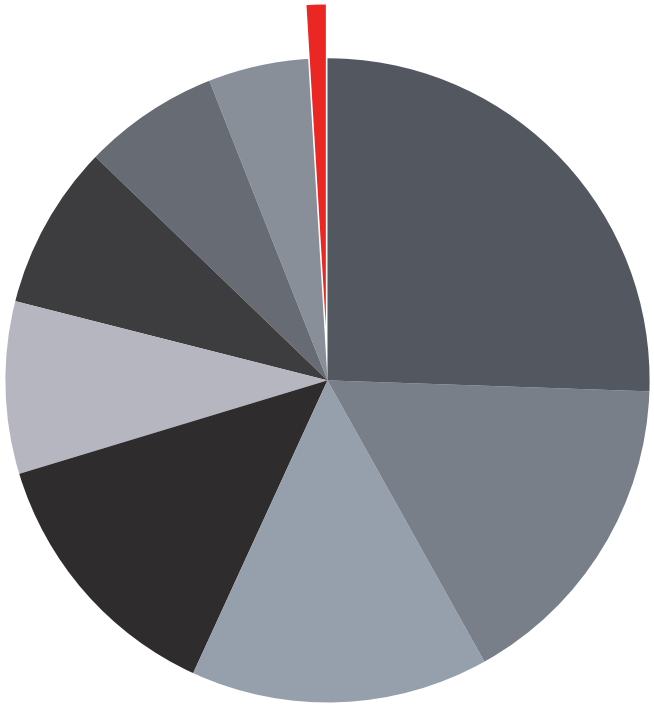
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 1998

Fiscal Year 1998 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Tucson	262	387,406	123.2	25.5%
San Diego	60	248,092	344.6	16.4%
El Centro	70	226,695	269.9	14.9%
Rio Grande Valley	320	204,257	53.2	13.5%
Del Rio	245	131,058	44.6	8.6%
El Paso	268	125,035	38.9	8.2%
Laredo	136	103,433	63.4	6.8%
Yuma	126	76,195	50.4	5.0%
Big Bend	**517**	**14,509**	**2.3**	**1.0%**
Southern Border Total	**2,004**	**1,516,680**	**63.1**	
Big Bend:	25.8% of total	1.0% of total	1/27th of border-wide	

Big Bend Share of Border-Wide Apprehensions

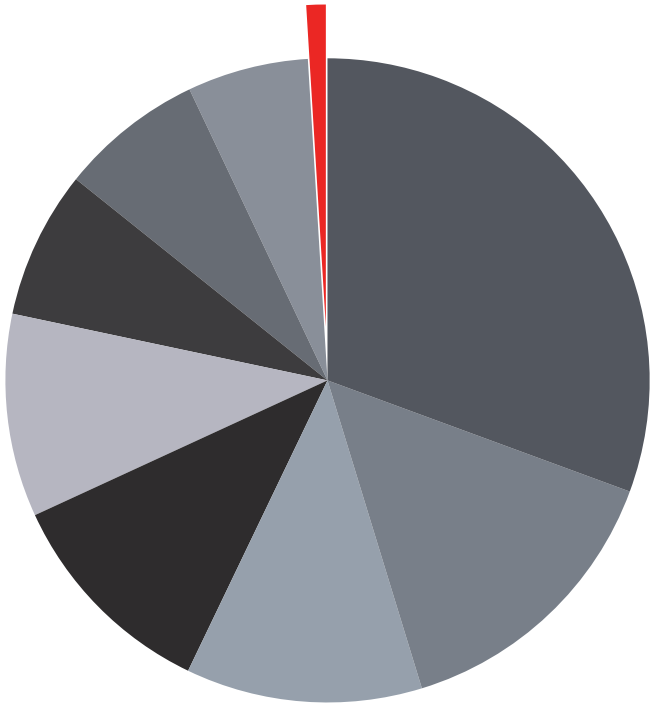


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U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 1999

Fiscal Year 1999 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Tucson	262	470,449	149.6	30.6%
El Centro	70	225,279	268.2	14.7%
San Diego	60	182,267	253.1	11.9%
Rio Grande Valley	320	169,151	44.0	11.0%
Del Rio	245	156,653	53.3	10.2%
Laredo	136	114,004	69.9	7.4%
El Paso	268	110,857	34.5	7.2%
Yuma	126	93,388	61.8	6.1%
Big Bend	**517**	**14,952**	**2.4**	**1.0%**
Southern Border Total	**2,004**	**1,537,000**	**63.9**	
Big Bend:	25.8% of total	1% of total	1/27th of border-wide	

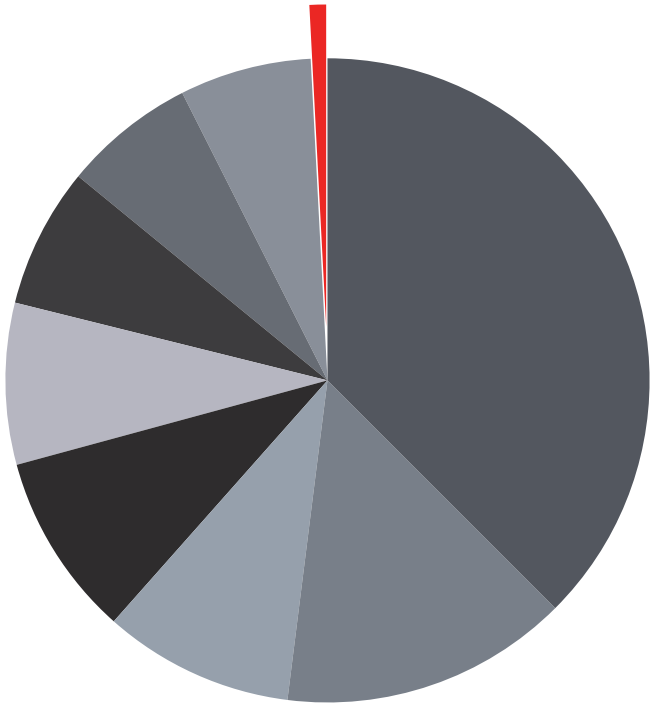
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2000

Fiscal Year 2000 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Tucson	262	616,346	196.0	37.5%
El Centro	70	238,126	283.5	14.5%
Del Rio	245	157,178	53.5	9.6%
San Diego	60	151,681	210.7	9.2%
Rio Grande Valley	320	133,243	34.7	8.1%
El Paso	268	115,696	36.0	7.0%
Laredo	136	108,973	66.8	6.6%
Yuma	126	108,747	71.9	6.6%
Big Bend	**517**	**13,689**	**2.2**	**0.8%**
Southern Border Total	**2,004**	**1,643,679**	**68.3**	
Big Bend:	25.8% of total	0.8% of total	1/31st of border-wide	

Big Bend Share of Border-Wide Apprehensions

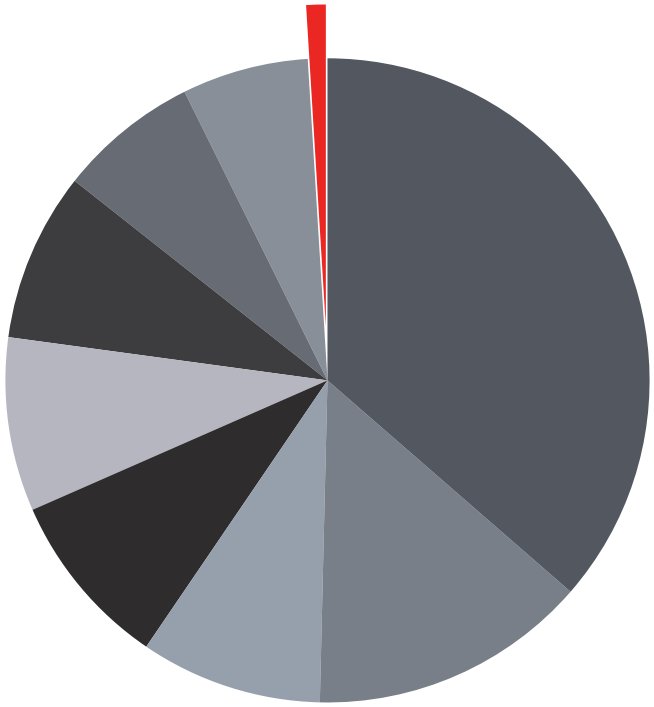


6

U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2001

Fiscal Year 2001 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Tucson	262	449,675	143.0	36.4%
El Centro	70	172,852	205.8	14.0%
El Paso	268	112,857	35.1	9.1%
San Diego	60	110,075	152.9	8.9%
Rio Grande Valley	320	107,844	28.1	8.7%
Del Rio	245	104,875	35.7	8.5%
Laredo	136	87,068	53.4	7.0%
Yuma	126	78,385	51.8	6.3%
Big Bend	**517**	**12,087**	**1.9**	**1.0%**
Southern Border Total	**2,004**	**1,235,718**	**51.4**	
Big Bend:	25.8% of total	1% of total	1/26th of border-wide	

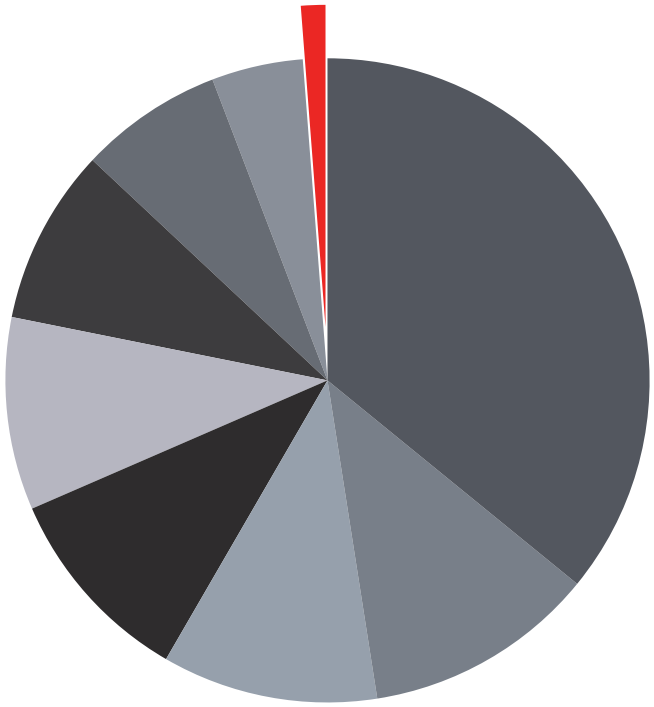
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2002

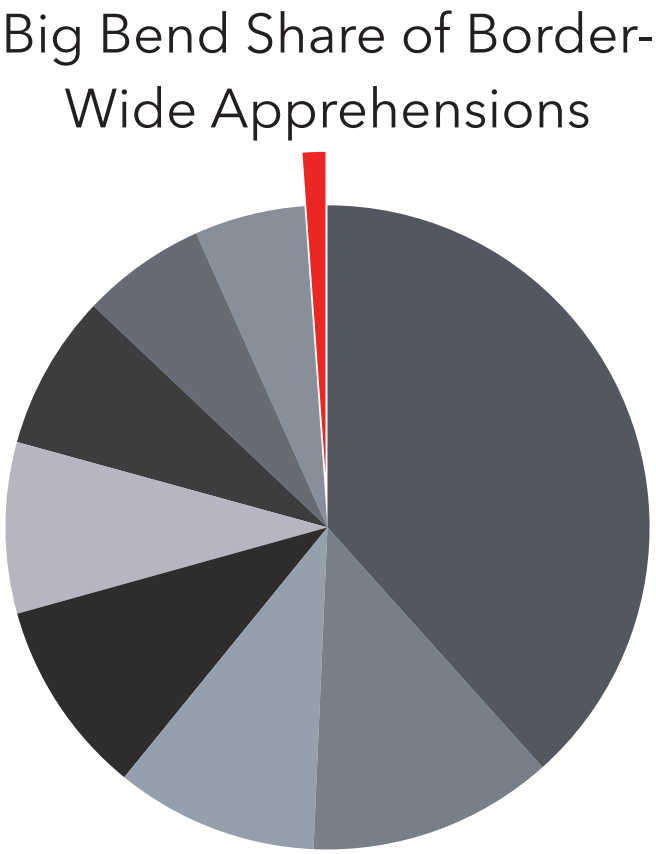
Fiscal Year 2002 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Tucson	262	333,648	106.1	35.9%
El Centro	70	108,273	128.9	11.6%
San Diego	60	100,681	139.8	10.8%
El Paso	268	94,154	29.3	10.1%
Rio Grande Valley	320	89,927	23.4	9.7%
Laredo	136	82,095	50.3	8.8%
Del Rio	245	66,985	22.8	7.2%
Yuma	126	42,654	28.2	4.6%
Big Bend	**517**	**11,392**	**1.8**	**1.2%**
Southern Border Total	**2,004**	**929,809**	**38.7**	
Big Bend:	25.8% of total	1.2% of total	1/21st of border-wide	

Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2003

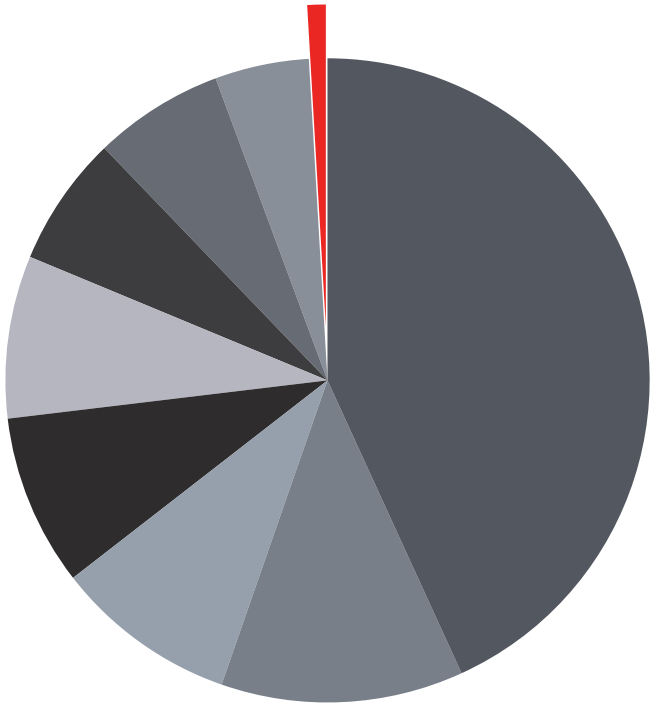
Fiscal Year 2003 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Tucson	262	347,263	110.5	38.4%
San Diego	60	111,515	154.9	12.3%
El Centro	70	92,099	109.6	10.2%
El Paso	268	88,816	27.6	9.8%
Rio Grande Valley	320	77,749	20.2	8.6%
Laredo	136	70,521	43.2	7.8%
Yuma	126	56,638	37.5	6.3%
Del Rio	245	50,145	17.1	5.5%
Big Bend	**517**	**10,319**	**1.7**	**1.1%**
Southern Border Total	**2,004**	**905,065**	**37.6**	
Big Bend:	25.8% of total	1.1% of total	1/23rd of border-wide	



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2004

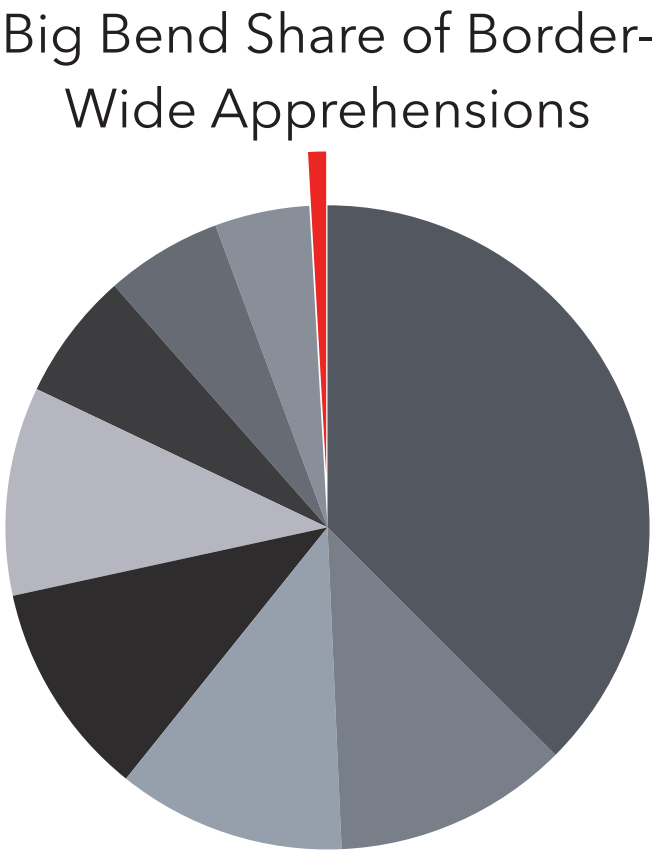
Fiscal Year 2004 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Tucson	262	491,771	156.4	43.2%
San Diego	60	138,608	192.5	12.2%
El Paso	268	104,399	32.5	9.2%
Yuma	126	98,060	64.9	8.6%
Rio Grande Valley	320	92,947	24.2	8.2%
Laredo	136	74,706	45.8	6.6%
El Centro	70	74,467	88.7	6.5%
Del Rio	245	53,794	18.3	4.7%
Big Bend	**517**	**10,530**	**1.7**	**0.9%**
Southern Border Total	**2,004**	**1,139,282**	**47.4**	
Big Bend:	25.8% of total	0.9% of total	1/28th of border-wide	

Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2005

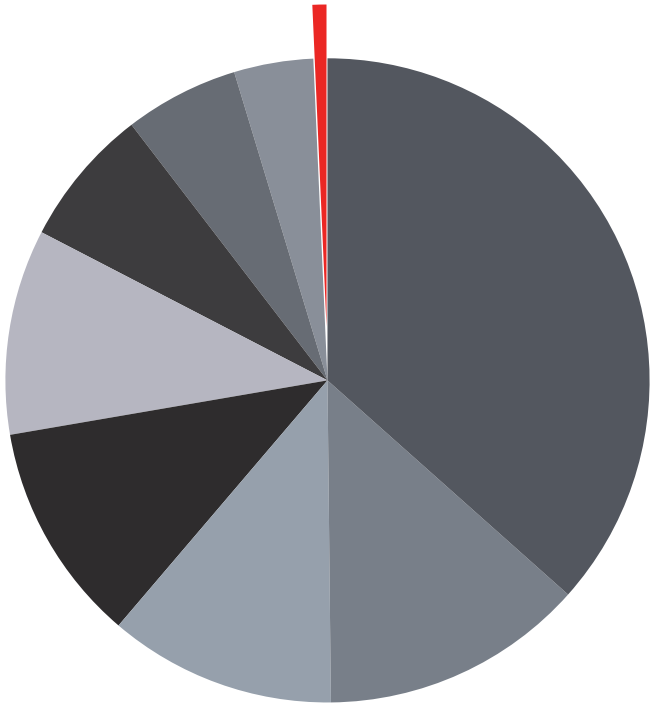
Fiscal Year 2005 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Tucson	262	439,079	139.7	37.5%
Yuma	126	138,438	91.6	11.8%
Rio Grande Valley	320	134,186	34.9	11.5%
San Diego	60	126,904	176.3	10.8%
El Paso	268	122,679	38.1	10.5%
Laredo	136	75,346	46.2	6.4%
Del Rio	245	68,506	23.3	5.8%
El Centro	70	55,722	66.3	4.8%
Big Bend	**517**	**10,536**	**1.7**	**0.9%**
Southern Border Total	**2,004**	**1,171,396**	**48.7**	
Big Bend:	25.8% of total	0.9% of total	1/29th of border-wide	



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2006

Fiscal Year 2006 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Tucson	262	392,074	124.7	36.6%
San Diego	60	142,104	197.4	13.3%
El Paso	268	122,256	38.0	11.4%
Yuma	126	118,549	78.4	11.1%
Rio Grande Valley	320	110,528	28.8	10.3%
Laredo	136	74,840	45.9	7.0%
El Centro	70	61,465	73.2	5.7%
Del Rio	245	42,636	14.5	4.0%
Big Bend	**517**	**7,520**	**1.2**	**0.7%**
Southern Border Total	**2,004**	**1,071,972**	**44.6**	
Big Bend:	25.8% of total	0.7% of total	1/37th of border-wide	

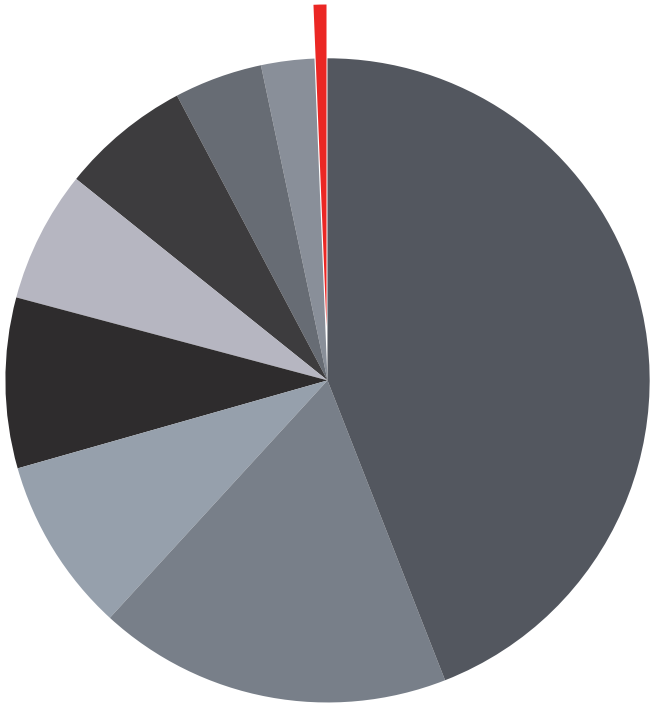
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2007

Fiscal Year 2007 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Tucson	262	378,239	120.3	44.1%
San Diego	60	152,460	211.8	17.8%
El Paso	268	75,464	23.5	8.8%
Rio Grande Valley	320	73,430	19.1	8.6%
Laredo	136	56,714	34.8	6.6%
El Centro	70	55,883	66.5	6.5%
Yuma	126	37,992	25.1	4.4%
Del Rio	245	22,920	7.8	2.7%
Big Bend	**517**	**5,536**	**0.9**	**0.6%**
Southern Border Total	**2,004**	**858,638**	**35.7**	
Big Bend:	25.8% of total	0.6% of total	1/40th of border-wide	

Big Bend Share of Border-Wide Apprehensions

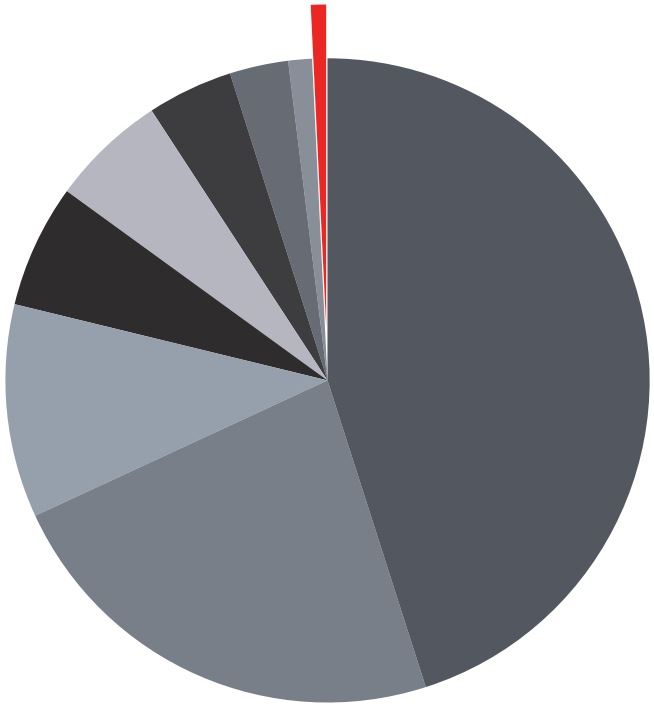


13

U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2008

Fiscal Year 2008 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Tucson	262	317,696	101.0	45.1%
San Diego	60	162,390	225.5	23.0%
Rio Grande Valley	320	75,473	19.7	10.7%
Laredo	136	43,658	26.8	6.2%
El Centro	70	40,961	48.8	5.8%
El Paso	268	30,312	9.4	4.3%
Del Rio	245	20,761	7.1	2.9%
Yuma	126	8,363	5.5	1.2%
Big Bend	**517**	**5,391**	**0.9**	**0.8%**
Southern Border Total	**2,004**	**705,005**	**29.3**	
Big Bend:	25.8% of total	0.8% of total	1/34th of border-wide	

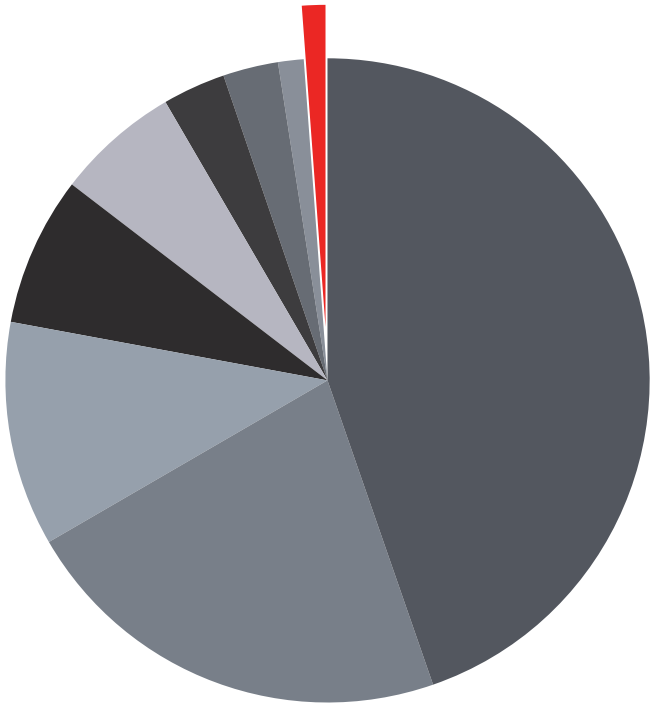
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2009

Fiscal Year 2009 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Tucson	262	241,673	76.9	44.7%
San Diego	60	118,721	164.9	22.0%
Rio Grande Valley	320	60,989	15.9	11.3%
Laredo	136	40,569	24.9	7.5%
El Centro	70	33,521	39.9	6.2%
Del Rio	245	17,082	5.8	3.2%
El Paso	268	14,999	4.7	2.8%
Yuma	126	6,951	4.6	1.3%
Big Bend	**517**	**6,360**	**1.0**	**1.2%**
Southern Border Total	**2,004**	**540,865**	**22.5**	
Big Bend:	25.8% of total	1.2% of total	1/22nd of border-wide	

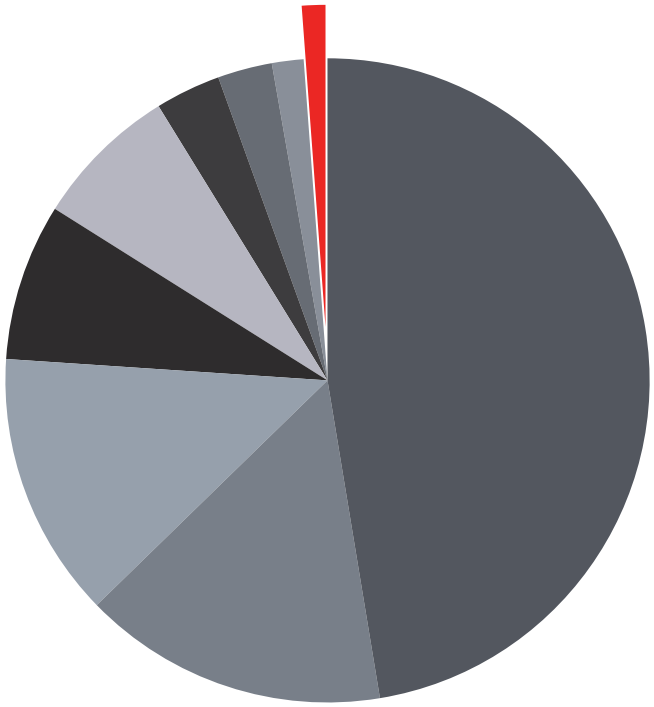
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2010

Fiscal Year 2010 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Tucson	262	212,202	67.5	47.4%
San Diego	60	68,565	95.2	15.3%
Rio Grande Valley	320	59,766	15.6	13.3%
Laredo	136	35,287	21.6	7.9%
El Centro	70	32,562	38.8	7.3%
Del Rio	245	14,694	5.0	3.3%
El Paso	268	12,251	3.8	2.7%
Yuma	126	7,116	4.7	1.6%
Big Bend	**517**	**5,288**	**0.9**	**1.2%**
Southern Border Total	**2,004**	**447,731**	**18.6**	
Big Bend:	25.8% of total	1.2% of total	1/22nd of border-wide	

Big Bend Share of Border-Wide Apprehensions

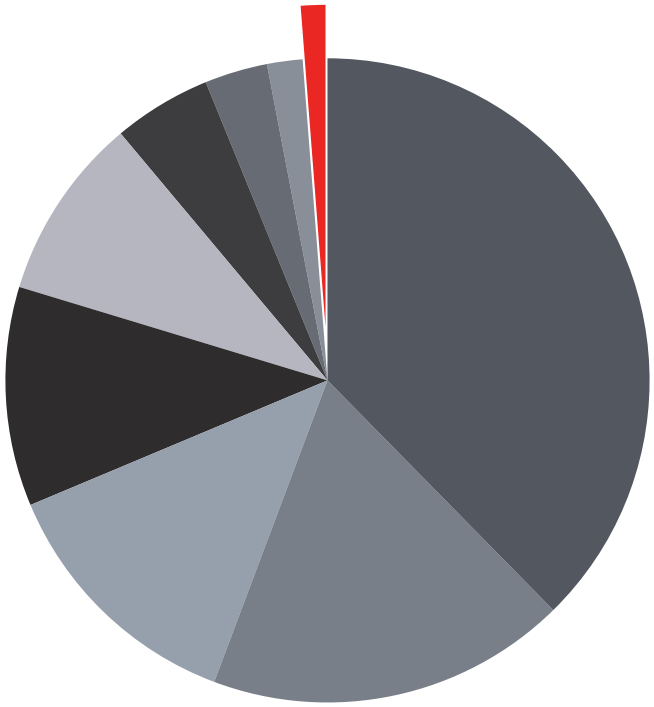


16

U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2011

Fiscal Year 2011 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Tucson	262	123,285	39.2	37.6%
Rio Grande Valley	320	59,243	15.4	18.1%
San Diego	60	42,447	59.0	13.0%
Laredo	136	36,053	22.1	11.0%
El Centro	70	30,191	35.9	9.2%
Del Rio	245	16,144	5.5	4.9%
El Paso	268	10,345	3.2	3.2%
Yuma	126	5,833	3.9	1.8%
Big Bend	**517**	**4,036**	**0.7**	**1.2%**
Southern Border Total	**2,004**	**327,577**	**13.6**	
Big Bend:	25.8% of total	1.2% of total	1/21st of border-wide	

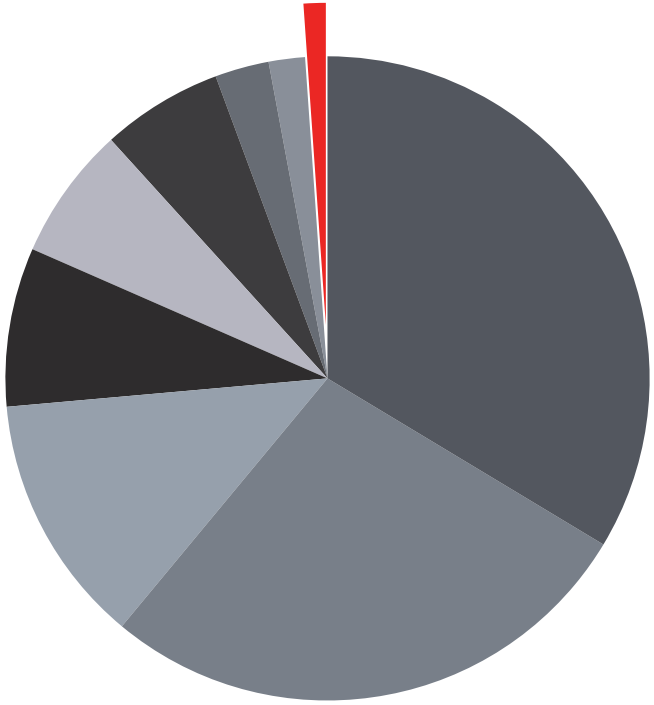
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2012

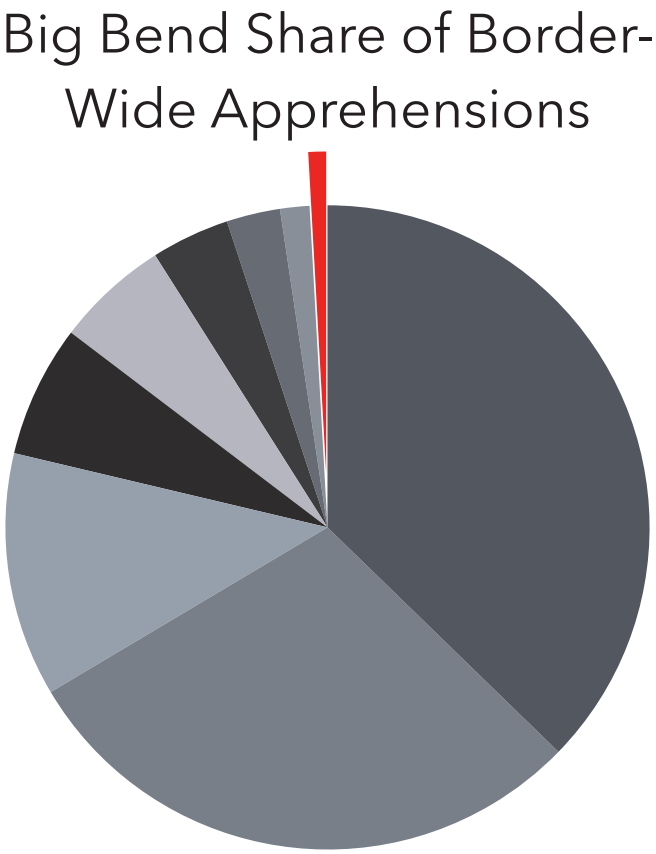
Fiscal Year 2012 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Tucson	262	120,000	38.2	33.6%
Rio Grande Valley	320	97,762	25.5	27.4%
Laredo	136	44,872	27.5	12.6%
San Diego	60	28,461	39.5	8.0%
El Centro	70	23,916	28.5	6.7%
Del Rio	245	21,720	7.4	6.1%
El Paso	268	9,678	3.0	2.7%
Yuma	126	6,500	4.3	1.8%
Big Bend	**517**	**3,964**	**0.6**	**1.1%**
Southern Border Total	**2,004**	**356,873**	**14.8**	
Big Bend:	25.8% of total	1.1% of total	1/23rd of border-wide	

Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2013

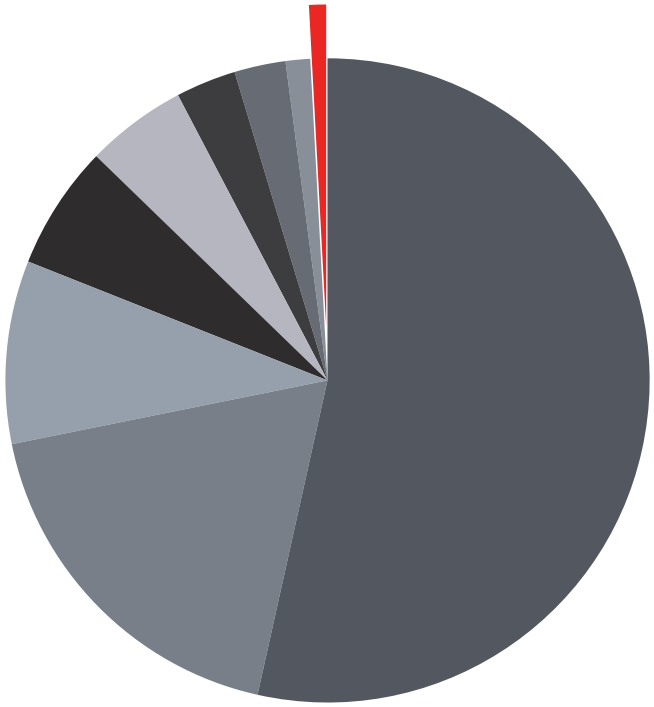
Fiscal Year 2013 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Rio Grande Valley	320	154,453	40.2	37.3%
Tucson	262	120,939	38.5	29.2%
Laredo	136	50,749	31.1	12.2%
San Diego	60	27,496	38.2	6.6%
Del Rio	245	23,510	8.0	5.7%
El Centro	70	16,306	19.4	3.9%
El Paso	268	11,154	3.5	2.7%
Yuma	126	6,106	4.0	1.5%
Big Bend	**517**	**3,684**	**0.6**	**0.9%**
Southern Border Total	**2,004**	**414,397**	**17.2**	
Big Bend:	25.8% of total	0.9% of total	1/29th of border-wide	



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2014

Fiscal Year 2014 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
Rio Grande Valley	320	256,393	66.8	53.5%
Tucson	262	87,915	28.0	18.3%
Laredo	136	44,049	27.0	9.2%
San Diego	60	29,911	41.5	6.2%
Del Rio	245	24,255	8.3	5.1%
El Centro	70	14,511	17.3	3.0%
El Paso	268	12,339	3.8	2.6%
Yuma	126	5,902	3.9	1.2%
Big Bend	**517**	**4,096**	**0.7**	**0.9%**
Southern Border Total	**2,004**	**479,371**	**19.9**	
Big Bend:	25.8% of total	0.9% of total	1/30th of border-wide	

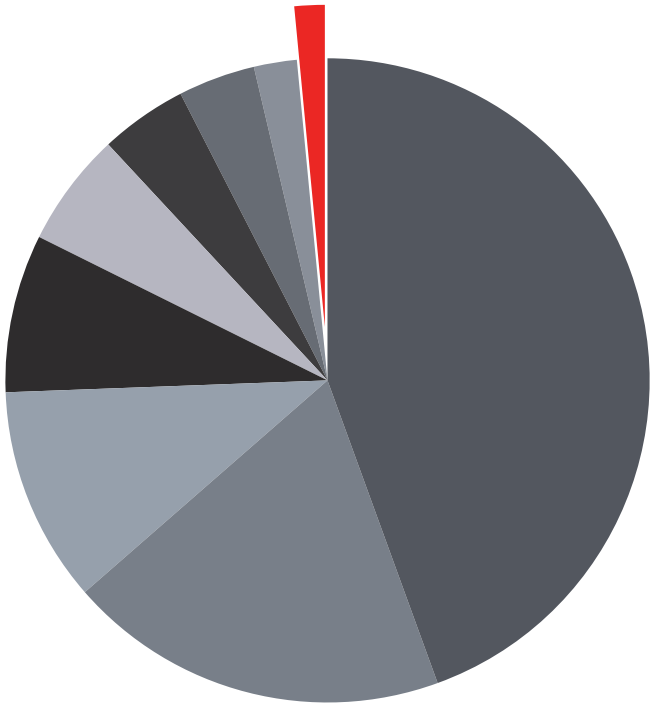
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2015

Fiscal Year 2015 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Rio Grande Valley	320	147,257	38.3	44.4%
Tucson	262	63,397	20.2	19.1%
Laredo	136	35,888	22.0	10.8%
San Diego	60	26,290	36.5	7.9%
Del Rio	245	19,013	6.5	5.7%
El Paso	268	14,495	4.5	4.4%
El Centro	70	12,820	15.3	3.9%
Yuma	126	7,142	4.7	2.2%
Big Bend	**517**	**5,031**	**0.8**	**1.5%**
Southern Border Total	**2,004**	**331,333**	**13.8**	
Big Bend:	25.8% of total	1.5% of total	1/17th of border-wide	

Big Bend Share of Border-Wide Apprehensions

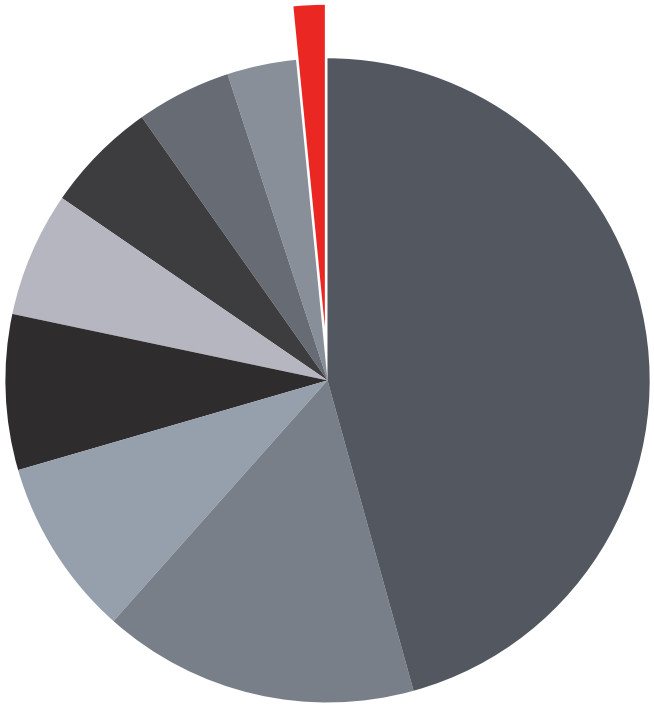


21

U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2016

Fiscal Year 2016 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Rio Grande Valley	320	186,830	48.7	45.7%
Tucson	262	64,891	20.6	15.9%
Laredo	136	36,562	22.4	8.9%
San Diego	60	31,891	44.3	7.8%
El Paso	268	25,634	8.0	6.3%
Del Rio	245	23,078	7.8	5.6%
El Centro	70	19,448	23.2	4.8%
Yuma	126	14,170	9.4	3.5%
Big Bend	**517**	**6,366**	**1.0**	**1.6%**
Southern Border Total	**2,004**	**408,870**	**17.0**	
Big Bend:	25.8% of total	1.6% of total	1/17 of border-wide	

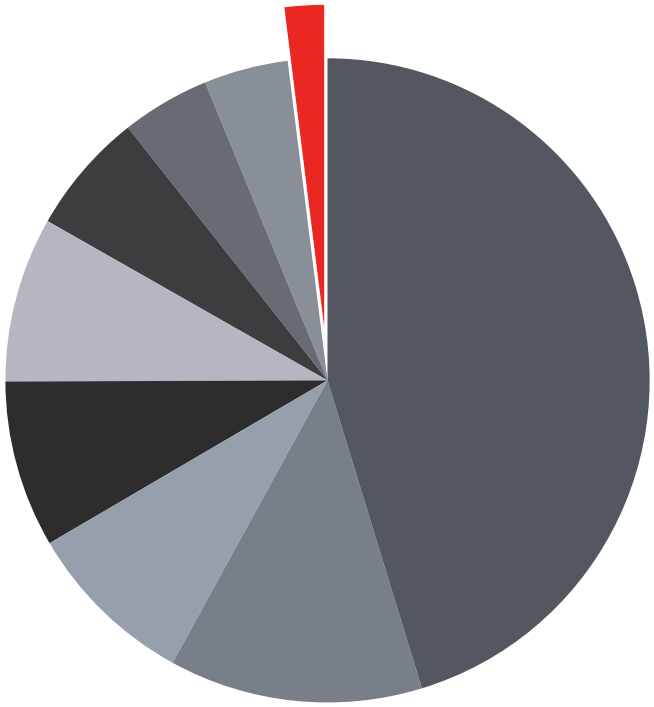
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2017

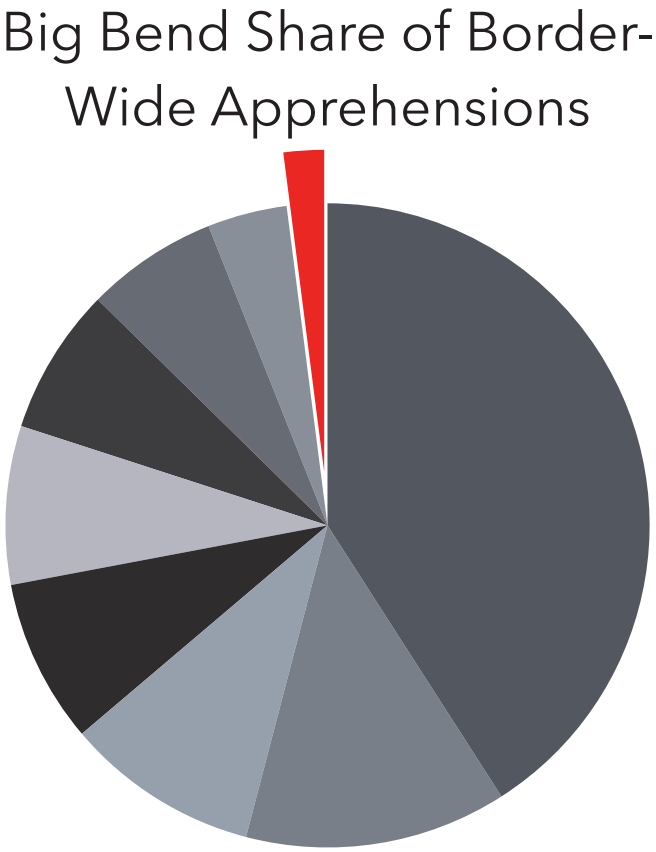
Fiscal Year 2017 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Rio Grande Valley	320	137,562	35.8	45.3%
Tucson	262	38,657	12.3	12.7%
San Diego	60	26,086	36.2	8.6%
Laredo	136	25,460	15.6	8.4%
El Paso	268	25,193	7.8	8.3%
El Centro	70	18,633	22.2	6.1%
Del Rio	245	13,476	4.6	4.4%
Yuma	126	12,847	8.5	4.2%
Big Bend	**517**	**6,002**	**1.0**	**2.0%**
Southern Border Total	**2,004**	**303,916**	**12.6**	
Big Bend:	25.8% of total	2% of total	1/13th of border-wide	

Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2018

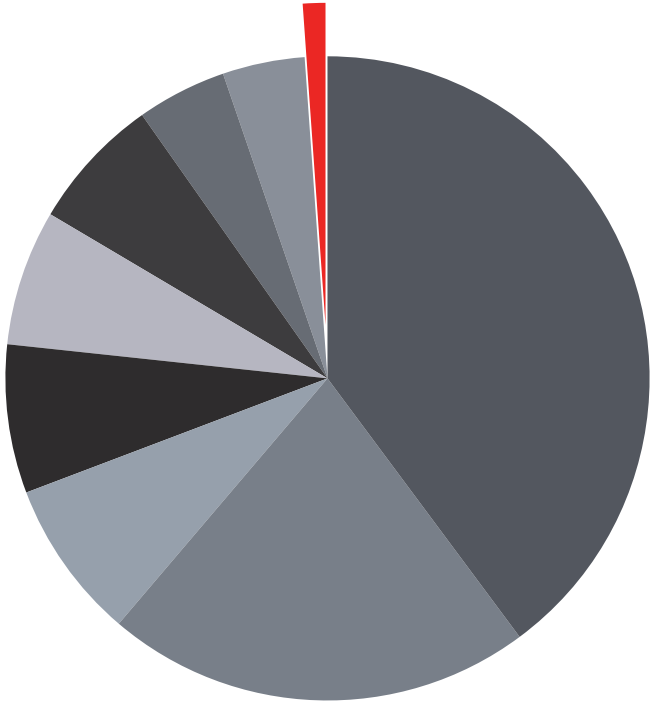
Fiscal Year 2018 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Rio Grande Valley	320	162,262	42.3	40.9%
Tucson	262	52,172	16.6	13.2%
San Diego	60	38,591	53.6	9.7%
Laredo	136	32,641	20.0	8.2%
El Paso	268	31,561	9.8	8.0%
El Centro	70	29,230	34.8	7.4%
Yuma	126	26,244	17.4	6.6%
Del Rio	245	15,833	5.4	4.0%
Big Bend	**517**	**8,045**	**1.3**	**2.0%**
Southern Border Total	**2,004**	**396,579**	**16.5**	
Big Bend:	25.8% of total	2% of total	1/13th of border-wide	



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2019

Fiscal Year 2019 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Rio Grande Valley	320	339,135	88.3	39.8%
El Paso	268	182,143	56.6	21.4%
Yuma	126	68,269	45.2	8.0%
Tucson	262	63,490	20.2	7.5%
San Diego	60	58,049	80.6	6.8%
Del Rio	245	57,269	19.5	6.7%
Laredo	136	38,378	23.5	4.5%
El Centro	70	35,138	41.8	4.1%
Big Bend	**517**	**9,637**	**1.6**	**1.1%**
Southern Border Total	**2,004**	**851,508**	**35.4**	
Big Bend:	25.8% of total	1.1% of total	1/23rd of border-wide	

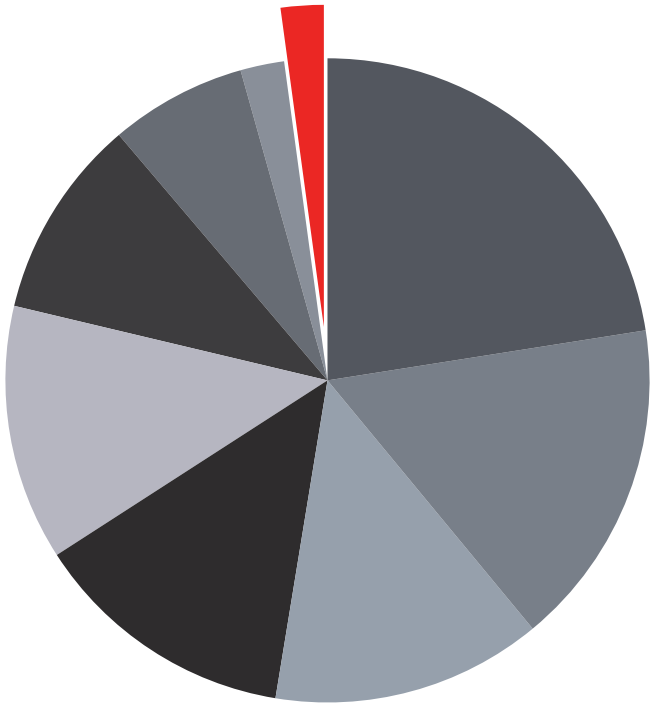
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2020

Fiscal Year 2020 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Rio Grande Valley	320	90,206	23.5	22.5%
Tucson	262	66,076	21.0	16.5%
El Paso	268	54,396	16.9	13.6%
San Diego	60	53,282	74.0	13.3%
Laredo	136	51,425	31.5	12.8%
Del Rio	245	40,342	13.7	10.1%
El Centro	70	27,492	32.7	6.9%
Yuma	126	8,804	5.8	2.2%
Big Bend	**517**	**8,628**	**1.4**	**2.2%**
Southern Border Total	**2,004**	**400,651**	**16.7**	
Big Bend:	25.8% of total	2.2% of total	1/12th of border-wide	

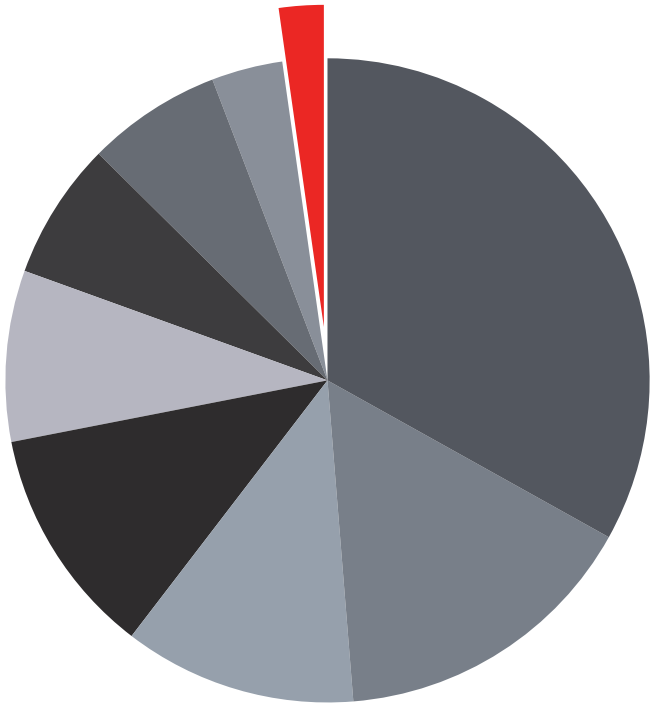
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2021

Fiscal Year 2021 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Rio Grande Valley	320	549,077	143.0	33.1%
Del Rio	245	259,294	88.2	15.6%
El Paso	268	193,918	60.3	11.7%
Tucson	262	191,232	60.8	11.5%
San Diego	60	142,459	197.9	8.6%
Yuma	126	114,488	75.7	6.9%
Laredo	136	112,241	68.8	6.8%
El Centro	70	59,231	70.5	3.6%
Big Bend	**517**	**37,266**	**6.0**	**2.2%**
Southern Border Total	**2,004**	**1,659,206**	**69.0**	
Big Bend:	25.8% of total	2.2% of total	1/11th of border-wide	

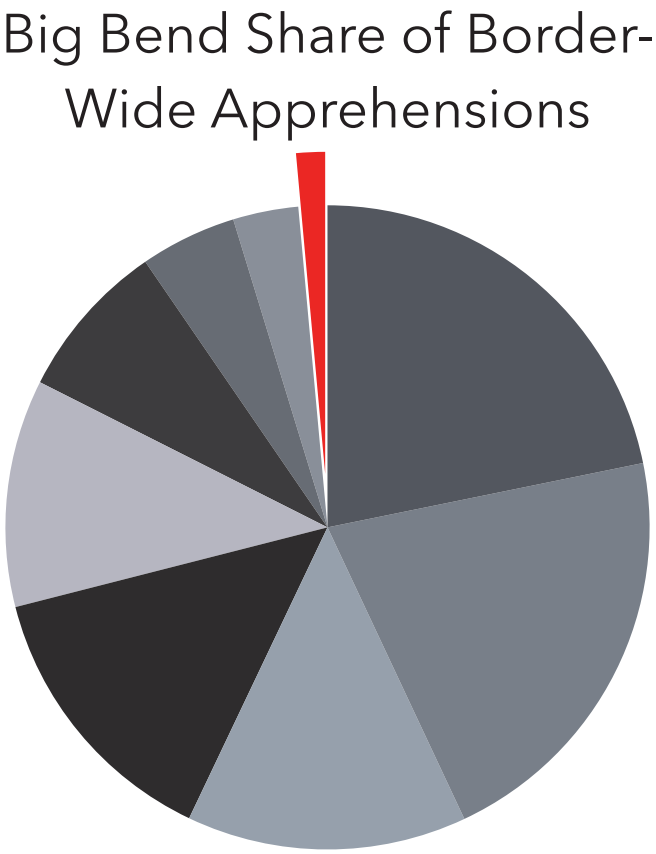
Big Bend Share of Border-Wide Apprehensions



27

U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2022

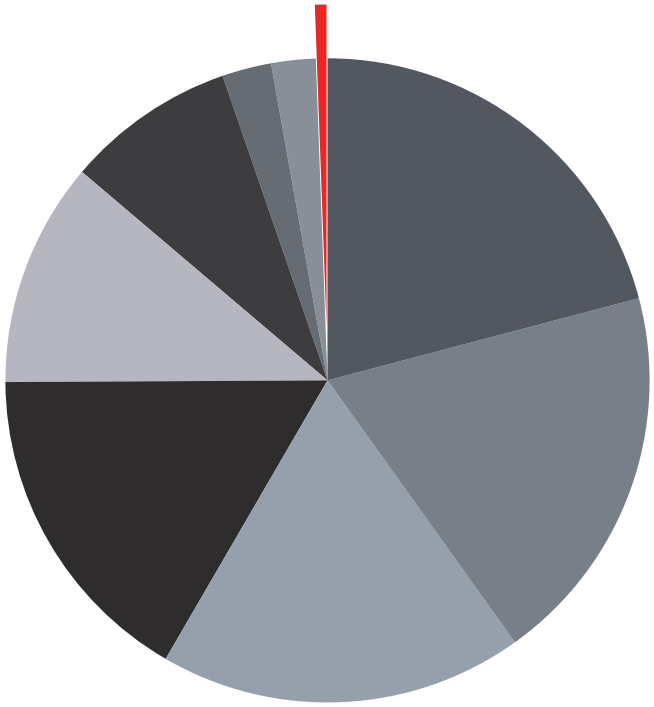
Fiscal Year 2022 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Del Rio	245	480,931	163.6	21.8%
Rio Grande Valley	320	468,124	121.9	21.2%
Yuma	126	310,094	205.1	14.1%
El Paso	268	307,844	95.7	14.0%
Tucson	262	251,984	80.1	11.4%
San Diego	60	176,290	244.8	8.0%
Laredo	136	106,843	65.5	4.8%
El Centro	70	72,378	86.2	3.3%
Big Bend	**517**	**31,948**	**5.1**	**1.4%**
Southern Border Total	**2,004**	**2,206,436**	**91.8**	
Big Bend:	25.8% of total	1.4% of total	1/18th of border-wide	



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2023

Fiscal Year 2023 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
El Paso	268	427,471	132.9	20.9%
Del Rio	245	393,226	133.8	19.2%
Tucson	262	373,625	118.8	18.3%
Rio Grande Valley	320	338,337	88.1	16.5%
San Diego	60	230,941	320.8	11.3%
Yuma	126	174,201	115.2	8.5%
El Centro	70	50,570	60.2	2.5%
Laredo	136	45,644	28.0	2.2%
Big Bend	**517**	**11,823**	**1.9**	**0.6%**
Southern Border Total	**2,004**	**2,045,838**	**85.1**	
Big Bend:	25.8% of total	0.6% of total	1/45th of border-wide	

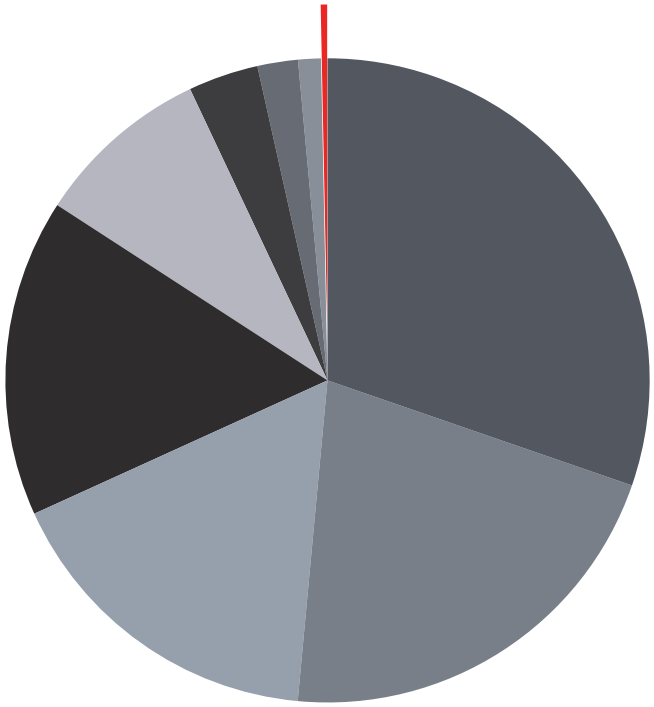
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2024

Fiscal Year 2024 Apprehensions				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Tucson	262	463,567	147.4	30.3%
San Diego	60	324,260	450.4	21.2%
El Paso	268	256,102	79.6	16.7%
Del Rio	245	244,105	83.0	15.9%
Rio Grande Valley	320	135,099	35.2	8.8%
Yuma	126	53,877	35.6	3.5%
Laredo	136	31,108	19.1	2.0%
El Centro	70	17,484	20.8	1.1%
Big Bend	**517**	**4,921**	**0.8**	**0.3%**
Southern Border Total	**2,004**	**1,530,523**	**63.6**	
Big Bend:	25.8% of total	0.3% of total	1/80th of border-wide	

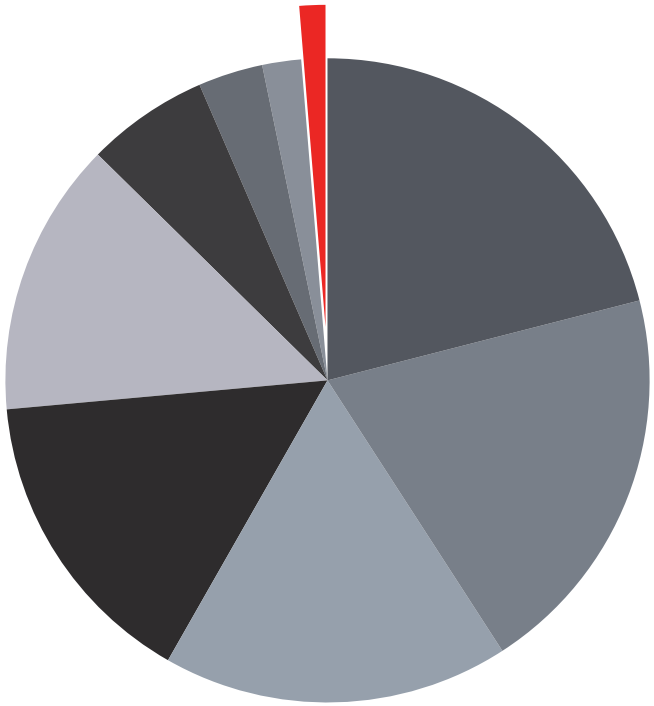
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2025

Fiscal Year 2025 Apprehensions				
Sector	Sector Land Border Miles	Total	Per Mile Per Month	Percentage of Border-Wide Total
San Diego	60	49,902	69.3	21.0%
El Paso	268	47,165	14.7	19.9%
Tucson	262	41,287	13.1	17.4%
Rio Grande Valley	320	36,391	9.5	15.3%
Del Rio	245	32,780	11.1	13.8%
Laredo	136	14,562	8.9	6.1%
Yuma	126	7,722	5.1	3.3%
El Centro	70	4,633	5.5	2.0%
Big Bend	**517**	**3,096**	**0.5**	**1.3%**
Southern Border Total	**2,004**	**237,538**	**9.9**	
Big Bend:	25.8% of total	1.3% of total	1/20th of border-wide	

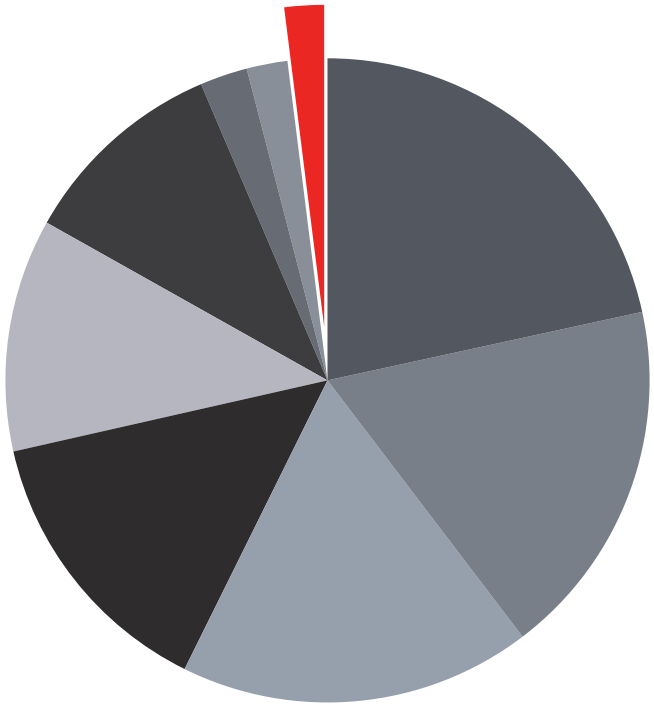
Big Bend Share of Border-Wide Apprehensions



U.S.-Mexico Border Patrol Migrant Apprehensions by Sector, 2026 (as of July)

Fiscal Year 2026 Apprehensions (through July)				
Sector	**Sector Land Border Miles**	**Total**	**Per Mile Per Month**	**Percentage of Border-Wide Total**
Rio Grande Valley	320	17,460	4.5	21.6%
Tucson	262	14,606	4.6	18.1%
El Paso	268	14,293	4.4	17.7%
Laredo	136	11,435	7.0	14.1%
San Diego	60	9,456	13.1	11.7%
Del Rio	245	8,436	2.9	10.4%
El Centro	70	1,930	2.3	2.4%
Yuma	126	1,659	1.1	2.1%
Big Bend	**517**	**1,607**	**0.3**	**2.0%**
Southern Border Total	**2,004**	**80,882**	**3.4**	
Big Bend:	25.8% of total	2% of total	1/13th of border-wide	

Big Bend Share of Border-Wide Apprehensions



Testimony of Sheriff Thaddeus Cleveland, *The People of La Junta, et al. v. Dep't of Homeland Sec., et al.*, No. SA-26-CV-5245 OLG (W.D. Tex. Aug. 28, 2026)

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

SAN ANTONIO DIVISION

THE PEOPLE OF LA JUNTA FOR PRESERVATION, FAR FLUNG OUTDOOR CENTER, ANDREW AUSTIN, and CHRISTINA HERNANDEZ, Plaintiffs,	*	NO. SA-26-CV-5245 OLG
v.	*	AUGUST 28, 2026
DEPARTMENT OF HOMELAND SECURITY, *et al.*, Defendants.	*	SAN ANTONIO, TEXAS

TRANSCRIPT OF TESTIMONY OF FACT WITNESS

SHERIFF THADDEUS CLEVELAND

BEFORE THE HONORABLE ORLANDO L. GARCIA

UNITED STATES DISTRICT JUDGE

Proceedings recorded by electronic mechanical stenography.

Transcript produced by Computer-Aided transcription.

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MR. JORGE VASQUEZ
MS. MEGAN RAMIREZ

* * * * * *

(9:56:52 A.M., START OF REQUESTED EXCERPT)

THE COURT: Okay. All right, counsel, if you'll call your first witness. And as I said, you'll take whatever necessary time with your witness. Don't be duplicative. And then the government will have an equal amount of time or -- if more, they'll have that time. Okay? We're not in any rush. Okay? I know it's Friday. That doesn't mean anything. If we have to reconvene Monday morning, we'll do that or whatever. We're not in any rush.

Okay. Can you call your first witness, please.

MR. DeGUERIN: Yes, Your Honor. We call Sheriff Thaddeus Cleveland.

THE COURT: Okay.

MR. DeGUERIN: His testimony is intended to educate the Court about the particular problems.

THE COURT: Okay. And -- and will you tell me which claim does his testimony go to, or are they impactful of all the claims?

MR. DeGUERIN: It -- it impacts everything, Your Honor.

THE COURT: Okay.

MR. DeGUERIN: And we'll show -- I'll try to get to it as briefly and quickly as I can.

THE COURT: Well, it can -- as long as it's effective.

Okay. Go ahead.

THADDEUS CLEVELAND,

having first been duly sworn, testified to the following:

DIRECT EXAMINATION

BY MR. DeGUERIN

Q Lets just start by introducing yourself to the Court and the record.

A Yes, sir. My name is Thaddeus Cleveland. I'm the Sheriff of Terrell County, Texas, and a retired Border Patrol agent.

Q And Terrell County is the third county that's impacted by the -- the parks, the -- in Big Bend, correct?

A Yes, sir, that is correct.

Q It's the one furthest to the east?

A That is correct, yes, sir.

Q In addition to being Sheriff of Terrell County, do you have experience on the border as a Border Patrol agent?

A Yes, sir, I do. I have 26 years' experience.

Q All right. So, you had 26 years of Border Patrol. Then how many years as Sheriff?

A Just over four years now.

Q So, does that give you a -- a good overall view of whatever problems there are on the border with immigration, smuggling, and so forth? Illegal crossings?

A Yes, sir, without a doubt.
Q Is it fair to say that there is only one problem in crossing, or is -- or does the terrain and what's down there make it several different kinds of problems?
A Yes, sir. So, of course, the entire southwest border is -- is, you know, rocky and rough terrain. But like to describe, of course the Big Bend area, or the Big Bend region, the Big Bend sector as being some of the -- the most difficult area to cross because of those natural barriers that are -- that are there.
Q Okay. The -- the natural barriers that you speak of would be the cliffs and valleys and so forth right on the border, correct?
A Yes, sir. That's correct.
Q However, in order to cross the border, you got to come from someplace and you got to be going someplace. Are there more problems from the Mexican side with the terrain there, arriving at the border, and more problems once you cross the border on the Texas, U.S. side, with where to go?
A I would -- I would say on both sides of the border, definitely in Mexico, as well as the United States side. But what I like to describe is there's no infrastructure on the Mexican side to facilitate people arriving at the immediate border area, and then making their -- their entry into the United States. And then once they do make their illegal entry into the United States, there's not a lot of infrastructure in

that portion of Texas as well to get people smuggled further into the United States.

Q Okay. Now, does the Border Patrol consider various sectors of the border -- of the entire border of Mexico with the United States?

A Yes, sir. There's a total of nine sectors along the U.S./Mexico border.

Q And the Big Bend Sector, does it cover over 500 miles of the entire U.S. border?

A It covers exactly 517 miles, or as also I'd say, a quarter of the U.S./Mexico border.

Q So 25 percent of the U.S. border is in the Big Bend Sector?

A Yes, sir. That is correct.

THE COURT: How -- how many miles is the total border?

THE WITNESS: Roughly 2,000 miles.

THE COURT: 2,000?

THE WITNESS: Yes, sir.

THE COURT: And -- and Big Bend covers how many?

THE WITNESS: 517 miles.

THE COURT: Okay. A quarter.

THE WITNESS: Yes, sir.

THE COURT: Okay. Go ahead.

Q (By MR. DeGUERIN) Now, are there figures that show the encounters or the -- the arrests, or whatever you want to call them, of people illegally entering the United States all along

the border? Are there border figures that are kept; statistics that are kept?

A Yes, sir, there are. Of course, by U.S. Border Patrol and you can go online to CBP.gov and then research those numbers as well.

MR. DeGUERIN: We have a -- a chart here, Your Honor.

THE COURT: Go ahead.

MR. DeGUERIN: If I might display it.

Q (By MR. DeGUERIN) Would you explain --

THE COURT: Does the government have a copy of that?

MR. DeGUERIN: Yes.

THE COURT: Did you see that?

MS. AMAECHI: Can you just show it to us?

MS. CALLAHAN: I don't believe we have seen this before, Your Honor.

MR. GUTIERREZ: It's just demonstrative.

THE COURT: Okay. Go ahead.

MR. DeGUERIN: I apologize. I thought they had.

THE COURT: Okay.

Q (By MR. DeGUERIN) Explain what this --

THE COURT: Do you -- do you need a recess to look at this?

(BRIEF PAUSE AS THE AUSA REVIEWS THE DEMONSTRATIVE EXHIBIT)

THE COURT: Is it okay to proceed?

MS. CALLAHAN: It's okay.

THE COURT: Okay. Thank you.
Q (By MR. DeGUERIN) Let me summarize quickly what this shows. There are Border Patrol sectors that are set up by the Border Patrol, correct?
A Yes, sir.
Q And of those sectors, the largest in mileage sector is the Big Bend Sector; is that right?
A That is correct.
Q It's 25 percent of the border of Mexico with the United States?
A Yes, sir, that is correct.
Q By the Border Patrol's own figures, do the illegal crossings in the Big Bend Sector represent only one to two percent of the total illegal crossings of Mexico and -- and the United States?
A Yes, sir. On that map it shows fiscal year 2025, Border Patrol apprehensions on this border. It does show Big Bend with the least amount of apprehensions in that fiscal year. It -- and that's pretty common for prior fiscal years as well.
Q So, and it's consistent with previous years. And to summarize it, with 25 percent of the border in the Big Bend area, only two percent of the total crossings?
A Yes, sir. And what it indicates there is -- it looks like about 2800. I can't quite read the number. Is it 2800 apprehensions?

Q So this figure is two thousand --
A 686.
Q -- six hundred eighty-six.
A Yes, sir.
Q 1.2 percent of the total crossings, about 25 percent of the border.
A Yes, sir.
Q All right. Why is that?
A Because of the terrain. Because as I -- as I mentioned earlier, the lack of infrastructure in Mexico to get people to that immediate border region in the Big Bend area, as well as the ability to get out of the area. The terrain is rough and tough. As I have described before, some of the roughest and toughest along the U.S./Mexico border.
Q You're in law enforcement, you're a sheriff, and you're -- have a long history with the Border Patrol. Are you in favor of controlling our borders and controlling immigration?
A 100 percent. I would say I'm probably one of the most outspoken sheriffs when it comes to border security along the U.S./Mexico border.
Q At various parts of the U.S./Mexico border, a wall might be appropriate; is that correct?
A Yes, sir. That is correct.
Q But in the Big Bend area is it appropriate?
A No, sir.

Q And again, why not?
A First and foremost, I would describe the terrain that we have, the natural barriers that we have. Secondly, the U.S. Border Patrol, the way that they supply to the Big Bend Sector in the past, we have not received the proper allocations of technology, infrastructure, or manpower because of those low numbers of apprehensions. They would focus on those other areas where you had higher numbers of apprehensions. That would be -- the foremost reasons why.
Q Let me touch on just one area that I'm personally familiar with, but -- that one of our other witnesses will testify about. That Santa Elena Canyon, describe to the Court Santa Elena Canyon.
A Wow. First and foremost, a beautiful place; a place that I have been to many times. And when you walk up to Santa Elena Canyon where the Rio Grande River comes down from upstream, you encounter two vertical cliffs that are approximately 1500 foot in height.
Q So in order to cross the border at Santa Elena Canyon, a person would have to first come down a thousand-foot cliff and then scale on the other side a thousand-foot cliff?
A Yes, sir, if they were going to cross in that immediate border area.
Q Is there any practical way that an automobile or any kind of vehicle could cross Santa Elena Canyon?

A No, sir.
Q With or without a wall or bollards or anything in the way?
A No, sir.
Q Is -- now, I'm just using an example of Santa Elena Canyon. There are a number of other canyons in the Big Bend area, aren't there?
A Yes, sir, there sure is.
Q Mariscal. I'm not sure that Mariscal is in your county, but you're familiar with it, aren't you?
A I am, sir. I've hiked that trail before --
Q All right.
A -- as a civilian.
Q If there is a problem with illegal crossings, where do those crossings occur; in the Big Bend area or elsewhere?
A So for the Big Bend Sector, Terrell County or the Sanderson Border Patrol station is the busiest station for illegal alien apprehensions.
Q The Sanderson area?
A Yes, sir.
Q But that's not in the canyons, right?
A Actually, it is. It's what they call the lower canyons of the Rio Grande.
Q Well, the -- let me ask you this: Are there other sort -- other sorts of security measures that can be and are being used to detect and apprehend illegal crossings?

A Yes, sir. So, of course, we still continue to use seismic sensors that are buried underground. If someone walks over, creates a violation of the earth, then that's going to signal so we can go out and check that area.
Q Let me stop you right there.
A Yes, sir.
Q And this kind of sensor, that -- that doesn't destroy or alter the landscape, does it?
A No, sir. You -- you're burying a little -- just a little node that detects the people walking across that area.
Q Are they effective?
A Yes, sir.
Q All right. What else?
A Then we use a similar device, like a game camera. What a hunter would use. We'd go out -- they're called a "Buck-eye System." We'd put those on trails where we've had -- historically had people crossing and they actually send us an image of whatever crossed that path, whatever made that sensor activate. So then if it's an animal, we don't have to waste the resources to -- to run down to the river or the area where it's deployed to find out what it is; we actually have that image.
Q Are those in place now?
A Yes, sir.
Q And are they effective?

A Most certainly.
Q What else?
A We have what's called "Anduril Autonomous Surveillance Towers." They're towers that have a radar and cameras, and the -- the radar is spinning, looking for humans. It's -- it's programmed to look for the way a human walks, the human gait. They cover about a five-mile radius. And when I was still at Border Patrol, we deployed our first eight in the Sanderson area of responsibility.

Once that radar is spinning and looking for humans, once it detects a human, it will turn the cameras to that area, and then it will send that over to the supervisory Border Patrol agent manning the desk, the super -- the supervisor desk. And then he will -- if it detects people that are here illegally or they suspect, they will send agents to that area to ensure that those people are either arrested or encountered.

Q Are they in place now?
A Yes, sir. I think we have 11 of them in Terrell County alone.
Q Are they efficient?
A They are. Yes, sir.
Q Do they require the destruction of any of the natural terrain?
A No -- no, sir. Well, I'll say what you need about those is required by the 25 by 25 area to set them down. So you don't

have to bring -- bring a road to that area. You can fly them in, which we've done with Chinook helicopters. They don't require electricity, so you're not having to run a -- electrical lines to it, you're not having to take propane to them. Those are both in the past, the way we powered our technology. These work off solar -- solar panels, so they're working off the sun's -- sunshine.

Q What about manned patrols?

A Yes, sir. And we -- we still utilize, of course, our God-given skills; our sight, our smell, our sound to go out and patrol those areas.

Q Blimps?

A We have a blimp deployed in -- in our area, tethered air-strapped balloons. And -- but those were only detailed to our area for a short time. Those are equipped with -- with cameras as well, and the radars. And -- and they are effective.

Q And so what we've discussed and what you've discussed of what's in place now and effective and being used, those -- none of those affect the natural beauty in the -- of the Big Bend area, do they?

A No, sir. Not at all. But if I may, we left one out, one that I'd love to highlight, which are the Predator B drones. Those are what we used in Iraq and Afghanistan. They were finally released to CBP in the early 2000s, equipped with radars, equipped with cameras. And they're -- they're based out

of two places along the southwest border, Fort Huachuca, Arizona, which is in Sierra Vista, and then out of San Angelo, Texas. The ones in San Angelo that -- that cover my area, they go from the big new sector first, west station, which is Sierra Blanca Station, and cover all the way down to the Rio Grande Valley to the Gulf of Mexico. Again, that technology is superb. We get very little support from it because of the very little activity we -- we do have, but when we do have activity that comes out, it increases our effect -- effectiveness and certainty of arrests. Tremendous type of technology.

Q You mentioned the Arizona, Fort Huachuca -- and of course from El Paso on to San Diego, the entire border along that way, there's not the same natural barriers to crossing as there is in Big Bend; is that right?

A That is correct. And I spent approximately ten years out in Arizona as a Border Patrol agent. That's where I began my career in 1996, and that's where we had some border barriers in those urban to urban environments. But they weren't the 30-foot walls. They were about 12-foot at that time. And outside of those earlier urban environments, you would have the five-strand of barbed wire fence. And then as we became more effective in those border communities, whether it was Nogales to Nogales, Douglas to Agua Prieta, Naco to Naco, it drove the smugglers to start taking their contraband, whether that's people or humans, further out of those communities. And then that's where we

started seeing the vehicles coming through the five-strand barbed wire fence. And therefore, that is why we started building vehicle barriers to prevent those vehicles from loading up. Because what they would do is they'd take five pickup trucks and load it with 2,000 pounds of marijuana and drive through. And if we apprehended one of them, which typically most of them get away, it was a success for them. They could -- they could afford to give up one load and -- and get four through.

Q So but what you're describing now is a problem that's not problem in the -- in the Big Bend area?

A Yes, sir. The differential is that, again, from New Mexico, Arizona, California, it -- it's nothing more than just a line in the sand. That's -- that's what separates Mexico from the United States. In Texas -- everywhere in Texas we have the Rio Grande River that -- that divides Texas or the United States from Mexico.

Q Okay. Now, let's -- let's talk about what's happened already. Are you familiar with what's going on now with the bulldozers and the road graders and the --

A Yes, sir.

Q There seems to be a problem of definition that we don't agree on. The government says that they're not doing any construction, they're just doing a survey. But have you seen what they're surveying has meant to the terrain and to the park?

A Yes, sir, I sure have.
Q Describe it.
A I haven't see it with my own eyes. I've seen, definitely, videos on social media and -- and news outlets. But what they're calling the survey of a geotechnical --
MS. BARRAGAN: Your Honor --
MS. CALLAHAN: Objection, Your Honor. He's testifying to something he doesn't have personal knowledge of now. He just said he hasn't seen it with his own eyes.
THE COURT: Okay, I'll sustain that. Let's move on.
MR. DeGUERIN: Okay. All right. May I have just a moment?
THE COURT: Yes. Of course.
(BRIEF PAUSE)
MR. DeGUERIN: Your Honor, we have some technical difficulties in that we have MacBooks and not PCs, and so your court has been kind enough to allow us the use of the Elmo for the photos --
THE COURT: Uh-huh.
MR. DeGUERIN: Whether it's this witness or any other.
THE COURT: All right. Right.
MR. DeGUERIN: These are exhibits that have been agreed to, I believe. Number -- Numbers 13 --
THE COURT: Does the government have -- does the government have that?

MR. DeGUERIN: Yes, Your Honor. They have it, and we've stipulated that they would be offered in --

THE COURT: All right.

MR. DeGUERIN: -- we could offer them into evidence.

THE COURT: Is that correct? Okay.

MR. DeGUERIN: Our Exhibits 13 through --

THE COURT: Let -- let me ask this while you're setting that up, Mr. Gutierrez.

How many counties adjoin -- or are within the park?

THE WITNESS: Just one. Brewster County.

THE COURT: Okay. And do you believe or do you know if the other law enforcement officials or the sheriff in that county has the same view as perhaps you do?

THE WITNESS: Yes, sir. I would say so. I talk to Sheriff Dodson of Brewster County quite often.

THE COURT: Any doubt about that?

THE WITNESS: I'm sorry, sir? What was --

THE COURT: Any doubt about that, that you and he have similar views?

THE WITNESS: No, sir.

THE COURT: Now, you -- you spoke of this technology. Is technology in existence now in the park?

THE WITNESS: I'm not sure if it's in Big Bend National Park. I cannot answer that, but it --

THE COURT: But you're suggesting that that technology

would be as efficient as a wall, bollard, or vehicle --

THE WITNESS: More sufficient.

THE COURT: Why is it more sufficient?

THE WITNESS: Because regardless -- whether it's myself; Rodney Scott, who's the Commissioner of Customs and Border Protection; Tom Homan, who's the border czar, they've all said and will tell you that a border wall is not going to stop anything. It's the right foundation of technology.

THE COURT: Now, why wouldn't a border wall -- wouldn't a border wall --

THE WITNESS: It's meant as a deterrent, sir.

THE COURT: Wait a minute. But wouldn't a border wall be more clearly effective than technology?

THE WITNESS: No, sir.

THE COURT: Why's that?

THE WITNESS: Because the technology can actually detect people crossing. It -- it detects people as they enter the United States illegally.

THE COURT: All right. Now, have representatives of the government -- federal, state, or county, whatever -- sat down with you and talked to you about this?

THE WITNESS: Not until recently, when I actually -- I invited Commissioner Scott out and he finally came out.

THE COURT: Okay. When was that?

THE WITNESS: About a week ago; week and a half ago.

THE COURT: But the -- the construction, bulldozing, began before that meeting?

THE WITNESS: That is correct.

THE COURT: Did you all know that was going to begin?

THE WITNESS: No, sir.

THE COURT: So -- okay. Go ahead.

MR. DeGUERIN: Thank you for clarifying that, Judge. I was going to ask him those -- those questions.

You mentioned the other two sheriffs. We have our Exhibit 11, the declaration of Danny Dominguez, who's the Sheriff of Presidio County, and the declaration of Ronny Dodson, which is our Exhibit 12, and we would offer those. We've submitted them to the prosecution.

THE COURT: Okay. Now, let me ask you, does it really matter -- well, this may not sound right. Can't the government proceed -- your point is there's so little number of people crossing the border or been apprehended in this area of the park. Is it your contention that it -- if it's not a high enough percentage or a high enough number of people, the government shouldn't or is not permitted under the law, under -- let's see, hold on a second.

MR. DeGUERIN: RFRA.

THE COURT: Is not permitted to proceed and have vehicle barriers and bollards or anything?

MR. DeGUERIN: Our position is, Your Honor, that it's

not necessary.

THE COURT: But -- but it may not be necessary, but does the law permit it in any event?

MR. DeGUERIN: No, because of the destruction that we want -- there's two phases of that. One is a necessity or a lack thereof of these measures, and the other is what the measures would do if they're allowed. And that is destruction of the land --

THE COURT: Let me ask you this. Even if there were no necessity or compelling need, would the government be permitted to build this wall in any event?

MR. DeGUERIN: They should not.

THE COURT: Well, I know that they should not, but the government may -- we'll hear from them. Are they permitted to build a wall in any event?

MR. DeGUERIN: We say that under RFRA they're not because --

THE COURT: That's a different claim. Okay. But you're claiming that -- or are you claiming that since there's not a sufficient number of illegal crossings, the law then prevents or prohibits -- not whether they should, but prevents or prohibits the construction of a wall or even placement of vehicle barriers?

MR. DeGUERIN: Yes, we are saying that.

THE COURT: Okay. You may continue.

MR. DeGUERIN: So, we have for the Court our Exhibits 11 and 12, the declaration -- or affidavits of the sheriff of Presidio County --

THE COURT: Okay. And -- and the government has those declarations?

MR. GUTIERREZ: They do.

MS. AMAECHI: Yes, Your Honor.

THE COURT: Okay. Thank you, ma'am.

Go ahead.

MR. DeGUERIN: And we also would move to introduce the photographs. I believe we're -- there's no objection to this. Our Exhibits 13 through 91.

THE COURT: Okay. Does the government have any declaration from any law enforcement officer that states to the contrary?

MS. AMAECHI: Your Honor, we've received two declarations from plaintiff's side for two sheriffs.

THE COURT: From who?

MS. AMAECHI: Two declarations. One is Officer Thaddeus Cleveland, and...

We do not. The government has not presented any contrary declarations.

THE COURT: Has -- has the government met with the -- the sheriffs of these counties?

MS. AMAECHI: Yes, Your Honor. Last week.

THE COURT: For the first time?

MS. AMAECHI: We have been in communication with them throughout, but the commissioner did finally meet with them last week. The Commissioner of CBP.

THE COURT: You filed what?

MS. AMAECHI: The Commissioner of the Customs and Border Patrol, Rodney Scott, he did fly out himself to meet with --

THE COURT: And when -- when was that?

MS. AMAECHI: That was a week and a half ago, Your Honor.

THE COURT: Okay. And that was after the construction began?

MS. AMAECHI: Yes, Your Honor. The construction began on August 3rd.

THE COURT: Okay. All right. Thank you, ma'am.

Go ahead.

MR. DeGUERIN: And -- and that's -- that's the -- the problem. The construction -- and we say destruction of this beautiful land has already started and we're trying to stop it.

THE COURT: Go ahead. Well, if you have the law on your side, it may stop it. But if you don't have the law on your side, whether it's destruction or destroyed -- destroys the beauty of the park, you may be on the losing end. But we're a long way from making that determination. But -- but go ahead.

MR. DeGUERIN: At this point, Your Honor, we have these photographic exhibits that I'd like to display to the Court in --

THE COURT: Yes.

MR. DeGUERIN: -- the most efficient way possible --

THE COURT: Are they --

MR. DeGUERIN: -- but there's a bunch of them.

THE COURT: -- are they contained within my notebook?

MR. DeGUERIN: I don't know they're -- if they're in there or not.

THE COURT: They're not. Okay.

MR. DeGUERIN: No.

THE COURT: They're not. You -- you may present them.

MR. DeGUERIN: Exhibit 13.

THE COURT: Okay, what am I seeing here? Is this --

MR. DeGUERIN: This is what we --

THE COURT: -- Exhibit 13 on the screen?

MR. DeGUERIN: -- are calling a "man camp." It's --

THE COURT: The what?

MR. DeGUERIN: A "man camp." It's a large area that's been cleared for construction materials such as bulldozers and places for the workers to stay.

MS. BARRAGAN: Your Honor --

THE COURT: And this was constructed --

MS. BARRAGAN: Your Honor --

THE COURT: -- after the government started being -- in other words, this was here before any talking to each other?

MR. DeGUERIN: This was before they started talking.

MS. BARRAGAN: Your Honor, it appears that counsel is testifying.

COURT REPORTER: Can you speak up, please.

MS. BARRAGAN: Yes. My apologies.

THE COURT: Okay. Yeah.

MS. BARRAGAN: It appears that counsel's --

THE COURT: Well, I need more clarity. I know the government's going to be testifying and -- and getting evidence here that's going to determine -- just like we tell jurors, what the lawyers say to the jury is not evidence.

But I appreciate your -- your reminding me.

MS. BARRAGAN: Thank you, Your Honor.

THE COURT: Okay. So, is any construction or movement toward completion continuing right now, or that's in the pause?

MR. DeGUERIN: We believe, Your Honor, that it -- that it ceased last week --

THE COURT: Okay.

MR. DeGUERIN: -- after we started making all our noise.

THE COURT: Previous to the pause. Okay. Go ahead.

MR. DeGUERIN: This is another view of the same area showing more of the clearing. And I'm -- I'm just giving a

description of what the photographs show.

THE COURT: Right. Okay.

MS. CALLAHAN: Your Honor, can we clarify where we are. I mean, I get he's saying there's a man camp. That's a very vast region, so where exactly are we?

THE COURT: Where -- where in the park; that's what you want to know?

MS. CALLAHAN: Yes, Your Honor.

THE COURT: Where in the park is that?

MR. DeGUERIN: I -- I don't know.

THE COURT: But it's in the park.

MR. DeGUERIN: It's in the park or -- or close to the park.

THE COURT: Okay.

MS. AMAECHI: Your Honor, can I just say something on the record. Again, what's planned for inside the park, there is no pedestrian barrier. It's only going to be one access road. That's what the government is -- plans to build, installing the technology, and then vehicle barriers in strategic and limited locations.

THE COURT: And -- and you'll able to show me that, right?

MS. AMAECHI: Absolutely.

THE COURT: All right.

MR. DeGUERIN: You know, Judge, I'm just reminded by

counsel, we have another witness who would --

THE COURT: Yes, I understand.

MR. DeGUERIN: -- would be better to describe this. So we can -- I'll --

THE COURT: That'll be better.

MR. DeGUERIN: -- I'll forego it any further.

THE COURT: Okay. All right.

MR. DeGUERIN: Except for one.

THE COURT: Okay.

MR. DeGUERIN: This is our Exhibit 16. And this shows an area where a new road has been cut parallel to a road already in the park, and it's near Santa Elena Canyon. But we'll wait until we get a different witness --

THE COURT: Okay.

MR. DeGUERIN: -- to go through these. And that's all the questions I have --

THE COURT: All right.

MR. DeGUERIN: -- for the Sheriff.

THE COURT: Thank you. Counselor?

You'll have a -- you'll have an opportunity -- you'll have an opportunity for redirect.

Go -- go ahead.

And again for the record, can you -- ma'am, can you state your name.

MS. BARRAGAN: Yes, Your Honor. My name is Kathryn

Barragan. I'm from the Department of Justice, Civil Division, appearing on behalf of defendants.

THE COURT: You're from D.C.?

MS. BARRAGAN: Yes, Your Honor. But I am from Texas, if that gives me some credibility here.

THE COURT: So what -- what made you move to D.C.? If you're from Texas, is there any real need to move anywhere else?

MS. BARRAGAN: I -- you know, I -- I actually agree with that, Your Honor, but I did go to law school on the east coast, which may have been a mistake, but --

THE COURT: Which law school?

MS. BARRAGAN: Harvard. Harvard Law School, Your Honor.

THE COURT: In Texas, it is a mistake.

MS. BARRAGAN: I understand. As -- as the daughter of two graduates of the University of Texas Law School in Austin, I -- I do understand that. And my -- my husband is --

THE COURT: I clearly also understand that. But go ahead.

MS. BARRAGAN: Thank you, Your Honor.

CROSS EXAMINATION

BY MS. BARRAGAN

Q So good morning, Sheriff Cleveland.

A Howdy, ma'am.

Q So you are the elected sheriff of Terrell County; is that

correct?
A That is correct.
Q Terrell County is the county immediately east of Brewster County; is that right?
A Yes, ma'am.
Q And Brewster County is where Big Bend National Park is located; is that correct?
A Yes, ma'am.
Q Big Bend National Park is not in your county, Terrell County; is that correct?
A It is not.
Q And the construction at issue in this case, the Big Bend 4 project is in the national park; is that correct?
A Right.
Q And the Big Bend 2 project is in Presidio County; is that correct?
A I'd have -- I'd have to look at that just to make sure, but I'll take your word for it, ma'am.
Q Thank you. And so you're not currently employed by Customs and Border Protection; is that correct?
A No, ma'am. I just receive a retirement check from them.
Q Okay. So last week -- you mentioned this during your direct examination. Last week you met with Rodney Scott, who is the Commissioner of the Customs and Border Protection currently, correct?

A Yes, ma'am. We communicate regularly as well.
Q Okay. And you spoke with him last week about proposed construction in the Big Bend area, correct?
A That's correct.
Q And at that meeting last week, there were several other local officials and state judges as well; is that correct?
A There were county judges, and county sheriffs, and then we had representatives from Senator Cornyn's office, Senator Cruz's office. And I think that may wrap it up. But there was a participation from each county judge in the Big Bend region or each county sheriff. There were some that were missing.
Q Okay. And you'd agree about Rodney Scott, the CBP commissioner, that he has a good head on his shoulders when it comes to border security; is that correct?
A I would.
Q And you're aware that the commissioner has committed to working with local leaders and officials about the border construction plans in the Big Bend area, correct?
A Not the Big Bend area, just Big Bend National Park and big Bend Ranch State Park. He -- he did let us know that Big Bend Project 5 -- which encompasses the last 37 miles of Brewster County, all of Terrell County, and 65 miles of Val Verde County -- he had not planned to make any changes to those plans, as well as the project from Redford all the way up to Hudspeth County.

Q With respect to the construction on federal land in the national park, however, you'd agree that he has committed to working with local officials on that -- those construction plans, correct?
A Yes. He stated that he would.
Q And so let's talk about the proposals in the park, the national park. You recognize that there is not going to be a 30-foot pedestrian wall in the national park, correct?
A According to what Commissioner Scott has said and -- and others, that there will not be a 30-foot barrier within Big Bend National Park.
Q And you recognize there's no plans to install stadium lighting in the park; is that correct?
A That is something else that he said they would not do.
Q And you recognize the importance of upgrading the existing roads in the park; is that correct?
A Existing roads, 100 percent. Not creating new roads.
Q So, for instance -- I'm talking about existing roads. You said before that they're in need of updates because they flood during the rainy season; is that correct?
A Correct.
Q And the CBP commissioner also committed to not building new roads that are unnecessary in the park; is this correct?
A Yes, ma'am. He committed to not building new roads if they were not necessary.

Q And you also have recognized that vehicle barriers are needed in some areas of Big Bend National Park; is that correct?
A In the Big Bend region. I would say, yes, I made that statement in public to journalists that there are areas that would need a vehicle barrier.
Q Well, you said that they're needed in some areas of the national park; is that right?
A I don't recall if I specified the national park, but...
Q Well, you were interviewed on CBS Texas last week, August 21?
A Okay.
Q And that interview is on YouTube.
A Okay.
Q And you have stated when you're asked: Are some vehicle barriers needed in some areas? And you said they are.
A Okay.
Q Is this correct?
A If it's recorded as such, then, yes, ma'am.
Q Okay. And you also recognize that the CBP commissioner has committed to getting design input on vehicle barrier plans from local officials and others such as yourself, correct?
A Yes, ma'am.
Q And you also know that the CBP commissioner has sought input from business owners of river rafting and canoeing businesses? I think you mentioned Judge Henington of Brewster

County; is that correct?
A Correct.
Q Okay. And when you were testifying earlier today, counsel mentioned the Santa Elena Canyon --
A Uh-huh.
Q -- in the national park. You're not aware of any barrier walls that are going up next to the Santa Elena Canyon, are you?
A I am not aware. But that doesn't mean that their plans call for them. I haven't seen what their -- their plans call for.
Q I understand. So just to wrap this up, you would agree that border security is -- in this Big Bend region is very important, correct?
A I would say all across the U.S./Mexico border security is important.
Q And in the Big Bend region as well, correct?
A For sure. All -- all of the border.
Q It's 25 percent of the border, correct?
A Correct, but it represents one -- one or two percent in fiscal year 2025 of illegal alien apprehensions.
Q But you'd agree that illegal alien crossings are happening, correct, in the Big Bend area?
A Yes, ma'am. And -- and as I mentioned, in my county is the busiest station within the Big Bend Sector. And -- and the reason for that is to my west, in Brewster County, you have two

immigration checkpoints coming out of the Big Bend National Park. Coming out of Presidio, Texas, you have another immigration checkpoint. To the east of Terrell County and Sanderson -- well, I'm sure you have the Comstock checkpoint, the Del Rio checkpoint, as well as the Uvalde checkpoint. We have no checkpoint, therefore, it's a natural draw for people to cross illegally.

Q I understand. For my questions, a simple "yes" or "no" is -- is perfect.

A Okay.

Q But I agree to the context.

A You bet.

Q And you'd agree alien smuggling is happening in the Big Bend region, correct?

A Yes.

Q Okay. And you'd also agree that guns are being smuggled across the border, correct?

A I'm not familiar with -- I haven't seen anything of recent seizures. I have personally apprehended smugglers that have brought weapons down and they pick up illegals, but I've not ever -- I don't recall a weapon seizure happening in Big Bend even -- are you talking about coming north or going south? Because typically we know Americans smuggle guns into Mexico, but we don't -- we really don't see guns coming into the United States.

Q Okay. I'll -- I'll move on.

But overall, you would agree that border security is very important, correct?

A Yes, ma'am.

Q And you also agree that the commissioner has committed to working with local officials in the area on any construction plans; is that correct?

A Yes, ma'am.

Q Thank you.

MS. BARRAGAN: No further questions.

THE COURT: Let me ask. Is it the government's position whether -- does the law permit the construction or placement of vehicle barriers, construction of a wall -- even though it's been said there's not going to be a wall.

Is it the government's position that whether one person crosses the border or a hundred people cross the border that the government is still permitted within the law to place a vehicle barrier or a wall or whatever else?

MS. AMAECHI: Yes, Your Honor. It is the government's position that -- we understand that the number of crossings, et cetera, may be more limited in comparison to other areas. However, there's no basis in the law that that should be a reason why the government cannot ensure operational -- ensure operational control of the border as a mandated by Congress.

Also, the funneling effect is real. If there's a

fence in -- if you -- if the CBP has operational control in 90 percent of areas, but leaves ten percent exposed, realistically there's going to be funneling into that area and increased crime. For those reasons, we do believe that the --

THE COURT: Okay.

MS. AMAECHI: -- the law's on our side here.

THE COURT: Let me ask. I want to make sure I have interpreted this correctly. Does the statute -- Section 102, Illegal Immigration Reform and Immigrant Responsibility, authorizes the Secretary to construct additional physical barriers and roads near the international border to deter unlawful crossings in high illegal entry [sic]...

So when it says "high illegal entry," is that sort of like giving a message to the government that perhaps this is not an area that needs a wall? Or does it make a difference that it says -- or does the language "high illegal entry" mean anything? Is that -- is that in the statute?

MS. AMAECHI: I believe -- one second, Your Honor.

THE COURT: Go ahead.

(BRIEF PAUSE)

THE COURT: I mean, I just want to know if that's in the statute. Because if it's not in the statute, then it doesn't matter whether it's one person or a thousand people. Meaning, if it's not in the statute, then the government can place vehicle barriers, bollards, walls. Is that correct? Or

does it make a difference? Is this language in the statute?

(BRIEF PAUSE)

MS. AMAECHI: Your Honor, in the statute it -- it says explicitly that Congress defined "operational control" as the prevention of all unlawful entries into the United States. And --

THE COURT: Oh, I'm sorry. Go ahead.

MS. AMAECHI: Including -- I think this part might be helpful -- including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

THE COURT: Okay, so let me ask you. If that's the case, would the government be permitted, then, to build a wall, place barrier -- vehicle barriers, bollards from Brownsville, Texas, all across the border to California? If the government wanted to do that, could they do that?

MS. AMAECHI: Yes, Your Honor, they -- they could.

THE COURT: Okay. But even if it's only a few crossings or not high enough crossings; is that correct?

I mean, I don't know. That -- that's why I'm asking.

MS. AMAECHI: The definition of "operational control" here, Your Honor, is zero crossings.

THE COURT: Okay.

MS. AMAECHI: And so --

THE COURT: Okay. So --

MR. DeGUERIN: Your Honor, may I -- may I -- may I respond?

THE COURT: Who's speaking? No, no, you'll have an opportunity to come back, Mr. Gutierrez [sic].

MR. DeGUERIN: Thank you.

THE COURT: Okay. So, for clarity, the government -- you're telling me the government, our government, can build a wall from Brownsville to California, regardless of the number of crossings at that point; is that correct?

MS. AMAECHI: That is correct, Your Honor. Congress explicitly gave authority --

THE COURT: Okay. So is there -- what was the compelling need or this rationale? And I guess it doesn't make a difference if it was compelling need or rationale. But what was the reasoning in starting or including the Big Bend area? Is there a wall near Brownsville or near the valley?

THE WITNESS: Some, sir.

THE COURT: Okay. Some.

MS. AMAECHI: I'm -- I'm not sure as to that fact, but to answer --

THE COURT: Okay. You're not sure. So do you know the -- the reason that the Secretary -- and it doesn't -- and according to you, there doesn't have to be a reason. I -- I understand that, if -- if that's what the law says. But by

chance, do you happen to know what the reason was?

MS. AMAECHI: Yes, Your Honor. The reason was because between 2021 and 2025, Border Patrol has apprehended 89,000 undocumented people attempting to enter the U.S. in the Big Bend Sector.

THE COURT: Okay.

MS. AMAECHI: With --

THE COURT: Go ahead.

MS. AMAECHI: And within that same sector, there have been thousands of pounds of narcotics seized as well, as well as other illicit materials.

THE COURT: And yet that only represents one percent of -- one, two, three percent?

MS. AMAECHI: Yes, in comparison to other regions.

THE COURT: Okay.

MS. AMAECHI: But there is a funneling effect here --

THE COURT: Right. But as you say, it doesn't matter whether it's a pound, half a pound, or one person.

MS. AMAECHI: That's correct, Your Honor. CBP is using its expertise to do -- to execute its job the way that it knows best, and it's been given the authority by Congress to ensure operational control of the border and to ensure expeditious -- that is done expeditiously.

THE COURT: Okay. And does the statute address a preference for the kind of deterrence; that is, vehicle

barriers, bollards, or walls? Or does the statute even address that?

MS. AMAECHI: The statute grants all discretion to DHS and CBP, Your Honor. And what DHS and CBP have done with that discretion is reach out to local stakeholders.

THE COURT: And has that been done?

MS. AMAECHI: That has been done. Rodney -- the commissioner himself of the CBP came out a week and a half ago to speak to local people here. He like -- even --

THE COURT: Right.

MS. AMAECHI: -- the pause itself is reflective --

THE COURT: Right.

MS. AMAECHI: -- of CBP wanting to work --

THE COURT: Right.

MS. AMAECHI: -- with folks here.

THE COURT: And -- and that was done rather -- but that was done after the construction began?

MR. DeGUERIN: Yes.

MS. AMAECHI: Yes, Your Honor.

THE COURT: Okay. Go ahead.

MS. AMAECHI: How --

THE COURT: I'm sorry. Go ahead.

MS. AMAECHI: Yes. However, CBP and DHS have been working with local stakeholders far beyond a week and a half ago. They have solicited notice and comment from the public.

THE COURT: Uh-huh. And in your view, the law doesn't even require that?

MS. AMAECHI: Precisely, Your Honor. It does not.

THE COURT: And is it the government's position that it will continue, because you can, without conferring with a single person from that area? But you -- you've indicate -- you've represented to me that the government is going to continue meeting with interested stakeholders.

MS. AMAECHI: That is correct, Your Honor.

THE COURT: All right. Go ahead, ma'am.

MS. BARRAGAN: I have no further questions for the witness, Your Honor.

THE COURT: Okay. Any redirect?

MR. DeGUERIN: No redirect, Your Honor.

May I cover -- while this particular exchange is fresh in your mind --

THE COURT: Sure. If you'll speak at the podium.

MR. DeGUERIN: Yes, Your Honor.

MS. BARRAGAN: Your Honor, I apologize. Could I just -- just privy to that discussion --

THE COURT: Hold on. Hold on, Mr. Gutierrez [sic].

I'm sorry?

MS. BARRAGAN: I just want to clarify, when we use the word "construction," my understanding is that there hasn't been any construction that's begun. It's -- it's actually the

clearing of brush to --

THE COURT: Okay.

MS. BARRAGAN: -- prepare for construction.

THE COURT: All right. There have been preparatory acts in -- in anticipation of some kind of construction?

MS. BARRAGAN: That is correct, Your Honor.

THE COURT: Okay. Go ahead.

MR. DeGUERIN: Thank you, Your Honor, to just give us this chance to argue the law here. And the statute does actually say "areas of high illegal entry." And that's in subsection (a), within the first part, the -- the general statement of the law. It says, Roads, including the removal of obstacles to detection of illegal immigrants in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. That's -- that's the statute.

THE COURT: But -- but according to the government, whether it's one person, one pound, or whatever -- one pound of illegal substance, they can proceed.

Is that the government's position?

MS. AMAECHI: That is the government's position, Your Honor. They have the -- they have -- they have their own expertise.

THE COURT: Uh-huh.

MS. AMAECHI: Congress has given them the authority to

carry out their mission in the best way that they know how.

THE COURT: Okay.

MR. DeGUERIN: And this is my response to this, Judge, because I think, respectfully, what you're getting at and you've made this very clear: Has the government violated the law?

102(c) --

THE COURT: How has the government violated the law?

MR. DeGUERIN: 102(c), Your Honor. I call it the magic wand. What the government is telling us right now is, We can do whatever we want --

THE COURT: Right.

MR. DeGUERIN: -- whenever we want. That's what we're hearing. But other laws -- clean air, clean water -- say, Wait a minute, you got to do this.

So then you got an amendment through Congress, creating 102(c) that says, This is our magic wand to do whatever we want.

On June 9th, the CBP commissioner, who never talked to this community before -- on June 9th waived many of the aforementioned laws, but he did not waive the Religious Freedom Restoration Act.

THE COURT: Okay, but --

MR. DeGUERIN: And he did not waive this other law.

THE COURT: That's a different part of your argument. But -- but I see what you're saying.

MR. DeGUERIN: Well, my argument, Your Honor, is that the government currently is in violation of laws that are here to protect our religious freedoms.

THE COURT: Okay. And we'll get to that when --

MR. DeGUERIN: Yes, Your Honor.

THE COURT: -- when we get to that area.

Okay. Thank you.

Any more questions of the sheriff?

MR. DeGUERIN: No more questions.

MS. BARRAGAN: No, Your Honor.

THE COURT: Thank you, sir.

THE WITNESS: Thank you, sir.

(10:47:11 A.M., END OF REQUESTED EXCERPT)

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C E R T I F I C A T E

U.S. DISTRICT COURT)
WESTERN DISTRICT OF TEXAS)
SAN ANTONIO DIVISION)

I, Vickie-Lee Garza, Certified Shorthand Reporter, do hereby certify that the above-styled proceedings were reported by me, later reduced to typewritten form, and that the **excerpt** of the foregoing pages is a true and correct transcript of the original notes to the best of my ability.

Certified to by me this 2nd day of September, 2026.

/s/ VICKIE-LEE GARZA
TX CSR #9062, Expires 10/31/2027
U.S. District Court
262 W. Nueva Street, Suite 1-400
San Antonio, Texas 78283

Defendants' Notice Regarding End of Big Bend Construction Pause, *Friends of the Ruidosa Church, et al. v. Mullin, et al.*, No. 3:26-cv-01099-KC (W.D. Tex. Sep. 29, 2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FRIENDS OF THE RUIDOSA CHURCH, *et al.*, *Plaintiffs*, *v.* MARKWAYNE MULLIN, *et al.*, *Defendants*.	Civil Action No. 3:26-CV-01099-KC

DEFENDANTS' NOTICE REGARDING END OF BIG BEND CONSTRUCTION PAUSE

Defendants respectfully submit this notice to update the Court regarding U.S. Customs and Border Protection's ("CBP") planned activities in the Big Bend 2 and Big Bend 4 project areas following the expiration of its voluntary pause on ground-disturbing activities. In support of this notice, Defendants attach the Second Declaration of Paul Enriquez.

I. Update Regarding the Big Bend 2 Project

Beginning September 30, 2026, CBP will lift the pause on ground disturbing activities for the Big Bend 2 project. Second Enriquez Decl. ¶ 16. As described in Mr. Enriquez's first declaration (ECF No. 38-1), CBP plans to construct approximately 61 miles of barrier system in Presidio County within this Big Bend Sector. *Id.* ¶ 17. The system will include a 30-foot bollard style pedestrian barrier, a road, and, where appropriate for a particular area, cameras, lights, sensors, and other detection technology. *Id.*

Most land within the Big Bend 2 project alignment is privately owned. *Id.* ¶ 18. Before accessing private property for surveys or other pre-construction work, CBP obtains a right of access from the landowner. *Id.* Before constructing border infrastructure, CBP generally acquires

either a fee interest or an easement in the affected property. *Id.* As part of that process, CBP consults with affected landowners and provides them an opportunity to identify concerns. *Id.* ¶ 19. Depending on the property, those concerns may include the proposed alignment, continued access to the Rio Grande, existing irrigation lines, sensitive resources, and other activities conducted on the property. *Id.* CBP attempts to accommodate such concerns where possible, including through the incorporation of access gates into the barrier system. *Id.*

CBP prefers to acquire the necessary property interest voluntarily. *Id.* ¶ 20. When a landowner declines to engage with the government or the parties cannot reach an agreement, however, CBP may refer the matter to the Department of Justice for a potential condemnation action. *Id.* ¶¶ 20–21. Because a number of landowners in the Big Bend 2 project area have declined to engage with the government or provide voluntary rights of entry for serving work, CBP anticipates making a number of such referrals in the coming weeks. *Id.* ¶ 21.

II. Update Regarding the Big Bend 4 Project

CBP is actively considering adjustments to the Big Bend 4 project that would reduce its scope and avoid or minimize potential impacts, based on input received from the National Park Service and other stakeholders. *Id.* ¶ 22.

As previously described, the original project contemplated approximately 17 miles of non-contiguous vehicle barrier system within and east of Big Bend National Park, construction of a new patrol road, improvements to existing roads, and the installation of technology within the National Park. *Id.* Although the Big Bend 4 project area also includes portions of Big Bend Ranch State Park, CBP does not plan to construct a barrier within the State Park. *Id.* CBP instead anticipates constructing a road and associated technology in portions of that area. *Id.*

CBP expects to make a final decision concerning the revised scope of the Big Bend 4

project during the first week of October. *Id*. Once the final decision has been made, the government will promptly update the court and the parties, and CBP will make a public announcement and share relevant project information through its website and local media outreach. *Id.*

Ground-disturbing activity in the Big Bend 4 project area will not begin immediately upon the expiration of the pause or the approval of a revised project scope. *Id.* ¶ 23. After a final decision is made, additional time—likely several weeks—will be required to complete any necessary contract administration actions, re-mobilize equipment and personnel, and undertake other planning activities. *Id.* Ground-disturbing work will begin only after those steps have been completed. *Id.*

Dated: September 29, 2026

Respectfully submitted,

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/s/ Alexander J. Yun
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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2026, the foregoing pleading was filed electronically through the CM/ECF system, which causes all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

/s/ Alexander J. Yun
ALEXANDER J. YUN
Trial Attorney
United States Department of Justice