

SECURING OUR BORDER, SAVING OUR NATIONAL PARKS

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

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OVERSIGHT HEARING ON SECURING OUR BORDER, SAVING OUR NATIONAL PARKS

**Wednesday, October 18, 2023
U.S. House of Representatives
Subcommittee on Oversight and Investigations
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to notice, at 3 p.m. in Room 1324, Longworth House Office Building, Hon. Paul Gosar [Chairman of the Subcommittee] presiding.

Present: Representatives Gosar, Rosendale, Collins, Westerman; and Grijalva.

Also present: Representatives Ciscomani and LaMalfa.

Dr. GOSAR. The Subcommittee on Oversight and Investigations will come to order.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

The Subcommittee is meeting today to hear testimony on securing our border and saving our national parks.

I ask unanimous consent that all Members testifying today be allowed to sit with the Subcommittee, give their testimony, and participate in the hearing from the dais.

I ask that the gentleman, Mr. Ciscomani from Arizona; the gentleman from California, Mr. LaMalfa; and the gentlewoman, Ms. Chavez-DeRemer from Oregon, be allowed to sit with the Subcommittee and participate in the hearing.

Without objection, so ordered.

There may be others that appear, too, and we will do those on an individual basis.

Under Committee Rule 4(f), any oral opening statements at the hearing are limited to the Chairman and the Ranking Minority Member. I therefore ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted in accordance with Committee Rule 3(o).

Without objection, so ordered.

I now recognize myself for my opening statement.

STATEMENT OF THE HON. PAUL GOSAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Dr. GOSAR. Thank you to our witnesses and to the Administration officials for testifying before the Subcommittee on an issue that is very important for my constituents and, increasingly, for all Americans. And thank you to Chairman Westerman when he joins us later today for this discussion.

We also have the Ranking Member for the Full Committee here, Representative Grijalva, sitting to my left, as well.

For those living in border states, this hearing might sound all too familiar. Sadly, due to the incompetence of the Biden administration, there really is no such thing as a border community these days. Illegal immigration and its impacts, from drug cartels to human trafficking, to the increases in violent crimes and environmental degradation, are impacting communities from Arizona to New York these days, thanks to President Biden's irresponsible and ineffective border policies.

President Biden has totally lost operational control of the border, allowing thousands of migrants, as well as those who wish to traffic human beings and to illicit drugs across our public lands. The last thing on the minds of those illegally crossing the border is to "leave no trace" attitude. There are well documented environmental impacts associated with illegal immigration, including trash accumulation, human waste, degradation of public lands, and destruction of critical habitats, and the list goes on and on.

The environmental problems with illegal immigration have persisted for decades on our public lands, costing taxpayers millions each year to clean up the tens of thousands of pounds of trash and human waste littered across our public lands and waterways. The massive amount of trash and waste leads to watershed degradation, soil erosion, infrastructure damage, loss of local vegetation and wildlife, including endangered species, and can even increase the risk of wildfires.

Meanwhile, Mexican criminal cartels are establishing illegal marijuana growing operations on our public lands. Not only are these illegal operations extremely harmful to the environment, they pose a grave threat to Americans who seek to use their public lands for recreation. The cartels are even trafficking people into our nation as essentially modern-day slaves to work these operations in our national parks, national forests, and other protected Federal lands.

These same cartels are distributing the fentanyl that is killing our youth and some of our others, and it is crippling our nation, with over 100,000 Americans dying from drug overdoses this past year alone. Unsurprisingly, fentanyl and other synthetic opioids accounted for nearly 70 percent of the deaths. We must put an end to this national tragedy.

President Biden has brought the nation to a breaking point with his reckless immigration policies. My state of Arizona has shouldered the burden of illegal immigration for far too long, and the damage to our lands and livelihoods has devastated our communities. Now, Democratic cities that want us to claim sanctuary city status for illegal immigrants are experiencing the same problems.

Unfortunately, with the recent leasing of the Floyd Bennett Field and Gateway National Recreation Area, which is a national park unit, to house a flood of illegal migrants coming to the United States to New York City, the Biden administration has demonstrated that they stand ready and willing to give up our public lands to cover for their failed immigration policies that have let millions of people into our nation just this year alone.

I share the concerns of many of my colleagues here on the Committee, that this is not a one-off incident. Instead, it sets a

blueprint for migrant housing on public lands nationwide. Nowhere is safe.

We must establish responsible immigration policies like those found in Republicans' H.R. 2, the Secure the Border Act: to restrict the flow of illegal immigrants crossing our southern border, reduce the abuse of the asylum process, and ensure that America's public lands remain intact for the use and enjoyment of current and future generations. Otherwise, the migrant crisis will continue and just spiral out of control.

I look forward to hearing from our witnesses today about the many environmental impacts of illegal immigration on public land, and to the Administration officials with us here. I hope you came prepared, because the American people deserve answers for the failures of this Administration.

I now recognize the Ranking Member for his statement, Mr. Grijalva.

STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you, Mr. Chairman. Very brief, this is a continuation of the hearing that we had regarding the airfield, and that it was going to be used for temporary shelter in an emergency.

The unprecedented number of refugees and asylum seekers that are coming to the border is a reality. It is a humanitarian crisis, and it needs to be dealt with. But today's hearing is not about doing that. Today's hearing is about using this platform and this forum to continue to talk about immigration as perceived by the Republican Majority as the definitive political issue going into 2024. I realize that, and I think the vast number of the American people realize that, as well.

What is needed to manage this humanitarian crisis is for the House of Representatives, in a bipartisan way, to move forward some common-sense pieces of legislation that begin to reform and deal with the reality of what we have on the border.

No. 2, to have a supplemental that begins to deal and provide resources for the management of that crisis. It is not right, nor is it proper, that local communities bear the burden, financially and otherwise, for the processing, shelter, and transition of those seeking refuge and asylum in this country. And we will have plenty of time going forward to debate this issue in its proper place on the Floor and at the hearings when legislation comes up.

But the backdrop to this whole discussion today is the fact that my colleagues on the other side of the aisle have failed again to find a Speaker to lead and to make the House of Representatives function and govern and to have the Floor work. It is kind of like a Stockholm syndrome has set in. We have become part of the prisoners here.

And I say that because this issue, as important as it is to manage this crisis, if you want to talk about security, fentanyl and human trafficking, let's do that. We have suggestions and recommendations on that. This is about organized, well-financed crime on both sides of the border. And we need to put the focus and the attention on breaking that up.

Our history in this country, we are able to do that. It is not about, as some Members of this Congress have said on the Republican side, sending in the troops and having military actions inside the sovereign nation of Mexico. That is not a solution. That is a way to try to seek attention, politically.

And I agree with that, and we should do that, we should modernize our ports of entry so that they continue to be economic engines for our region, but at the same time build up the staffing at Customs so that we can do the inspections and the interventions where 70 percent of unauthorized entry, be they drugs or people, that is where they are stopped.

The other issue that I think is of great importance is how do we deal with the issue of workforce, and how do we process that? We are willing to sit down and talk about that. But to just continue to beat the political drum, what are the solutions? Continue the wall. It has failed. It didn't do its job. As much as it was ballyhooed and talked about, it has become political rhetoric and a political symbol. In terms of deterrence, it does not work.

The other issue is, I think the Cato Institute said that 0.2 percent of those seeking asylum had fentanyl in their possession, 0.2 percent, which leads one to the conclusion that this is organized, it is real. It is billions and billions of dollars, and that is where the focus needs to be.

I say all that because everything else in terms of responding will happen at the hearing when we deal with the pieces of legislation. Today, it is about people making their proclamation, their political statement. My political statement: until this House is functional, these kind of hearings are not only redundant, but pointless. Once this House gets organized, and once we have hearings that have the potential to go to the Floor, then that is when the debate happens. And I hope that facts and I hope that science play a role in how we go forward.

Thank you very much, Mr. Chairman, and I yield back.

Dr. GOSAR. I thank the gentleman. You have to be kidding me. Facts? Facts are a hard thing. You are only applicable to the ones you want.

This immigration process is broken. It is the way this Administration has actually taken care of it. They were trusted with it, and they allowed everything to break down. The wall doesn't work? Yes, walls do work. They actually do work. But that is what happens when you don't finish it.

And I have to tell you——

Mr. GRIJALVA. This is not a debate.

Dr. GOSAR. I just have to tell you, I am a little bit upset because, when you look at the process, it is out of hand. When you look at New York City, I went there, Raúl, and so did the Chairman. It is out of whack. We are not going to do a NEPA, we are not going to do anything on a national park? That is outright disgusting.

I now recognize the gentleman from Arkansas, the Chairman of the Full Committee, Mr. Westerman.

STATEMENT OF THE HON. BRUCE WESTERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. WESTERMAN. Thank you, Chairman Gosar, and thank you to you gentlemen for coming here today. I love to see the uniforms. I have a tremendous amount of respect for you and the work that you and your colleagues do across the country.

I live in Hot Springs National Park. That is what I think of when I think of a national park, and I am surrounded by the Ouachita National Forest. And I am quick to point out when we need to have oversight, but also quick to praise people when they do a good job. And the folks back at home and all across this country are doing a good job, and I appreciate your service to our country. And I think this is something that you would be interested in, as well, and that is the title of this hearing to secure our border and save our parks, or save our Federal lands.

And when I think about Federal land, when I think about a trip we made out to Yosemite, where we did a field hearing this year, how beautiful that is, I think about going to the Grand Canyon, I think about Hot Springs National Park, but I don't think about what is in the photographs behind me. That is Floyd Bennett Field. That was last night and this morning, where migrant shelters are being built on National Park Service land, where NEPA was waived, where it was essentially declared an emergency to build migrant shelters on Federal land. That is not my vision of the national park, or the purpose of the national park, and I don't think it is what many Americans consider that to be.

This is happening, and I think it sets a horrible precedent, and it is a travesty that this Administration, and I know this comes from much higher levels than where you all work, where they have pushed this through.

But we have five national park units, not to mention other types of Federal lands that share space with our southern border. It is equally beautiful, and these areas face challenges that, unfortunately, are becoming increasingly familiar across the United States, from piles of trash to concerns about human trafficking. It is just not what America's idea was supposed to be.

Back in September, as Chairman Gosar mentioned, he and I traveled to New York City to see firsthand the impacts of the migrant crisis on this great city. And park officials told us that this was happening. Well, it is happening right now, where they are building these shelters. When we got back to DC, the Committee held a hearing to investigate this abuse of the National Park System. We hosted local officials from both sides of the aisle who put politics aside to fight the Administration's reckless decision to lease Floyd Bennett Field and focus on how the migrant crisis has affected their communities.

Unfortunately, the Administration has now set a terrible precedent to use our public lands across the country to house migrants. This is a place where a million people recreate a year: New York City, where there is limited green space, limited opportunities for parents to take their children to run and play, and now there are migrant shelters there.

If there were ever a time for bipartisanship on Capitol Hill, it is now. Instead of continuing down this path, the Administration must wake up to the illegal immigration crisis and come to the table to work with Congress on securing our border and addressing the dangers and environmental impacts of our public lands.

I have grown up in and around Federal lands. As a forester, I see firsthand why we have the protections in place to keep our public lands and waters healthy and accessible for all Americans. However, with record numbers of migrants crossing into the United States, we are seeing increasingly harmful impacts on the environment, including trash accumulation, habitat destruction, disturbance of lands and waters, and many other issues.

Approximately 35 percent of the land along our southern border is Federal and Indian land, administered by seven different agencies, six of which are managed by the Department of the Interior and Agriculture. These are some of the most treasured lands and waterways in our nation. They are home to many unique habitats, endangered species, and host popular recreational activities for Americans.

Unfortunately, the crisis is no longer contained to our southern border. Unmitigated illegal immigration has allowed for criminal cartel organizations to operate more freely in the United States. In addition to bringing humans and drugs across the border, cartels have been operating illegal marijuana-growing operations on public lands, especially up in Northern California, in Mr. LaMalfa's district.

I do again appreciate your presence here, I look forward to hearing your testimony, and I look forward to this Committee working to protect our Federal lands for all future Americans.

I yield back.

Mr. LAMALFA [presiding]. Thank you, Mr. Chairman, I appreciate that. Let's go ahead and move to our first panel of witnesses.

We have Mr. Chris French from the National Forest System, U.S. Department of Agriculture, Forest Service; and we have Mr. Michael Reynolds, Deputy Director for Congressional External Relations, National Park Service, with the U.S. Department of the Interior.

So, our witnesses, you know the drill. You must limit your oral statements to 5 minutes, but your entire statement will be available in the hearing record. Press the "on" button of your microphone. With the timing lights, you will see green. Then, at the end of the 5 minutes, it will turn red and you will have to complete your statement.

All witnesses on this panel will testify before Member questioning. The Chair now recognizes Mr. French for 5 minutes. Thank you.

STATEMENT OF CHRIS FRENCH, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, USDA FOREST SERVICE, WASHINGTON, DC

Mr. FRENCH. Good afternoon, Chairman and Ranking Member Grijalva. My name is Chris French. I am the Deputy Chief for the National Forest System at the USDA Forest Service.

I have been an employee with the Forest Service for nearly 30 years, including work that I have spent on the Douglas District on

the Coronado National Forest on our international border. I am pleased to be here to discuss the United States Department of Agriculture's views on border security on the National Forest System lands.

As a Federal agency in service to the American people, the Forest Service cares for the shared natural and cultural resources in ways that promote lasting economic, ecological, and social vitality. We manage 155 national forests and 20 national grasslands, comprising 193 million acres in 41 states and Puerto Rico. Our partners include land management agencies across all levels of government, tribes, non-profit groups, for-profit entities, and communities.

Since the Agency's founding in 1905, partnerships have made significant contributions to our nation's natural resource management. These partnerships extend to our work with the Department of Homeland Security, Customs and Border Protection, and the Border Patrol. The Forest Service fulfills the Agency's mission and provides support to Border Patrol on their mission to secure the nation's borders.

Our work with Border Patrol is highly collaborative. We rely on each other's strengths to advance our distinct goals. The Forest Service has established full-time liaison positions with the Border Patrol for both the Tucson Sector based in Tucson, Arizona, and for the Spokane Sector based in Kalispell, Montana. The liaison positions are important for coordinating joint patrol efforts, facility development, environmental analysis, and long-term staffing needs.

Another critical collaborative effort is the Forest Service membership in the Department of Homeland Security Alliance to Combat Transnational Threats. Forest Service law enforcement provides routine patrol support and assistance to Border Patrol when requested. Additionally, we have coordinated with Border Patrol on special operations that combined the limited resources of Forest Service law enforcement with the Border Patrol's substantial presence on the Coronado National Forest to address border management impacts.

The national forests in the Lower 48 share a border of nearly 400 miles with Canada, and approximately 60 noncontiguous miles with Mexico. The Forest Service, through the United States Department of Agriculture, is statutorily charged with managing all the National Forest System lands along this international border. The Forest Service shares law enforcement responsibility over these lands with Federal, state, and local partners. While it is fully recognized that the Department of Homeland Security has the primary mandate of controlling and guarding the nation's borders, Forest Service stewardship and law enforcement responsibilities are vital to assisting the Border Patrol with effectively defending national security, responding to terrorist threats, safeguarding human life, and stopping the degradation of natural and cultural resources on National Forest System lands.

In 2006, the United States Department of Agriculture entered into a Memorandum of Understanding with the Department of Homeland Security and the Department of the Interior regarding cooperative national security and counter-terrorism efforts on Federal lands along the United States borders. Our collaborative

work has aligned our agency priorities with these partners in pursuit of our shared objectives.

This year the Border Patrol and the Forest Service entered into a Memorandum of Agreement to strategically align our collective law enforcement resources. The Forest Service will continue to provide Border Patrol with additional support and resources as appropriate and authorized.

The Department takes very seriously the need to address emergencies involving human health and safety and preventing or minimizing environmental damage on public lands. The Department is committed to working with the Subcommittee and with Congress on all of these issues.

Chairman and Ranking Member Grijalva, that concludes my statement. I would be happy to answer any questions you may have. Thank you.

[The prepared statement of Mr. French follows:]

PREPARED STATEMENT OF CHRIS FRENCH, DEPUTY CHIEF, NATIONAL FOREST SYSTEM,
U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE

Chairman Gosar, Ranking Member Stansbury, and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the U.S. Department of Agriculture's (USDA) views on border security on National Forest System Lands.

As a Federal agency in service to the American people, the Forest Service cares for shared natural and cultural resources in ways that promote lasting economic, ecological, and social vitality. The agency manages 155 national forests and 20 national grasslands, comprising 193 million acres in 41 states and Puerto Rico. Our partners include land management agencies across all levels of government, non-profit, for-profit entities, and communities. Since the agency's founding in 1905, partnerships have made significant contributions to our nation's natural resource management. These partnerships extend to our work with the U.S. Customs and Border Protection (CBP). The U.S. Forest Service fulfills the agency's mission to sustain the health, diversity, and productivity of the nation's forests and grasslands and provides support to CBP on their mission to secure the nation's borders.

Proactive partnership management

The U.S. Forest Service and CBP rely on each other's strengths to advance our very distinct goals. For example, the U.S. Forest Service has established full-time liaison positions with the U.S. Border Patrol (USBP) for both the Tucson Sector, based in Tucson, Arizona, and for the Spokane Sector, based in Kalispell, Montana. The liaison positions are important in coordinating joint patrol efforts, facility development, environmental analyses, and long-term staffing needs.

U.S. Forest Service Law Enforcement and Investigations (LEI) is a member of the U.S. Department of Homeland Security (DHS) Alliance to Combat Transnational Threats, which is a multi-agency initiative. LEI provides routine patrol support and assistance to CBP when requested. Additionally, LEI has coordinated with USBP on special operations that combined the limited resources of LEI with USBP substantial presence on the Coronado National Forest to address the impacts of migration as well as narcotics and other drugs smuggling.

Joint operational activities have included long-term (multiweek) missions targeting armed criminal activity or smuggling routes and activities on the National Forest. To mitigate safety risks to employees working in the forest, the agency takes precautions such as providing law enforcement escorts for management and fire suppression activities, while also regularly offering border awareness training.

Overview of the US Forest Service footprint and capabilities

The national forests in the "lower 48" share a border of over 400 miles with Canada and approximately 60 non-contiguous miles with Mexico. The U.S. Forest Service, through the USDA, is statutorily charged with managing all National Forest System lands along the international border. The U.S. Forest Service shares law enforcement responsibilities over these lands with federal, state, and local partners. While it is fully recognized that CBP has the primary mandate of controlling and guarding the nation's borders, U.S. Forest Service stewardship and law enforce-

ment responsibilities are vital to assisting USBP with effectively defending national security, responding to terrorist threats, safeguarding human life, and stopping the degradation of the natural and cultural resources on National Forest System lands.

In 2006, the U.S. Forest Service entered into a Memorandum of Understanding between DHS, the U.S. Department of the Interior (DOI), and USDA regarding cooperative national security and counterterrorism efforts on federal lands along the United States' borders. Our collaborative work has aligned our agency priorities with these partners in pursuit of our shared objectives.

This year, CPB and U.S. Forest Service entered into a Memorandum of Agreement to strategically align CBP and U.S. Forest Service law enforcement resources for the purpose of providing support to CBP. The U.S. Forest Service will continue to provide CBP with additional support and resources as appropriate and authorized. The USDA takes very seriously the need to address emergencies involving human health and safety and preventing or minimizing environmental damage on public lands. The Department is committed to working with the Subcommittee and the Congress on these issues.

Chairman Gosar and Ranking Member Stansbury, that concludes my statement. I would be happy to answer any questions you may have.

QUESTIONS SUBMITTED FOR THE RECORD TO CHRIS FRENCH, DEPUTY CHIEF,
NATIONAL FOREST SYSTEM

Mr. French did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Grijalva

Question 1. House Republicans' FY 2024 Interior funding bill proposes a \$312 million cut to the U.S. Forest Service budget. How would such a cut impact the National Forest System's ability to manage illegal marijuana grow sites and other operations related to border security?

Question 2. A recent report by the Government Accountability Office on the southern border wall's impacts to natural and cultural resources features the construction of a large staging area for a border fence near the top of a mountain in the Pajarito Mountains on the Coronado National Forest in Arizona. According to the Forest Service, this project has created an issue of silt draining down the side of the mountain and filling a human-made pond, threatening to eliminate the pond as a drinking source for cattle and wildlife. What steps are being taken by the Forest Service and other agencies to address this and prevent other erosion issues from construction along the southern border from occurring in the future?

Mr. LAMALFA. Thank you, Mr. French. Let's now recognize Mr. Reynolds for 5 minutes.

**STATEMENT OF MICHAEL REYNOLDS, DEPUTY DIRECTOR,
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR,
WASHINGTON, DC**

Mr. REYNOLDS. Mr. Chairman, Ranking Member Grijalva, and members of the Subcommittee, thank you for the opportunity to present the Department of the Interior's views about how border security might affect national parks.

The National Park Service, along with the Department's other land management bureaus, recognizes the significant ecological and cultural values of the lands managed by the Department, including those along the United States international borders. And we take very seriously our responsibility for protecting and conserving these lands on behalf of the American people.

We also work closely with the Department of Homeland Security, in particular the U.S. Border Patrol, who have been given the

responsibility for securing these international borders. However, the Department does not have jurisdiction over immigration policy, and we therefore defer to Homeland Security regarding broader questions about immigration and border security policy.

Regardless of proximity to our national borders, National Park Service actions are ultimately based on a commitment to protect and conserve resources in accordance with the law. Conservation, a core National Park Service mission, occurs regardless of the immigration status of individuals who enter the lands we manage.

Our National Park System has been called “America’s best idea,” because it represents the first decision by any nation to conserve land in this way, both for the enjoyment of it for the public, and also for its own sake. Our goal is to provide for the conservation of natural and cultural resources in our 425 national parks, as provided by law for this and future generations.

Each year, the National Park Service responds to a wide array of emerging challenges that include not only the impacts of migration, but also extreme weather events, overcrowding, and staffing challenges. Examples of these challenges include the 2021 Dixie mega-fire that impacted Lassen Volcanic National Park, the major flooding at Yellowstone National Park last year, and then the recent 1,000-year flood event at Death Valley National Park, and the unprecedented post-pandemic increase in visitation at many of our parks.

Although the National Park Service faces many of the same resources and funding constraints that other Federal agencies, cities, towns, organizations, and businesses face across the country, we will continue to rise to meet the challenges, and work daily to sustain these remarkable places that the American people have entrusted to us.

When managing lands along our international borders, the National Park Service, along with other bureaus, closely coordinates with Homeland Security agents on the ground to ensure that field operations are conducted in a manner that avoids or minimizes environmental impact on Federal lands in accordance with law. As part of the Biden administration’s all-of-government response to the influx of migrants and asylum seekers, we work with these agencies and with the Forest Service on a cohesive, cooperative approach to border security, while Congress and others work to comprehensively address immigration policies generally.

We are proud of this strong working relationship, which is based on cooperation and mutual commitment to accomplishing our important agency missions.

Mr. Chairman, Ranking Member, thank you again for the opportunity to appear today, and I would be happy to answer any questions that you could have.

[The prepared statement of Mr. Reynolds follows:]

PREPARED STATEMENT OF MICHAEL T. REYNOLDS, DEPUTY DIRECTOR FOR
CONGRESSIONAL AND EXTERNAL RELATIONS, NATIONAL PARK SERVICE

Chairman Gosar, Ranking Member Stansbury, and members of the Subcommittee, thank you for the opportunity to present the Department of the Interior’s (Department) views about how border security might affect national parks.

The National Park Service (NPS), along with the Department’s other land management bureaus, recognizes the significant ecological and cultural values of the

lands managed by the Department, including those along the United States' international borders, and we take very seriously our responsibility for protecting and conserving these lands on behalf of the American people. We also work closely with the Department of Homeland Security (DHS), in particular the U.S. Border Patrol, a component of Customs and Border Protection, who have been given the responsibility for securing these international borders. However, the Department does not have jurisdiction over immigration policy and therefore we defer to DHS regarding broader questions about immigration and border security policy.

Regardless of proximity to U.S. national borders, NPS actions are ultimately based on a commitment to protect and conserve resources in accordance with the law. Conservation—a core NPS mission—occurs regardless of the immigration status of individuals who enter the lands we manage.

Our National Park System has been called “America’s best idea” because it represents the first decision by any nation to conserve land in this way—both for the enjoyment of the public and for its own sake. The goal of the National Park Service is to provide for the conservation of natural and cultural resources in 425 national parks as provided by law, for this and future generations.

Each year the National Park Service responds to a wide array of emerging challenges that include not only the impacts of migration, but also extreme weather events, overcrowding, and staffing challenges. Examples of these challenges include the 2021 Dixie megafire that impacted Lassen Volcanic Park, the major flooding at Yellowstone National Park last year, the recent 1000-year flood event at Death Valley National Park, and the unprecedented post-pandemic increase in visitation at many of our parks. Although the NPS faces many of the same resource and funding constraints that other federal agencies, cities, towns, organizations, and businesses face across the country, we will continue to rise to meet these challenges and work daily to sustain these remarkable places that the American people have entrusted to us.

When managing lands along our international borders, the NPS, along with the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the Bureau of Indian Affairs, closely coordinate with DHS agents on the ground, to ensure that field operations are conducted in a manner that avoids or minimizes the environmental impact on federal lands in accordance with the law. As part of the Biden Administration’s all-of-government response to the influx of migrants and asylum seekers, we work with these agencies and with the U.S. Forest Service within the U.S. Department of Agriculture, on a cohesive, cooperative approach to border security, while Congress and others work to comprehensively address immigration policies generally. We are proud of the strong working relationship based on cooperation and a mutual commitment to accomplishing our important agency missions.

Chairman Gosar, Ranking Member Stansbury, thank you again for the opportunity to appear before you today. I would be happy to answer any questions that you may have.

Mr. LAMALFA. Thank you, Mr. Reynolds, for the testimony. I will now recognize Members for 5 minutes for questions, and I would like to start with our Chairman, Mr. Westerman.

Mr. WESTERMAN. Thank you, Mr. LaMalfa. Again, thank you to the witnesses for being here.

Mr. Reynolds, I just want to get a clear answer for the Committee and for the American people. Do you have any plans or discussions ongoing regarding housing migrants at additional sites located in the National Park System?

Mr. REYNOLDS. There is no other request for use of sites beyond the Floyd Bennett Field that you have mentioned, or any plans that I can offer or speculate on.

Mr. WESTERMAN. Can you assure concerned Americans that their national parks will not be used to house any additional migrants?

Mr. REYNOLDS. I can assure you that we will review everything for a legal basis and conservation protection as job one.

Mr. WESTERMAN. On August 21, the *Daily News* reported that New York Governor Hochul stated that she had “been in

negotiations with the White House for months” over the lease at Floyd Bennett Field, and that “the Federal Government had previously taken the position that shelters cannot be built on Interior Department property.”

For the record, can you please provide the Committee the names of the employees at the White House, Office of the President, Department of the Interior, and the National Park Service that participated in these months-long negotiations, as well as an explanation for what made them change their mind about the policy?

Mr. REYNOLDS. At my level of the organization, what I can tell you is that we knew the state of New York approached the Administration. After they had done so, the Department of Homeland Security had visited Floyd Bennett Field, I think, last spring and again maybe in late summer. And when you have such a complex set of decisions, as well as how fast the humanitarian crisis seemed to be, there have been so many folks in the middle of this, Mr. Westerman, I am not sure there is one person. But I know that the state of New York approached the Administration. We were asked to get the job done.

Mr. WESTERMAN. Was there some kind of an emergency declared so that NEPA could be waived?

Mr. REYNOLDS. My understanding is no emergency was declared, but there was a humanitarian crisis of some urgency.

Mr. WESTERMAN. Could this be a pattern in other Park Service lands, where there is no emergency but NEPA and ESA and other environmental protections could be waived?

Mr. REYNOLDS. I can't speculate on what might come, but I would imagine that there are very few circumstances that are as unique as the Floyd Bennett Field situation, being in downtown New York.

Mr. WESTERMAN. In your opinion, does that follow all laws and regulations, to waive NEPA without an emergency declaration?

Mr. REYNOLDS. I can say that we actually didn't waive NEPA. It was done under a special provision called Alternative Arrangements, and it is in the CFR. It is unusual. I would be happy to also detail that out more. We have attorneys that would explain and walk through the CFR steps that were used for——

Mr. WESTERMAN. How long did it take to do that process?

Mr. REYNOLDS. I can't recall exactly, but it was very quick. I would say a matter of weeks.

Mr. WESTERMAN. When we were at Floyd Bennett Field we were told within a week it was pushed through, record time, as you are probably aware, for any kind of environmental analysis to take place, which makes it sound like somebody very high in the Administration said, “Get this done.”

What changed the Park Service's mind? According to Governor Hochul, initially the Park Service or Interior Department said we don't do things like this, but all of a sudden there was a change of mind.

Mr. REYNOLDS. I am not privy to those negotiations, but I can assure you, sir, and the American people, that there is a basis in law for how this went about. And we have posted all of those things up on the nps.gov website. If you go there and look, there

are the Director's decision memos and also the environmental analysis.

Mr. WESTERMAN. So, this could be a precedent if somebody wants to do something, say, in my hometown of Hot Springs National Park. We could just go through a less-than-a-week process to waive all regulations and make that happen.

Mr. REYNOLDS. I think that the health and safety humanitarian crisis is what drove this. If those conditions were to exist, I think there would, obviously, be reviews. But again, I think this is a very unique situation that happened there.

Mr. WESTERMAN. Mr. French, at which sites are the Forest Service observing the most foot traffic by illegal migrants through the National Forest System?

Mr. FRENCH. Generally, the most foot traffic we have is through the Coronado National Forest and the Cleveland National Forest.

Mr. WESTERMAN. What environmental impacts are being observed as a result of illegal immigration through Forest Service lands?

Mr. FRENCH. There is some natural resource degradation, but primarily it is dumping trash.

Mr. WESTERMAN. Yes, I have seen a lot of that myself down there, and it is amazing. I think the statistics were 8 or 9 pounds of trash per migrant. So, multiply that times a couple of million. That is a lot of trash to be picked up.

I am out of time and I yield back, Mr. Chairman.

Mr. LAMALFA. Thank you, Mr. Westerman. I will go ahead and recognize our Ranking Member, Mr. Grijalva, for 5 minutes.

Mr. GRIJALVA. Thank you very much, Mr. Chairman. I was remiss in not thanking our witnesses.

I appreciate you being here.

And also, if I may, Mr. Chairman, to extend our collective condolences to Ranking Member Stansbury, whose mom, Bunny, passed away, and extend to her our condolences and our heartfelt sympathy.

Mr. LAMALFA. Thank you for telling us.

Mr. GRIJALVA. Mr. Reynolds, let me ask you a question. Organ Pipe. What percentage of the border in Organ Pipe has a wall on it?

Mr. REYNOLDS. Let me put it to you this way, without percentage, all of its boundary now, except for about a half-a-mile stretch.

Mr. GRIJALVA. OK, but from what we hear in terms of what we know and what we continue to hear is the number of border crossings are increasing. It is unprecedented. It continues to increase.

Why hasn't this border wall prevented migrants from entering the country? Has it been the deterrent that everybody talked about when it was being discussed?

Mr. REYNOLDS. Well, sir, I will say that we have seen still a continuation of crossings.

Not to deflect from you, but we are not the border or immigration policy or operators the way CBP is. But I can tell you that what we are doing is we have a great cooperative relationship with Homeland Security, with Mr. French and his colleagues in the

Forest Service, and we try to mitigate and help manage with them the crossings as they occur.

We have seen an uptick in certain human trafficking things, but we have also seen concentration of crossings at different areas where the road network is, things like that.

Mr. GRIJALVA. Thank you, Mr. Reynolds.

And more of a comment, I think that one of the centerpieces that my Republican colleagues have promoted as a solution is H.R. 2, Secure the Borders Act. And effectively, it is to turbo charge the waiver of laws in terms of the construction of the wall, including NEPA, which is kind of like a love-hate thing with NEPA here on this Committee among the Republicans. When it is convenient to use it as an issue, NEPA is wonderful. When it is in the way of a mine or an extraction or a drill, then it is absolutely awful and we have to get rid of it.

And I mentioned the partnerships that we have in communities, I think there is a potential with H.R. 2 of the financial burden falling on local communities all across the Southwest because what this does is effectively cuts programs and it cuts the funding and the resources for those programs.

It ends asylum entirely as a concept and as a legal responsibility in this country and internationally. And it doesn't deal with the root cause. It doesn't deal with the crisis that we are seeing globally. It doesn't deal with the demographic change of those folks coming up here and families seeking asylum. It is not the people running from Border Patrol and trying to hide to get here. It is people that are turning themselves in. And it is a different phenomenon, and from talking to Border Patrol agents and the Chief in the Tucson sector, it is a phenomenon that is unprecedented.

So, as these demands increase, and the only alternative out there being promoted by the Republican Majority is H.R. 2, which shifts the burden to local communities, ends all the partnerships, cuts funding to this area, and mandates an end to asylum and refugee laws as we know them and we have known them historically.

So, I think that the debate is important, but I think central to that are the things that respond to the needs on the border. And I said it earlier: (1) providing the resources with the supplemental that continues to deal and manage the humanitarian crisis; (2) to deal with security and refocus and re-energize and resource that effort to break what is syndicates and organized crime; and (3) to properly staff our Park Service so that they are able to provide not only the coordination with Homeland Security that Mr. Reynolds mentioned, but also for the safety and security of our visitors, and that visitorship has ticked up across the country.

Those are discussion points that I think there is common and middle ground on. But to say that H.R. 2 is the panacea and fundamentally will not solve the issue, neither will a wall, I think we are missing the target. The target is not only the security of the border, but managing what is an unprecedented humanitarian crisis before us.

With that, I yield back because I have no more questions.

Mr. LAMALFA. All right, thank you, Ranking Member Grijalva. I will turn now to Mr. Rosendale from Montana for 5 minutes.

Mr. ROSENDALE. Thank you very much, Mr. Chairman. Mr. Chairman, I will tell you that walls do work. We see them around yards, we see them around communities, and we see them around countries. And walls do work. When you have an incomplete wall, when you have construction that has not been concluded, then you certainly have gaps and areas where folks can go around those walls. And therein is where we have our problem.

Mr. Reynolds, what measures has the National Park Service taken to combat illegal marijuana cultivation within the national parks, and what successes have been achieved so far?

Mr. REYNOLDS. Yes, hello, Mr. Rosendale. This is a pretty active, cooperative venture that we do, again, with our colleagues in the Forest Service, in particular in Western parks, as well as state and local sheriff, folks like that.

We are continuously finding, mapping, doing intel, finding these places. I can tell you from an experience I had in Yosemite, we would helicopter these things out if we could. We deal with poisons that are left behind. And others have mentioned there are cartels, so there is danger to the hiking public and things like that. So, we are very, very serious about it. We don't do it alone, and we ask all of our partners, state and local, Federal, to—

Mr. ROSENDALE. Do you have any kind of numbers as far as the amount of area that you have been able to remove these cultivated plants from, or the number of plants, or anything like that, and how that trajectory has looked over the last 5 years or so?

Mr. REYNOLDS. I know we will have those numbers, and I will get those to you very quickly, but I don't have them handy in front of me, Mr. Rosendale.

Mr. ROSENDALE. Very good, very good. Can you provide statistics on the number of illegal marijuana growers discovered within the national parks since the start of the Biden administration in 2021?

If you don't have those, if you can include that with the balance of information.

Mr. REYNOLDS. We will do that. I am sorry I wasn't prepared for that, but we will get it to you right away.

Mr. ROSENDALE. That is OK, thank you. Could you describe the coordination process between the National Park Service and the Department of Homeland Security with regard to the border crossings in national parks situated near the U.S.-Canada border, such as Glacier National Park?

Mr. REYNOLDS. Yes, we definitely work with the Border Patrol folks, just as we do on the southern border. We are not aware, nor are there reports when we looked into this this week about problems at Glacier. But there is a vigilance to it, and a cooperative venture just like the southern border. It is much like Mr. French described. There is the different stationing of our law enforcement folks, along with CBT. We let them do the immigration work, and we follow up on resource damage or humanitarian help and aid as they ask.

Mr. ROSENDALE. Have you seen any type of an increase over the last 3 years since the Biden administration has taken over?

Mr. REYNOLDS. Not in the northern boundary. We haven't seen much of an increase at all.

Mr. ROSENDALE. That natural barrier called climate seems to be helping us a lot up there on the northern border.

One thing that I am really concerned with, we had a hearing here 2 weeks ago about the Floyd Bennett Field, the national park up there in New York. And it was very telling to me to have City Council members who were sitting here, bipartisan, Republicans, Democrats, talking about the problems that building that facility would pose on their community, not only from a safety aspect, but from a lack of infrastructure aspect, and then from what it was going to do to their local economy of having this population of young males there with not a lot to do, and to be able to just wander around.

What bothered me is, in addition to that, was the fact that we were going to be taking one of our national parks, something that, quite frankly, all taxpayers have an investment in, we invest in those properties by keeping the infrastructure up, it is an investment in the country because it doesn't have a tax base, so we are literally subsidizing those areas, and then to have people located there for extended periods of time, a year, 2 years, we don't really have a deadline, a proposed deadline on their occupation, if you will, when an American citizen is only allowed to stay there for 14 days at a time.

Do you have any kind of opinion about the impact of long-term relocation of illegal immigrants on the National Park System?

Mr. REYNOLDS. I am not an immigration expert at all. We leave that to the Department of Homeland Security, as well as, in this case the city—

Mr. ROSENDALE. Let's leave the immigration end of it out. A long-term occupation of a population of individuals in the national park.

Mr. REYNOLDS. In this case, which is listed publicly, we have a lease for this situation. In other words, the property, 1,300 acres is what makes Floyd Bennett Field. About 20 acres have been leased to the city. The lease requires them to improve and benefit the park through various projects, so it totals somewhere between \$12 to \$14 million for those projects. So, in this case there is a very, very carefully thought-through plan on the runways where the camp is, and trying to maintain and keep open everything that Floyd Bennett Field has.

We keep an eye on this. We will keep watching it.

Mr. ROSENDALE. OK. That is all the data about what is actually going to happen. And we know what is going to happen. What I am trying to determine is what is the impact on that facility, as opposed to the people that had been going there before.

I am sorry, Mr. Chair. I see that I did go over my time. I will yield back.

Dr. GOSAR [presiding]. Yes, we will let the witness answer.

Mr. REYNOLDS. Yes. The short answer, Congressman Rosendale, is it is a very defined area on a tarmac, on a runway, a historic runway. And we have tried to avoid all the heavy use areas of Floyd Bennett Field.

Dr. GOSAR. I will have follow-ups for you, just in case.

Mr. LaMalfa from California is recognized for 5 minutes.

Mr. LAMALFA. Thank you, Chairman Gosar, I appreciate it, and to our witnesses for being here.

So, there are a lot of facets to this issue here. I mean, we have, so far this year, approximately 2.8 million, they call them 'encounters of illegal immigration', at our border, and only about 230,000 this year have been deported is the stats that I have. So, we can see that, when we are using our national parks, I suppose, as a temporary landing zone for folks like this, maybe that would be a discussion if the border was controlled, and you would have a finite number of people already in country, but it is ever expanding. We reach a new milestone every month of people coming into this country. And it looks unstoppable presently.

So, as we also see it come in another direction with more expansions of wilderness areas and monument areas, there is going to be less and less park land available to people to enjoy the great outdoors if it is coming from both ends with illegal immigration on those lands and then less access to the other lands. So indeed, it makes me wonder how temporary are these thoughts of housing people in these places, and what term would that look like, then what do you do at the end of that term.

But what I want to drill down to is something that Chairman Westerman touched on as well in my Northern California district. In Siskiyou County, for example, which is about 700 miles from the Mexican border, the illegal marijuana grows are just vast. Many, many hundreds of greenhouses are there. And the efforts of Sheriff LaRue up there, and many allies there have been valiant, but it is overwhelming when we need more help from the Federal Government to help take care of their lands, as well as be a part of where it is happening on the private lands on those areas. It is overwhelming to have these cartels. California, of course, being a border state, it is not going to slow down very much. Interstate 5 is a pipeline for so many things, including that.

The Forest Service owns about 45 percent of the Federal land in the area, BLM 33 percent, National Park Service has about 16.

So, the explosion of these marijuana grows with cartels, the illegal chemicals that farmers can't even use in this country, not even produced here, are polluting the soil and the groundwater. And there are workers there that are being effectively employed, so to speak, as indentured servants. People trafficking, the whole works.

So, the caches of illegal weapons that have been found and how they are a threat to local residents just trying to live a good life and do their farming and ranching, threaten those residents, threaten our sheriff's officers and other police officers. It is not a good situation, even that far from the border. So, me and my team have been following, trying to help our locals, Sheriff LaRue and our district attorney, and others. But the invasion is so huge, we need much more help from the Federal Government to curb this destruction of our public lands and our way of life up there.

So, how are your agencies, in partnership with BLM, working to support our local law enforcement who have become the de facto frontline responders to drug smuggling, human trafficking, and international criminal activity?

Let me throw that to you, Mr. Reynolds, first.

Mr. REYNOLDS. Yes. Again, let me just say, Mr. LaMalfa, we appreciate those comments. We want to keep working with you and your team on these issues. We are aware of some of the closure issues that have also perhaps come up with these fires.

A big part of what we do is work with other agencies that have better intel. A lot of times our local sheriff department, our local law enforcement are really big partners in this. And, again, especially in the parks that you mentioned, it is Forest Service usually around us, almost always, sometimes BLM up in that part of the world. And we work as closely as we can so that both uniforms, if you will, are out on site whenever they find these places and start to remove them, document them.

Mr. LAMALFA. Getting to maybe more of the core of the issue, is there any lack of Federal authority that you need for you to work with Homeland Security, the FBI, or other local and state agencies to do more, to go farther, to be able to enforce? Because these grows are not hidden. They are right out in front of everybody. Their greenhouses dot the landscape. And whether it is in Siskiyou County or other surrounding counties, whether they are illegally on Federal land, or somehow have the cover of legality with who owns the land, they are blowing through county ordinances. What more could we be doing? What other authorities do you need?

Mr. REYNOLDS. I think the authorities are there. I can let Mr. French comment on any gaps that we may have. It just may be a staffing and a continuing prioritizing that we need to focus on.

Mr. LAMALFA. Please, Mr. French. I am a little out of time already. It flies by here, but go ahead.

Mr. FRENCH. No worries, thank you.

Yes, I think it fundamentally comes down to a staffing issue. We work incredibly closely with our other Federal partners, states, counties. It is a manpower issue. In the last 5 years, we remediated more than 330 grow sites, took out 370 miles of pipe. It is a big issue.

Mr. LAMALFA. We are talking thousands, thousands of grow sites right in people's face. So, if you are talking staffing, we need to partner with more agencies that already have staff. And we will work with you some more.

Mr. Chairman, I appreciate it and I will yield back.

Dr. GOSAR. I thank the gentleman. The gentleman from Arizona has a request.

Mr. GRIJALVA. Thank you. Just a unanimous consent request to enter into the record two articles that detail why the wall doesn't work, in part by demonstrating that it has been breached so often that there are full-time welding crews down there to do the repairs.

The other one is I ask unanimous consent to enter into the record Border Patrol's own data that shows that Fiscal Year 2023, 90 percent of the almost 26,000 pounds of fentanyl seized along the Mexican border have been at the ports of entry.

I yield back.

Dr. GOSAR. I didn't know I got you so riled up there to get all that in there.

Mr. GRIJALVA. The facts—

Dr. GOSAR. Without objection, so ordered.

[The information follows:]

Trump's border wall has been breached more than 3,000 times by smugglers, CBP records show

Washington Post, March 2, 2022 by Nick Miroff

<https://www.washingtonpost.com/national-security/2022/03/02/trump-border-wall-breached/>

NACO, Arizona—Mexican smuggling gangs have sawed through new segments of border wall 3,272 times over the past three years, according to unpublished U.S. Customs and Border Protection maintenance records obtained by The Washington Post under the Freedom of Information Act.

The government spent \$2.6 million to repair the breaches during the 2019 to 2021 fiscal years, the CBP records show. While the agency has acknowledged that smugglers are able to hack through the new barriers built by the Trump administration, the maintenance records show damage has been more widespread than previously known, pointing to the structure's limitations as an impediment to illegal crossings.

Smuggling gangs typically cut the barrier with inexpensive power tools widely available at retail hardware stores, including angle grinders and demolition saws. Once the 18-to-30-foot-tall bollards are severed near the ground, their only remaining point of attachment is at the top of the structure, leaving the steel beam dangling in the air. It easily swings open with a push, creating a gap wide enough for people and narcotics to pass through.

A spokesman for CBP, Luis Miranda, said effective border security "requires a variety of resources and efforts, infrastructure, technology, and personnel."

"No structure is impenetrable, so we will continue to work to focus resources on modern, effective border management measures to improve safety and security," Miranda said in a statement.

Along one 25-mile segment of new border wall between Naco and Douglas, Ariz., The Post recently counted 71 bollards with visible repairs and welds. In most instances, crews repaired the breaches using a sleeve-like steel coupler, referred to as a "boot," to patch over the hole.

Some of the bollards were marked "BREACH" in white lettering, and most had the date of their repairs scrawled just above the welded segments.

John Kure, a photographer and filmmaker who spent months documenting border wall construction, said he has seen extensive repairs along the wall in Arizona and California.

"I look for little slivers of light at the base of the wall," said Kure, who said he has seen sawing crews attack the bollards in broad daylight, sending showers of sparks.

President Donald Trump built 458 miles of new barriers, primarily in remote areas of New Mexico and Arizona. Trump planned to complete roughly 250 additional miles, but President Biden halted construction after taking office.

The Biden administration "continues to call on Congress to cancel remaining border wall funding and instead fund smarter border security measures that are proven to be more effective at improving safety and security at the border," said Miranda.

Trump promised Mexico would pay for the structure, but his administration spent roughly \$11 billion in taxpayer funds, most of which he diverted from Defense Department accounts. At rallies, Trump likened his wall to a "Rolls-Royce," but he stopped claiming the barrier was "impenetrable" in 2019 after The Post reported smugglers had learned to saw through it with conventional power tools.

"We have a very powerful wall," Trump said when asked about the breaches. "But no matter how powerful, you can cut through anything."

People familiar with the smuggling crews' tactics say they typically work at night, covering themselves with blankets to hide the sparks and muffle noise. They use radios and lookouts who alert cutting crews when Border Patrol vehicles approach.

The wall's square bollards are six inches in diameter, with a layer of steel 3/16 of an inch thick. Contractors were required to fill their lower portions with concrete, and in some cases steel rebar, to make sawing more difficult.

A Post reporter encountered bollards at multiple locations that appear to have been left hollow.

After smuggling crews cut through, they often disguise the breaches with tinted putty, making it difficult for agents to recognize which bollards have been compromised. The smugglers can return again and again to the site until the damage is detected, using the breach like a secret entrance.

“They cut it with a fair amount of precision,” said one person with detailed knowledge of the sawing tactics who, like others, spoke on the condition of anonymity because he was not authorized to speak to reporters. “You have to look really closely to see it.”

The CBP maintenance records show the cutting crews have been most active in California. The Border Patrol’s El Centro sector has recorded the largest number of breaches with 1,867, followed by the San Diego sector, with 866. The records provided by CBP are a count of breaches along newer bollard fencing, most of which was added under Trump, not the older “mesh” style fencing that has been even easier for smugglers to cut through.

In March 2021 smugglers hacked through an entire segment of bollard fencing in the El Centro sector, creating an opening wide enough for two SUVs loaded with migrants to drive through. One of the vehicles collided soon after with a truck near Holtville, Calif., killing 13.

CBP maintenance records show the frequency of cutting activity increased as the Trump administration’s pace of construction picked up. CBP recorded 891 breaches during fiscal 2019, 906 during fiscal 2020 and 1,475 during fiscal 2021.

“Every bit of infrastructure that I’ve ever worked around over the past 26 years gets tested,” said John Modlin, chief of the Border Patrol’s Tucson sector. “At some point, people will try to get past it.”

CBP officials say the bollard fencing remains a valuable border security tool when combined with surveillance technology and sufficient personnel. Many of the wall segments where breaching has occurred lack the sensors, cameras and other detection tools called for in original designs, they say. Once those tools are in place, agents will be able to respond faster, they say.

During his presidency, Trump took a personal interest in the construction and design elements of the border wall, seeking frequent progress updates from CBP officials and the U.S. Army Corps of Engineers. He ordered contractors to coat the steel structure in black paint, insisting it would make the barrier hotter to the touch and scald the hands of would-be climbers and cutters, according to his aides.

Advisers warned the paint would drive up maintenance costs and not significantly increase the thermal properties of the steel, but Trump waved them off. The Post observed several locations west of Sasabe, Ariz., where the wall’s black paint is already peeling off, less than 18 months after it was applied.

The Border Patrol’s El Paso sector announced a “Fence Cutter Initiative” last year in partnership with Mexican prosecutors in Ciudad Juarez to crack down on sawing activity, primarily along an older segment of barrier whose wire mesh design has long made it an easy target.

So far the effort has led to two prosecutions in Mexico, resulting in modest fines but not jail time, said Gloria Chavez, chief of the El Paso sector.

“It’s a program that just started,” said Chavez. “They go to court, and the judge tells them you either go to jail or you pay a fine. So they pay a fine. But it’s something—compared to nothing,” she said.

U.S. agents and ranchers who live along the border say climbing, not cutting, has become the most common way smugglers and migrants attempt to get past the barrier in areas where there are no gaps.

The smugglers build tall ladders using scrap wood or metal rebar thin enough to pass between the bollards. They use the ladder to go up the structure, then pass it through the gaps and use it again to climb down onto the U.S. side. They also frequently employ ropes with knots to climb down, and videos on social media show the most athletic climbers have learned to squeeze the bollards between their legs and slide down it like a fire pole.

Along the span between Naco and Douglas, most of the repair welds appear to be dated to last year, with the most recent marked November 2021. At other locations nearby, there were pieces of rope dangling from the top of the barrier, dancing and snapping in the wind.

Biden says the border wall is ineffective. Here are key things to know.

Washington Post, October 12, 2023 by Nick Miroff

<https://www.washingtonpost.com/immigration/2023/10/12/border-wall-biden-trump-policies/>

The Biden administration last week placed itself in the position of trying to explain how its decision to fast-track new construction of barriers along the U.S.-Mexico border—which officials called an urgent necessity—did not amount to a policy reversal.

After all, the president pledged during the 2020 campaign that he would not build “another foot” of the barrier. One of Biden’s executive orders on his inauguration day brought President Donald Trump’s signature project to a grinding halt, with the new president calling that effort to keep migrants from crossing into the United States a waste of money.

The environmental groups and others who cheered that decision were dismayed to see Biden officials announce Oct. 5 that they would waive environmental and conservation laws for the first time to install roughly a dozen segments totaling 17 miles of new barriers in South Texas.

When reporters asked Biden whether he thought border barriers were effective, the president flatly said “no.” His certainty seemed squarely at odds with the Department of Homeland Security’s notice calling new border wall segments urgently needed “to prevent unlawful entries into the United States.”

Does the border wall reduce illegal entry into the U.S.?

The Trump administration installed more than 450 miles of new border fencing during Trump’s 2017–2021 term. Along most of that span, the project consisted of replacing low-rise barriers, designed to stop vehicles, with 30-foot-tall steel bars, or bollards, anchored in a concrete base.

At a cost of \$11 billion, it was one of the most expensive federal infrastructure projects in American history. Despite that steel and concrete, illegal border crossings have soared from about 500,000 per year in 2020 to more than 2 million per year, the highest levels ever.

Biden’s critics primarily blame his decision to reverse Trump’s measures for the surge. In addition to halting wall construction, Biden reduced deportations, ended Trump’s “Remain in Mexico” program and canceled agreements that allowed U.S. authorities to send some asylum seekers to Central America.

The fact remains that the U.S. government spent a lot of money to build new barriers to keep migrants out and did not get the result it wanted.

Trump said the wall would be ‘impenetrable.’ It’s huge. Don’t walls work?

Trump used a lot of hyperbole to promote his pet project and was prone to describe the barrier as the personification of his presidency. He took a keen interest in its aesthetic appearance and design features, often urging aides to make it look as imposing as possible. He told supporters his wall would be “impenetrable.” He also said Mexico would pay for it (Mexico did not).

U.S. Customs and Border Protection officials didn’t make such claims and weren’t surprised when criminal smuggling organizations in Mexico began sawing through the steel bars—using ordinary power tools—almost immediately.

The border wall has been hacked through thousands of times since then, so often that the government has had to deploy welding crews full-time to shore up the structural integrity of the barrier. Smugglers have figured out a cheaper and even easier way to defeat it, fashioning cheap, disposable ladders out of scrap wood or metal rebar. They send migrants and drug couriers up and over the top, then use ropes to lower them down the other side. Experienced fence-jumpers have developed a technique using the steel bars like fire poles, sliding down onto the U.S. side in seconds.

Is the border wall actually along the border?

In New Mexico, Arizona and California, the border wall is located at the international boundary with Mexico.

In Texas, the border is defined by the long, looping path of the Rio Grande, presenting a major challenge to engineers trying to build a steel-and-concrete fence in a straight line.

At some locations in South Texas where the Rio Grande is especially sinuous, the government has built the wall more than a mile from the international border. That has left hundreds, if not thousands, of acres of U.S. territory—mostly farmland—in no man’s land that is inside the United States but outside the border wall.

The river’s topography has made the structure essentially useless for addressing one of the most taxing challenges facing the U.S. Border Patrol: large groups of migrants, often parents with children, crossing illegally to surrender and seek humanitarian protection.

Once migrants cross the river and reach U.S. soil, they have a right to seek asylum under U.S. law. The Border Patrol has little choice but to take them into custody, even if they’re on the opposite side of the wall.

The United States has no intention of ceding that territory or allowing makeshift migrant camps to form on the U.S. side of the river. So border agents open the gates and bring migrants through the wall by the busload.

If the border wall is ineffective, why do U.S. agents say they want it?

CBP officials were asking for more physical barriers long before Trump promised a “big, fat, beautiful wall” when he ran for office in 2016. Such projects enjoyed bipartisan support a generation ago; the Secure Fence Act of 2006 passed the Senate and House by large margins.

There’s a big difference between how Trump and some Republicans talk about the wall and the more technical way CBP officials describe physical barriers—as a tool but not the *only* tool. Agents assigned to work in difficult conditions along the border would rather have some sort of barrier than nothing at all. It gives them a way to channel and redirect some illegal activity, control crowds and block vehicles.

Just as important, the barriers create new access roads, increasing agents’ ability to quickly arrive to locations where smuggling and illegal entry are detected.

Ronald Vitiello, the former Border Patrol chief who helped develop plans for the wall, said the structure “in and of itself, is nothing.”

“But it’s an anchor for all the other things you need to do,” Vitiello said, including technology such as cameras and sensors. “It doesn’t stop things, but it slows them down,” he said.

And at a time of record crossings and a fair amount of border chaos, many agents say they are relieved to have some sort of structure in place to help them manage a desperate and frustrating situation.

Will this be the first time Biden has built new border wall?

No. Biden’s “pause” on the border wall in January 2021 left unfinished gaps in the structure and construction materials lying around in the desert. DHS has been spending barrier funds appropriated by Congress to close some of those segments, and officials have spent about \$1 billion on environmental remediation to reduce erosion and restore some of the areas torn up by bulldozers and dynamite.

In June, Biden officials announced plans to build the new segments in South Texas, but the controversy flared up last week when they laid out plans to waive more than two dozen environmental and conservation laws.

Why is Biden building the wall if he thinks the barrier is ineffective?

Biden officials say they are compelled by law because Congress appropriated money for these border wall segments in 2019 as part of the deal to end the last government shutdown. The Biden administration tried to reprogram those funds, but that attempt was rejected by lawmakers. The deadline to spend the money was Sept. 30.

CBP officials said they had no choice but to waive the environmental and conservation laws because it is the only way the agency has been able to build barriers in the past. And they insist the new segments will mitigate environmental impacts by using a design consisting of 18-foot bollards on a movable base that can be easily repositioned.

The new segments, which will cost about \$140 million, will be located outside the flood plain of the Rio Grande, nearly a mile from the river, and mostly positioned along existing roads, according to a CBP official who spoke on the condition of anonymity to discuss construction plans that have not been publicly announced.

Luis Miranda, a DHS spokesman, said the administration's description of the barrier as an urgent necessity was a legal formality tied to Congress's 2019 border wall appropriation.

"It is not a statement of the Administration's policy," Miranda said in a statement. "As a matter of policy, the Administration disagrees with Congress's 2019 mandate and continues to oppose further border wall construction."

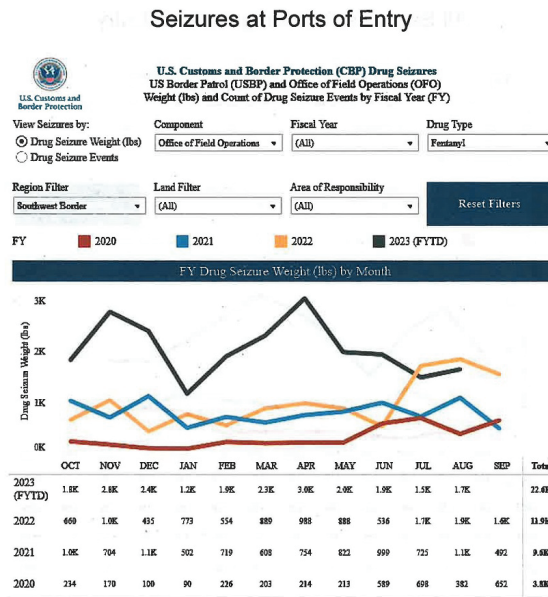
"Nevertheless, DHS must and will comply with the law," he said.

Is the wall harmful?

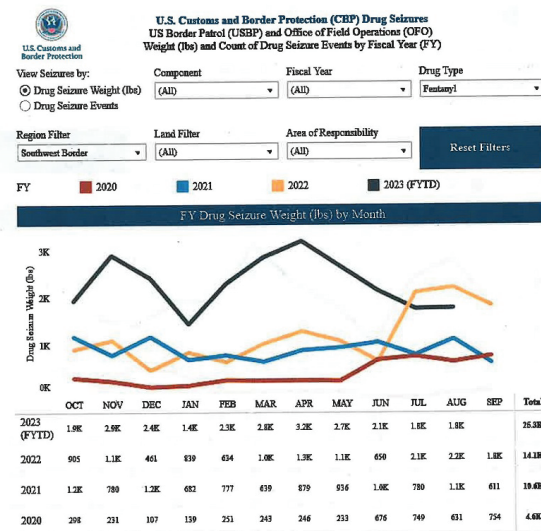
Dozens of migrants have been killed and hospitalized after falling from the structure, often with horrific spinal trauma and broken legs. Immigrant advocates also say the barriers force migrants toward more remote desert areas, contributing to more deaths from heat stroke and exposure. CBP reported 568 migrant deaths along the border during the 2021 fiscal year, the most recent for which data is available—nearly twice the amount of the previous year.

The border wall has a devastating toll on animals too, advocates say. The steel bars have essentially cut in half the habitat of animal species, in some cases cutting off their access to water and grazing areas. Trail cameras set up by researchers have shown pumas, bobcats and other large mammals blocked and searching fruitlessly for some way to get through.

U.S. CUSTOMS AND BORDER PROTECTION



All Seizures, including Ports of Entry



Dr. GOSAR. The gentleman from Arizona, Mr. Ciscomani, is recognized for 5 minutes.

Mr. CISCOMANI. Thank you, Chairman Gosar, for the opportunity, and members of the Subcommittee for allowing me to waive on and join you here today. I appreciate that.

And thank you to our witnesses for your time and testimony.

It has been brought to my attention, Mr. French, that you attended ASU. Representative Grijalva and I won't hold that against you in this hearing, being from Tucson and a U of A grad.

Mr. FRENCH. Fair enough.

Mr. GRIJALVA. Speak for yourself.

[Laughter.]

Mr. CISCOMANI. Never mind, he talked me into it. We will probably give you a little bit of a hard time, but thank you, sir, for being here.

I do want to give you a special thanks, Mr. French, for your service here in Arizona's Coronado National Forest. Thank you for that.

I represent Arizona's 6th Congressional District. Representative Grijalva and I share the city of Tucson. My district sits along the southwest border, and contains a significant amount of Federal land. Around 39 percent of the state's land is federally owned and operated. Of approximately 2,000 miles of the border, almost 40 percent is on Federal lands.

I hear constantly from my constituents back home about the impact of the Biden administration's failed border policies, and I

am very concerned about the impact that it is having on our local environment, as well.

I will start with Mr. Reynolds here. Which sites are the National Park Service observing the most foot traffic by the illegal crossings through the National Park System?

Mr. REYNOLDS. Yes, thank you, Congressman. Of the 380-ish miles of boundary that I am aware of the parks touch over time, or over space, Organ Pipe near you in Tucson and Coronado are our big foot-traffic areas. But Organ Pipe probably has the highest.

Mr. CISCOMANI. And how is the National Park Service working with law enforcement to shut down these pathways and mitigate the damage being done in the National Park System lands?

Mr. REYNOLDS. We watch carefully with particularly our Border Patrol colleagues in those parks that we just mentioned. A little bit of Forest Service and BLM is down in there, as well. And we just try as best we can to have a seamless approach. If there are concerns at all that you have heard, we will be happy to follow up on it.

Mr. CISCOMANI. Yes, I would love that. Can you also touch a little bit on the cost associated with remediating National Park Service lands along the southern border that have been utilized by these crossings as they enter our nation?

Mr. REYNOLDS. We carefully document the cost. There are special project monies for this, and I will be happy to follow up tomorrow with you on the budget numbers.

Mr. CISCOMANI. I would like to get that information, as well, so thank you.

Mr. French, how many pounds of trash would you say have been picked up in the National Forest System lands located along the southern border this year?

Mr. FRENCH. Along the southern border, I am not entirely sure. I know we have worked with the Border Patrol and apprehended about 40,000 individuals, but I don't have estimates on the amount of trash.

Mr. CISCOMANI. Are you able to at least compare the previous years to this year? Is that on the rise? Are they the same? Where are we on that?

I mean, the crossing numbers speak for themselves. It is tenfold of what it used to be on a daily basis on the worst day before of what it is now. So, can you give me the guesstimate on that?

Mr. FRENCH. I would say that in my experience in the past 25 years, we have seen ebbs and flows of border crossings across multiple administrations, depending on what is happening. And I don't have the data right now to say whether or not this year is higher than previous years.

Mr. CISCOMANI. Well, the data is there from Border Patrol. The data is there from our border agencies of the numbers. I mean, in the last 1½ to 2 years we have seen about over 6 million crossings and encounters. So, the data is there, and I want to get to the bottom of how this is impacting our natural resources, how this is impacting our natural forest land on the Federal side.

And I understand you may not have specific data. I know Mr. Reynolds is going to follow up with me on some of these questions on your side, as well, which I am looking forward to receiving. But

I am hoping that, at least anecdotally, you can give me some evidence of what you have been able to see.

Mr. FRENCH. I mean, we have asked, and we didn't have any specific data on the amount of trash that has occurred that is different this year than previous years.

Again, there were about 40,000 individuals apprehended on National Forest System lands this year. That is the best data that I can give to you. What I can tell you is that this has been a continuous problem for decades of us removing trash and other natural resource and visitor effects that occur on our international border along the Coronado.

Mr. CISCOMANI. I want to squeeze in one more question. I don't want to go over time, because I want to be invited back by Mr. Gosar and the Committee.

The National Forest System, it is home for many threatened and endangered species. Can you describe the impacts of what is happening right now at the border on them and their critical habitat as the last question?

Mr. FRENCH. The Coronado has the highest number of endangered species of any national forest across the country. There are some species that travel in between Mexico and the United States that are impacted at times, as well as water sources that are dependent for certain endangered species that are impacted in these crossings, as well.

Mr. CISCOMANI. Thank you, sir, and bear down.

Dr. GOSAR. OK, I will recognize myself for 5 minutes.

Mr. French, how many illegal marijuana growing operations have you identified over the last year on Forest Service properties?

Mr. FRENCH. In the 5 years previous to this year—

Dr. GOSAR. No, just this last year.

Mr. FRENCH. I don't have the numbers for this year because we don't have them all put together yet. But in the last 5 years, it has been about 330.

Dr. GOSAR. And you can get us those new numbers for the last year?

Mr. FRENCH. Yes, when we get them.

Dr. GOSAR. OK. Recently, we came across reports of the cartels participating in human trafficking and all types of horrific behavior where they employ these illegal grow sites. What has the Forest Service found evidence of, and what are you currently doing to both monitor and prevent this from happening in the future?

Mr. FRENCH. So there is information that has come into us that cartels are involved in some of the illegal grow sites that are occurring on national forests. The extent and scope of that I can't speculate on. What I can tell you is in the previous 5 years we have remediated 336 grow sites. About 350 miles of irrigation pipes have been removed. About 300,000 pounds of trash have been removed from those sites. And we found a lot of toxic, frankly, banned substances that have to be removed from those sites, as well.

Dr. GOSAR. Yes, I am just kind of curious, though. I mean, most of these sites have cartel bearings to them. So, when you find one of these, how do you go about the interdiction? How do you employ a law enforcement, and what other assets do you have for that law enforcement activity?

Mr. FRENCH. Yes, we work very closely with other Federal agencies, state and local agencies, in both the monitoring of sites that pop up or occur on National Forest System lands and then for essentially addressing those.

Dr. GOSAR. Do you go through a local prosecutor? You are looking at warrants, I am sure. How do you work with that, the gentleman from California kind of hit on it. How do you work those assets together? Because you don't want to be put in harm's way, either.

Mr. FRENCH. No, we have MOUs and agreements in place, all the way from local law enforcement up through other Federal agencies, and they work as task forces.

Dr. GOSAR. Let me ask you something. On these assets that we are utilizing up there in New York, I actually went there with the Chairman, Mr. Westerman. Tell me how you tend to mitigate 2,200 single men in a compound on a runway? And you have playing fields for kids all the way around it. How are you going to keep them on there?

I mean, these are 2,200. The only person I can actually think of that might be able to do it is Joe Arpaio. Tell me more about this, because it doesn't seem right. And it also doesn't seem like it fulfills the NEPA process, even in an extensive service, if you catch my meaning.

Mr. REYNOLDS. Yes, I appreciate that concern, Mr. Chairman, and it was a topic of conversation which I will lump, if you will allow me, into safety, right? The safety and management.

We have left the management of the migrant camps to the city, to the folks that are leasing the property. The U.S. Park Police, who I know came and spoke here, at least the union, they are on site to protect the park resources and the normal operations. We asked in the lease for 24-hour protection from NYPD for the camp itself and all of its operations, as well as, to your point, anything that comes from that camp that would impact people or park resources.

So, we have a full protection strategy in the lease is the short story.

Dr. GOSAR. Have you ever seen a success rate on any process like this at all?

I mean, it is very extensive, and it is going to be almost impossible to keep those people on that limited site.

Mr. REYNOLDS. Yes, there is a fence, there are security procedures. But I appreciate your concern, and I think we just need to keep very focused on this with those partners.

Dr. GOSAR. Now, let me also ask you. The Chairman asked this, and I want to reiterate it because it is that important. We are doing this as a benefit to the Governor and the Mayor. Why wouldn't that stop us from doing this as a precedent? Tell me why this is not going to stop right here. Doesn't it set a precedent? Because it does.

Mr. REYNOLDS. I think the way I would look at it is there was a unique ask from the state of New York in this one location, a very unique place that had a resource area that a lease made sense on. I am not sure that would make sense at a lot of other parks.

I am not aware of any other asks or any other interest anywhere else that we would do this.

Dr. GOSAR. OK. Well, my time is up. I am going to recognize the gentleman from Georgia, Mr. Collins, for 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman.

Mr. Reynolds, at the end of Fiscal Year 2022, the National Park Service reported a \$22.3 billion deferred maintenance backlog. How much additional money is going to be needed to cover the wear and tear of the housing of these migrants on Federal land?

Mr. REYNOLDS. In this case, 100 percent of all costs are borne by the lease in order to mitigate the site, as well as the park improvements that I had a chance to mention earlier. So, there will be no additional cost to the Service's operating budget from this.

Mr. COLLINS. OK. In the NPS' lease with New York City, the only agreement this Administration will be making to the housing migrants on Federal lands, or will we be seeing tent cities?

I mean, what about along the GW Parkway here in DC?

Mr. REYNOLDS. No, I think the GW Parkway is pretty crowded already. Right, sir?

[Laughter.]

Mr. COLLINS. Yes.

Mr. REYNOLDS. No, again, there is no other interest, no other planning efforts underway. And this, again, is a unique area with certain criteria that the lease met.

Mr. COLLINS. OK. One other thing I wanted to ask you real quick. Man, they have us strung out. Even though we are voting like crazy, we are also in hearings like crazy.

For the issuance of the lease for the Floyd Bennett Field, the National Park Service refused to conduct a public process to listen to the residents of nearby communities in New York. Will you commit to providing any sort of public forum, or at least to listen to the concerned residents of Brooklyn and Queens?

Mr. REYNOLDS. Yes, we have an excellent superintendent and team there at Gateway. They are working hard to interface with all of the various and numerous numbers of partners and concerns up there.

Mr. COLLINS. Good. I look forward to coordinating with you and your staff on this public forum, too.

Mr. REYNOLDS. Thank you.

Mr. COLLINS. Mr. Chairman, oh, a different Chairman. Mr. Chairman, that is all I had. Thank you, and I yield back.

Mr. WESTERMAN [presiding]. The gentleman yields back.

I do want to again thank the witnesses for your valuable testimony and for the time that you spent here today.

The witnesses, Mr. French and Mr. Reynolds, are dismissed. And as soon as they are seated, I will introduce our second panel of witnesses.

[Pause.]

Mr. WESTERMAN. I would like to welcome our second panel of witnesses, and I am going to yield to Ranking Member Grijalva to introduce one of our witnesses who hails from his district.

Mr. GRIJALVA. Chairman Verlon Jose, welcome, sir. Congratulations to you as the Chairman of the Nation. I think it is a great achievement for you, but your work as Vice Chair, your work on

education and on cultural and traditional issues dealing with the Tribe have been remarkable. I am glad to welcome you here. Thank you very much, and I look forward to working with you going down the road. Welcome, Mr. Chairman.

Mr. WESTERMAN. Thank you, Ranking Member Grijalva.

I also want to introduce Ms. Julie Axelrod, who is Director of Litigation for the Center for Immigration Studies, and Lieutenant John Nores, Jr., who is a retired California Department of Fish and Wildlife Marijuana Enforcement Team, Special Operations.

Let me remind the witnesses that under Committee Rules, you must limit your oral statements to 5 minutes, but your entire statement will appear in the hearing record.

To begin your testimony, please press the "on" button on the microphone.

We use timing lights. When you begin, the light will turn green. At the end of 5 minutes, the light will turn red, and I will ask you to please complete your statement.

I will also allow all the witnesses in this panel to testify before Member questioning.

The Chair now recognizes Ms. Axelrod for 5 minutes.

**STATEMENT OF JULIE AXELROD, DIRECTOR OF LITIGATION,
CENTER FOR IMMIGRATION STUDIES, ALEXANDRIA, VIRGINIA**

Ms. AXELROD. Thank you, Chairman Westerman and members of the Subcommittee, for inviting me here today to discuss the environmental impacts of the Biden administration's immigration actions. I am the Director of Litigation at the Center for Immigration Studies, and I have spent the past few years litigating against the Department of Homeland Security for its failures to comply with NEPA.

As discussed today and in your last hearing, the Biden administration bypassed their obligations under NEPA before placing migrant camps on Park Service land. But this failure is only the tip of the iceberg of this Administration's violation of NEPA. It started in January 2021, when the Administration failed to conduct NEPA on the actions that created the migrant crisis in the first place.

NEPA requires Federal agencies to prepare environmental impact statements and hold public hearings for all major Federal actions significantly affecting the quality of the human environment. It has no exceptions for immigration.

Indeed, when one goes back and looks at the reasons NEPA became law, it is clear it never contemplated an exception for actions that bring millions of people into the country. Such actions, by definition, are population growth. And population growth was the very first concern addressed in NEPA's Congressional Declaration of National Environmental Policy, which explained that Congress had decided to pass NEPA because it recognized "the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth."

Population growth inevitably has impacts like increased traffic congestion, energy consumption, waste management, water use, encroachment on wildlife habitats, urban sprawl, carbon dioxide

emissions, degraded soil and air quality, noise pollution, and loss of recreational areas: the bread and butter of routine NEPA analysis.

Upon taking office, the Biden administration carried out a number of policies: halting construction of the border wall, ending Remain in Mexico, releasing border crossers into the interior with parole, policies described by a district judge in Florida as “akin to posting a flashing ‘Come in, We are Open’ sign on the southern border.” Predictably, a flood of migration followed. By some estimates, 5 to 6 million foreign nationals have entered the country illegally since 2021.

This Committee has rightly pointed out that the Administration failed to hold hearings of the National Park Service’s lease to house 2,000 of the migrants invited in by the Biden administration in the Floyd Bennett Field. But all 5 or 6 million people who crossed the border need housing and use resources when they get to this country, not just 2,000.

The Administration equally had the duty to hold hearings before taking the actions that created the crisis, which it could not justify as based on an emergency, since there was no emergency existing before it did what it did. The idea that NEPA mandates the discussions of the inevitable consequences of population growth but not the causes of population growth turns the purpose of NEPA on its head, which is to encourage environmentally enlightened decision making before irrevocable action is taken.

Even if the Administration believes opening the floodgates was desirable policy, NEPA requires that agencies must look before they leap. The Biden administration did not. The environmental effects of the open border will continue, and Americans across the interior will continue to feel the effects of overcrowding in their daily lives.

The Administration’s excuse for failing to conduct NEPA essentially is that NEPA doesn’t apply to actions whose environmental impacts are unknown. This is nonsense. NEPA’s purpose is to stop Federal agencies from taking major actions whose environmental effect they don’t understand, and it is desperately needed. The very shock expressed in the last hearing at the idea that the Natural Resources Committee, of all places, would seek to talk about the migrant challenge is telling.

A good question is why would anyone claiming to care about the environment be surprised open borders have profound environmental consequences?

An even better question is why would an administration that insists it values NEPA spark an environmental crisis without even a modicum of NEPA compliance?

At the same time that President Biden signed Executive Orders opening the border, he signed orders purporting to strengthen environmental protection that called for the reduction of greenhouse gas emissions across the country, the conservation of land, water, biodiversity, transitioning to a clean energy economy, advancing environmental justice, and investing in disadvantaged communities.

Proclaiming we have only a narrow moment to avoid the most catastrophic impacts of climate change, President Biden instituted

a government-wide approach to the climate crisis. This government-wide approach apparently excludes the Department of Homeland Security. Boosting illegal immigration by millions of people, largely economic migrants rather than refugees, directly prevents all of these supposedly urgent policy goals.

The Committee on the Judiciary recently found only 6 percent of those released into the United States by the Biden administration were even screened for credible fear. They are not coming to claim asylum, but to improve their standard of living, which means their carbon emissions decrease when they settle into the United States, and they fully intend to use resources, including land and water, while here.

Furthermore, economic migrants generally do start at the bottom of the economic ladder, and their social and economic effects are felt disproportionately by disadvantaged communities. The point is not to blame them for using resources, but to recognize that all people do.

NEPA compliance would end the Administration's delusion that foreign nationals cease having an ecological footprint the minute they cross the U.S. border.

No administration that truly cared about natural resources, environmental justice, or urgently reducing carbon emissions would flagrantly disregard the environmental degradation that its actions have unleashed on the United States. Thanks.

[The prepared statement of Ms. Axelrod follows:]

PREPARED STATEMENT OF JULIE AXELROD, DIRECTOR OF LITIGATION, CENTER FOR IMMIGRATION STUDIES

Chairman Westerman and members of the subcommittee, thank you for inviting me here today to discuss the environmental impacts of the Biden Administration's immigration actions. My name is Julie Axelrod and I am the Director of Litigation of the Center for Immigration Studies. I've spent the past few years litigating against the Department of Homeland Security for its failures to comply with NEPA.

As discussed in your last hearing, the Biden Administration bypassed their obligations under NEPA before placing migrant camps on park service land. But this failure is only the tip of the iceberg of this Administration's violation of NEPA. It started in January 2021 when the Administration failed to conduct NEPA on the actions that created the migrant crisis in the first place.

NEPA requires Federal agencies to prepare environmental impact statements and hold public hearings for all "major Federal actions significantly affecting the quality of the human environment". It has no exceptions for immigration. Indeed, when one goes back and looks at the reasons NEPA became law, it's clear it never contemplated an exception for actions that bring millions of people into the country. Such actions, by definition, are population growth, and population growth was the very *first* concern addressed in NEPA's "Congressional declaration of national environmental policy," which explained that Congress had decided to pass NEPA, because it recognized, quote "the profound impact of *man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth.*" Population growth inevitably has impacts like increased traffic congestion, energy consumption, waste management, water use, encroachment on wildlife habitats, urban sprawl, carbon dioxide emissions, degraded soil and air quality, noise pollution, and loss of recreational areas—the bread and butter of routine NEPA analysis.

Upon taking office the Biden Administration carried out a number of policies, halting construction of the border wall, ending Remain in Mexico, and releasing border crossers into the interior, policies described by a district judge in Florida as "akin to posting a flashing 'Come in, We're Open' sign on the southern border." Predictably, a flood of migration followed—by some estimates 5 to 6 million foreign nationals have entered the country illegally since 2021.

This committee has rightly pointed out that the Administration failed to hold hearings over the National Park Service's lease to house 2000 of the migrants

invited in by the Biden Administration in the Floyd Bennett Field. But all five or six million people who crossed the border need housing and use resources when they get to this country, not just 2000. The Administration equally had the duty to hold hearings before taking the actions that created the crisis.

The idea that NEPA mandates discussion of the inevitable consequences of population growth but not the causes of population growth turns the purpose of NEPA on its head—which is to encourage environmentally enlightened decision making before irrevocable action is taken. Even if the Administration believes opening the floodgates was desirable policy, NEPA requires that agencies must “look before they leap.” The Biden Administration did not. The environmental effects of the open border will continue, and Americans across the interior will continue to feel the effects of overcrowding in their daily lives.

The Administration’s excuse for failing to conduct NEPA, essentially, is that NEPA doesn’t apply to actions whose environmental impacts are unknown. This is nonsense. NEPA’s purpose is to stop federal agencies from taking major actions whose environmental effect they don’t understand, and it’s desperately needed. The very shock expressed in the last hearing at the idea that the “Natural Resources Committee” of all places would seek to talk about “the migrant challenge” is telling. A good question is why would anyone claiming to care about the environment be surprised open borders have profound environmental consequences? An even better question, is why would an Administration that insists it values NEPA spark an environmental crisis without even a modicum of NEPA compliance?

At the same time that President Biden signed executive orders opening the border, he signed orders purporting to strengthen environmental protection that called for the reduction of greenhouse gas emissions across the economy, the conservation of land, water, and biodiversity; transitioning to a clean-energy economy; advancing environmental justice; and investing in disadvantaged communities. Proclaiming we have only a “narrow moment” to avoid the “most catastrophic impacts” of climate change, President Biden instituted “a government-wide approach to the climate crisis.”

This government wide approach, apparently, excludes the Department of Homeland Security. Boosting illegal immigration by millions of people, largely economic migrants rather than refugees, directly prevents all of these supposedly urgent policy goals. The Committee on the Judiciary recently found only six percent of those released into the United States by the Biden Administration were even screened for credible fear—they are not coming to claim asylum but to improve their standard of living—which means their carbon emissions increase when they settle into the United States and they fully intend to use resources, including land and water, while here. Furthermore, economic migrants generally do start at the bottom of the economic ladder—and their social and economic effects are felt disproportionately by disadvantaged communities. The point is not to blame them for using resources, but to recognize that all people do. NEPA compliance would end the Administration’s delusion that foreign nationals cease having an ecological footprint the minute they cross the U.S. border.

No Administration that truly cared about natural resources, environmental justice, or urgently reducing carbon emissions would flagrantly disregard the environmental degradation that its actions have unleashed on the United States.

Mr. WESTERMAN. Thank you for your testimony, Ms. Axelrod.
The Chair now recognizes Chairman Jose for 5 minutes.

**STATEMENT OF THE HON. VERLON M. JOSE, CHAIRMAN,
TOHONO O’ODHAM NATION, SELLS, ARIZONA**

Mr. JOSE. [Speaking Native language.] Good afternoon, Committee Chair, distinguished members of the Subcommittee. I am Verlon Jose, the Chairman of the Tohono O’odham Nation. Thank you for inviting me to testify today.

I also want to extend a special greeting to the Nation’s Congressional Representative, Ranking Member Grijalva. We really appreciate that you are here with us today.

The Tohono O’odham have lived in what is now Arizona and northern Mexico since time immemorial. Our reservation today

comprises only a small portion of our ancestral territory. Our original homelands include the Organ Pipe Cactus National Monument, Cabeza Prieta National Wildlife Refuge, the San Bernardino National Wildlife Refuge, and the Coronado National Forest.

In 1854, the international boundary between the United States and Mexico was drawn through the middle of our ancestral lands, without consideration for our people's sovereign rights or the impact it would have on our religious and cultural traditions.

Because we share a 62-mile border with Mexico, we have long been at the forefront on border issues. The Nation spends about \$3 million a year of our own tribal funds to help meet the United States' border security responsibilities. We also are responsible for taking care of migrants who have perished on our reservation. Since 2003, our Nation's law enforcement has spent nearly \$6 million on over 1,500 migrant deaths, investigation, and recoveries. Our police force spent more than a third of its time on border issues, including the investigation of immigrant deaths, illegal drug seizures, and human smuggling.

Over the years, we have developed a long-standing cooperative relationship with the U.S. Customs and Border Protection, immigration and customs enforcement, and other Federal law enforcement agencies. We have supported CBP efforts on our reservation by authorizing their checkpoint forward-operating bases and integrated fixed towers to facilitate electronic surveillance efforts.

The Nation leads a multi-agency anti-drug smuggling task force staffed by our own police, detectives, ICE special agents, Border Patrol agents, and the FBI. In addition, the Nation has officers that are part of the Shadow Wolves, a tactical patrol unit based on our reservation.

The Shadow Wolves are the only Native American tracking unit in the country, and its officers apply traditional tracking methods that apprehend countless smugglers and seize thousands of pounds of illegal drugs.

Thanks to the bipartisan legislation championed by Representative John Katko in the 117th Congress, the Shadow Wolves are now classified as ICE special agents.

While the Tohono O'odham Nation shares the Federal Government's concerns about border security, we have a very deep concern about the substantial cost and ineffectiveness of using a border wall in rural areas like ours. GAO found that more than \$10 billion of taxpayers' money was set aside for a border wall construction by the end of 2020. Billions more will continue to be needed to address the environmental and cultural harms caused by the wall. Despite the amount of money spent, CBP records reveal that the border wall is ineffective in remote geographical areas like the desert southwest, where the wall is regularly breached.

Most disturbing for us is the permanent damage that the border wall has inflicted on our sacred areas, culturally sensitive sites, and the negative impact on our religious rights and cultural practices. Construction of the wall destroyed human burial sites at Monument Hill and Organ Pipe National Monument, a desecration that cannot be undone.

Construction of a wall on Federal lands near our reservation also interferes with the flow of scarce, vital water resources on which

plants and wildlife depend. Our Tribal Members rely on these plants for food, medicine, and cultural purposes.

The Nation wholeheartedly agrees with GAO that the Federal agencies must do a better job coordinating with each other and with the Nation on a strategy to mitigate the harm that the wall has caused.

In conclusion, I want to thank you for giving the Nation the opportunity to share our perspective on these difficult and pressing issues. I am happy to answer any questions.

[The prepared statement of Mr. Jose follows:]

PREPARED STATEMENT OF THE HONORABLE VERLON JOSE, CHAIRMAN, THE TOHONO O'ODHAM NATION OF ARIZONA

INTRODUCTION & HISTORICAL BACKGROUND

Good afternoon Chairman Gosar, Ranking Member Stansbury and distinguished Members of the Subcommittee. I am Verlon Jose, the Chairman of the Tohono O'odham Nation of Arizona. It is an honor to have the opportunity to testify before you today on behalf of my Nation and our more than 36,000 enrolled Tribal citizens.

The Tohono O'odham Nation shares a 62-mile border with Mexico—the second-longest international border of any tribe in the United States, and the longest on the southern border. The Nation has long been at the forefront on border issues. Over the years we have developed a long-standing cooperative relationship with U.S. Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE) and other federal law enforcement agencies. Working in concert with CBP, our own Tohono O'odham law enforcement officers are regularly involved in drug interdiction and immigrant apprehension actions. Every year, the Tohono O'odham Nation spends its own funds to help meet the federal government's border security responsibilities. We have supported CBP efforts on our Reservation by providing lands for a checkpoint, forward operating bases, and integrated fixed towers to facilitate critical electronic surveillance efforts.

That being said, the O'odham have lived in what is now Arizona and northern Mexico since time immemorial. In 1854, the international boundary between the United States and Mexico was drawn through the middle of our ancestral territory without any consideration for our people's sovereign and historical rights, or the impact it would have on traditional and sacred practices. Today, the international border continues to separate our people and our traditional lands. Seventeen O'odham communities with approximately 2,000 members are still located in our historical homelands in Mexico. O'odham on both sides of the border share the same language, culture, religion and history, and we continue to cross the border for sacred pilgrimages and ceremonies at important religious and cultural sites.



Map of Tohono O'odham Ancestral Territory

Our Reservation today includes only a small portion of our ancestral territory. Our original homelands ranged well beyond these boundaries and included what the federal government later made into the Organ Pipe Cactus National Monument and Cabeza Prieta National Wildlife Refuge to the west of our Reservation, and the San Bernardino National Wildlife Refuge and the Coronado National Forest to the east. The Nation's ongoing significant connections to these lands and the religious, cultural and natural resources located there are well-documented.

THE NATION IS ACTIVELY ENGAGED IN BORDER SECURITY EFFORTS

Over the past decade the Nation has spent an *annual* average of **\$3 million of our own tribal funds** on border security and enforcement to help meet the United States' border security obligations. Further, the Nation is responsible for the recovery and disposition of immigrants who have perished on our Reservation. Since 2003, our Nation's law enforcement has spent nearly \$6 million dollars on over 1,500 *migrant death investigations and recoveries* without any federal financial assistance. The Nation's police force typically spends more than a third of its time on border issues, including the investigation of immigrant deaths, illegal drug seizures, and human smuggling.

The Nation also has entered into several cooperative agreements with CBP and ICE, and pursuant to numerous Tohono O'odham Legislative Council resolutions has authorized a number of border security measures on its sovereign lands to help CBP. Some examples include:

- **High Intensity Drug Trafficking (HIDTA) Task Force:** The Nation leads a multi-agency anti-drug smuggling task force staffed by Tohono O'odham Police Department detectives, ICE special agents, Border Patrol agents, and the FBI. This is the only tribally-led High Intensity Drug Trafficking (HIDTA) Task Force in the United States. In 2018, the Nation's Task Force Commander W. Rodney Irby received an award recognizing him as the National Outstanding HIDTA Task Force Commander.
- **ICE office and CBP forward operating bases:** Since 1974, the Nation has authorized a long-term lease for an on-reservation ICE office. The Nation also approved leases for two CBP forward operating bases that operate on the Nation's lands 24 hours, 7 days a week. One of these forward operating bases (at Papago Farms) was recently renovated and upgraded with state-of-the-art improvements and technology, including an expanded perimeter fence, helipad, and new officer living quarters and administrative facilities.
- **Shadow Wolves, an ICE tactical patrol unit:** The Nation has officers that are part of the Shadow Wolves, a tactical patrol unit based on our Reservation which the Nation played a role in creating. Thanks to recent bipartisan legislation championed by Representative John Katko in the House and enacted in the 117th Congress, the Shadow Wolves are now reclassified as ICE Special Agents. The Shadow Wolves are the only Native American tracking unit in the country, and its officers are known for their ability to track and apprehend immigrants and drug smugglers using traditional tracking methods. The Shadow Wolves have apprehended countless smugglers and seized thousands of pounds of illegal drugs.
- **Vehicle barriers on our lands:** CBP has constructed extensive vehicle barriers that run the entire length of the Tribal border and a patrol road that parallels it.
- **CBP checkpoint on our lands:** The Nation has authorized a CBP checkpoint on the major highway that runs through the Nation.
- **Integrated Fixed Towers:** The Nation approved a lease of its lands to allow CBP to build an Integrated Fixed Tower (IFT) system that includes surveillance and sensor towers with associated access roads on the Nation's southern and eastern boundaries to detect and help interdict illegal entries.

BORDER WALL CONSTRUCTION IN REMOTE AREAS LIKE OURS IS INEFFECTIVE AND WASTES TAXPAYER DOLLARS—AND HAS BEEN DEEPLY HARMFUL TO THE NATION

The Nation shares the federal government's concerns about border security, and we believe that the measures we have taken to assist CBP and our own law enforcement efforts are necessary to protect the Nation's members specifically and the United States generally. Respectfully, however, we have serious concerns about the cost and ineffectiveness of a border wall. Most importantly the Nation is deeply concerned about the severe impact the border wall has had/will have on wildlife

corridors, culturally sensitive/sacred areas, and on our ability to freely practice our customs and religion.

Constructing the Border Wall was Wasteful and Ineffective. Border wall construction came at great cost to the American taxpayer in this era of a skyrocketing federal deficit. Thanks to the no-bid contracts, diversion of badly needed drug interdiction and defense resources, and the massive environmental mitigation efforts required to address construction damage, we may never know the true cost. The Government Accountability Office found that by the end of 2020, the Army Corps of Engineers had obligated more than \$10 billion to border wall construction alone.¹ Billions more have and will continue to be needed to mitigate the environmental and cultural harms caused by construction. Worse yet, this wall has been an absolute failure in terms of deterring illegal immigration and drug trafficking. As reported by the Cato Institute, following a lull in illegal entries during the early part of the Covid-19 Pandemic, *illegal entries actually increased as border wall construction increased.*²

As the Nation and others have warned for years, the border wall is ineffective in remote geographic areas like our homelands (including neighboring wildlife refuges) where the wall can easily be circumvented by climbing over, tunneling under, or sawing through it. And that is precisely what has taken place. Again, the Cato Institute found:

The Trump border wall failed for all the predictable reasons. Immigrants used cheap ladders to climb over it, or they free climb it. They used cheap power tools to cut through it. They cut through small pieces and squeezed through, and they cut through big sections and drove through. In one small section in 2020, they sawed through at least 18 times that Border Patrol knew about in a month. They also made tunnels. Some tunnels were long, including the longest one ever discovered, but some were short enough just to get past the barrier.³

CBP records have revealed that the border wall is breached with staggering (but unsurprising) regularity—between more than 2,000 times and more than 4,000 times per year between 2017 and 2022.⁴ These breaches typically are performed with “inexpensive power tools widely available at retail hardware stores,”⁵ or with \$5 ladders.⁶

Damage Already Done to Our Ancestral Lands by Construction. Of paramount importance to the Nation is the damage that wall construction has caused to the religious, cultural and environmental resources on which our members rely and which make our ancestral land sacred to our people. In several amicus briefs filed in litigation in 2019 challenging construction of the wall,⁷ the Nation detailed the negative impacts it knew would be caused by the prior Administration’s use of diverted federal funds to construct the border wall in Tucson Sector Projects 1, 2 and 3 and Yuma Sector 3, extending through Cabeza Prieta National Wildlife Refuge and Organ Pipe Cactus National Monument (ending less than two miles from the western boundary of the Nation’s Reservation) and through the San Bernardino National Wildlife Refuge (to the east of the Reservation). These projects have caused significant and irreparable harm to religious, cultural, and natural resources of great importance to the Nation.

The federal government itself repeatedly has acknowledged the significance of the Nation’s interest in the areas that are being impacted by the ongoing and con-

¹ Government Accountability Office, Southwest Border: Award and Management of Border Barrier Construction Contracts, GAO-23-106893, at 6 (July 23, 2023).

² David J. Bier, “The Border Wall Didn’t Work,” Cato Institute (February 10, 2022), available at <https://www.cato.org/blog/border-wall-didnt-work>.

³ *Id.*

⁴ David J. Bier, “Border Wall Was Breached 11 Times Per Day in 2022,” Cato Institute (December 30, 2022), available at <https://www.cato.org/blog/border-wall-was-breached-11-times-day-2022-2>.

⁵ Nick Miroff, “Trump’s border wall has been breached more than 3,000 times by smugglers, CBP records show,” The Washington Post (March 2, 2022), available at <https://www.washingtonpost.com/national-security/2022/03/02/trump-border-wall-breached/>.

⁶ Jenna Romaine, “Trump’s \$15 billion border wall is being easily defeated by \$5 ladders,” The Hill, April 22, 2021, available at <https://thehill.com/changing-america/resilience/refugees/549758-trumps-15-billion-border-wall-is-being-easily-defeated/>.

⁷ See, e.g., *Sierra Club and Southern Border Communities Coalition v. Donald J. Trump*, No. 4:19-cv-00892-HSG, Amicus Curiae Brief of Tohono O’odham Nation in Support of Plaintiff’s Motion for Supplemental Preliminary Injunction (June 18, 2019, N.D. Ca.) (Dkt. No. 172); Amicus Curiae Brief of Tohono O’odham Nation in Support of Plaintiff’s Motion for Partial Summary Judgment (October 18, 2019) (Dkt. No. 215).

templated construction in the Tucson and Yuma Sector projects. For example, the National Park Service (NPS) in its General Management Plan for the Organ Pipe Cactus National Monument (a UNESCO biosphere reserve)⁸ acknowledged the importance of Quitobaquito Spring, which is located 200 yards from the border:

There are 11 springs in the monument, eight of which are located at Quitobaquito, by far the largest source of water. The pond and dam at Quitobaquito were constructed in 1860, and the resulting body of water is one of the largest oases in the Sonoran Desert. *The site is also sacred to the O'odham, who have used the water from this spring for all of their residence in the area.*

. . .

There still exist sites within the monument which are sacred to the O'odham, including Quitobaquito Springs . . . *Even to the present day, the O'odham continue to visit the monument to collect sacred water from the Springs, to gather medicinal plants, and to harvest the fruit of the organ pipe and saguaro cactus.*⁹

NPS also has recognized that there are O'odham burial sites within Quitobaquito.¹⁰

In a 2019 study, published shortly before construction was to begin, NPS identified five new archeological sites (of pre-contact Native American artifacts) and additional archeological resources within a 60-foot wide federal easement that runs along the border in Organ Pipe, noting that many existing archeological sites would be impacted or destroyed by the border wall construction, and that many areas along the Organ Pipe border have not yet been surveyed to identify archeological and culturally sensitive sites.¹¹

Similar expert reports show archeological sites of significance to the Nation in the immediate vicinity of Tucson Project 3 in the San Bernardino Valley, as well as the Cabeza Prieta National Wildlife Refuge, although these areas are less well surveyed so the extent of cultural and natural resources potentially affected by construction of a border wall is even less well known.¹²

As border wall construction progressed, construction activities resulted in immeasurable damage to areas of significance to the Nation within Organ Pipe, including the blading of an area near Quitobaquito Springs and blasting in an area called Monument Hill, which has disturbed human remains.¹³ In its aftermath, federal

⁸Biosphere reserves are areas with unique ecosystems recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as special places for testing interdisciplinary approaches to managing social and ecological systems. Each reserve promotes solutions reconciling the conservation of biodiversity and sustainable use. <http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/>.

⁹U.S. National Park Service, *Organ Pipe Cactus National Monument, Final General Management Plan, Development Concept Plans, Environmental Impact Statement* (Feb. 1997), at 30, 33, available at <https://www.nps.gov/orpi/learn/management/upload/fingmp.pdf>.

¹⁰*Id.* at 158, citing Anderson, Keith M., Bell, Fillman and Stewart, Yvonne G., *Quitobaquito: A Sand Papago Cemetery*, Kiva, 47, no. 4 (Summer, 1982) at 221-22; see also Bell, Fillman, Anderson, Keith M. and Stewart, Yvonne G., *The Quitobaquito Cemetery and Its History*, U.S. National Park Service, Western Archeological Center (Dec. 1980), available at <http://npshistory.com/series/anthropology/wacc/quitobaquito/report.pdf>.

¹¹Veech, Andrew S., Archeological Survey of 18.2 Kilometers (11.3 Miles) of the U.S.-Mexico International Border, Organ Pipe Cactus National Monument, Pima County, Arizona, U.S. National Park Service, Intermountain Region Archeology Program (July 2019), available at <https://games-cdn.washingtonpost.com/notes/prod/default/documents/cbd7ef6a-3b5b-4608-9913-4d488464823b/note/7a429f63-9e46-41fa-afeb-c8e238fcd8bb.pdf> (discovery of five new archeological sites and 55 isolated finds; recommending additional evaluation of sites, noting that 17 identified archeological sites will be destroyed by the border wall construction, and that many areas along the border within the Monument remain unsurveyed).

¹²Fish, Paul R.; Fish, Suzanne K.; Madsen, John H., *Prehistory and early history of the Malpai Borderlands: Archaeological synthesis and recommendations*, U.S. Department of Agriculture, Forest Service (2006) at 29-30, available at https://www.fs.fed.us/rm/pubs/rmrs_gtr176.pdf; U.S. Fish and Wildlife Service, *Cabeza Prieta National Wildlife Refuge: Comprehensive Conservation Plan, Wilderness Stewardship Plan and Environmental Impact Statement* (Aug. 2006) at 172, 586, available at <https://www.fws.gov/uploadedFiles/CPNWREIS.pdf>; U.S. Fish and Wildlife Service, *Environmental Assessment of the Malpai Borderlands Habitat Conservation Plan* (July 26, 2008) at 17, available at <https://www.fws.gov/southwest/es/arizona/Documents/HCPs/Malpai/MBHCP%20EA%20w%20FONSI.pdf>.

¹³See Firozi, Paulina, *The Washington Post*, *Sacred Native American burial sites are being blown up for Trump's border wall, lawmaker says* (Feb. 9, 2020) <https://www.washingtonpost.com/immigration/2020/02/09/border-wall-native-american-burial-sites/>.

officials documented significant damage to environmental and water sources in the Arizona borderland area. According to a U.S. Fish and Wildlife study, “water from an artesian well in the San Bernardino National Wildlife Refuge in Arizona no longer naturally flows to the surface, in part, as a result of barrier construction.”¹⁴ In 2019, the Nation warned that border barrier construction would exacerbate flooding in these areas, irreparably altering an ecosystem that depends on annual monsoon rain flows.¹⁵ As the GAO found, these concerns proved correct: border wall road construction in Organ Pipe National Monument has in effect created a “natural dam by impeding water flow during rain events.”¹⁶

GAO confirmed also that the damage has been exacerbated by the failure of federal agencies to adequately coordinate on border wall mitigation efforts. The Nation wholeheartedly agrees with the GAO’s conclusion that:

The Secretary of the Interior should document, jointly with CBP, a strategy to mitigate cultural and natural resource impacts from border barrier construction that defines agency roles and responsibilities for undertaking specific mitigation actions; identifies the costs, associated funding sources, and time frames necessary to implement them; and specifies when agencies are to consult with Tribes.¹⁷

CONCLUSION

Construction of the wall on federal lands to the east and west of our Reservation already has disturbed and even destroyed human remains, sacred sites, religious and culturally significant sites and cultural resources, and tribal archeological resources, *and there is no way to repair or restore this damage to us*. Wall construction also adversely impacted our wildlife, including endangered species like the jaguar that are sacred to American Indian tribes. Construction of the wall near our Reservation is interfering with the flow and use of scarce and vital water resources, including seasonal washes, on which plants and wildlife depend. The plants adversely impacted are relied on by tribal members for food, medicine, and cultural purposes, as well as being critical food sources for animals.

The Nation genuinely appreciates the Subcommittee’s interest in the impact of border wall construction on federal lands, and appreciates the opportunity to share with you our deep concerns about the damage that the wall has caused to the Nation’s religious and cultural heritage, our way of life, and our environment. We welcome a continued dialogue with you on these issues.

QUESTIONS SUBMITTED FOR THE RECORD TO THE HON. VERLON JOSE, CHAIRMAN, THE
TOHONO O’ODHAM NATION

Questions Submitted by Representative Grijalva

Question 1. How would the Nation’s sacred sites be better protected if the laws waived by the Department of Homeland Security had been in effect? For example, would these sites be better protected if the National Environmental Policy Act and the Native American Graves Protection and Repatriation Act were not waived?

Answer. There are a number of federal laws, including but not limited to the National Environmental Policy Act (NEPA) and the Native American Graves Protection and Repatriation Act (NAGPRA), that protect the environment and cultural and archeological resources and would have better protected the Nation’s sacred sites had they not been waived by DHS.

¹⁴ GAO, *supra* n. 1, at 23.

¹⁵ *Sierra Club*, Amicus Curiae Brief of Tohono O’odham Nation at 7-8.

¹⁶ GAO, *supra* n. 1, at 23-24.

¹⁷ *Id.* at 52.

Archaeological Resources Protection Act

The Archaeological Resources Protection Act (ARPA) requires federal agencies to obtain a permit from the federal land manager¹ before excavating or removing archaeological resources from public or Indian lands.² This required permitting process includes notification to relevant tribes of anticipated harm to religious or cultural sites,³ and an opportunity for the federal land manager and tribal officials to meet and discuss tribal interests and proposed mitigation measures prior to issuance of the permit.⁴

Had these ARPA protections been in place during construction of the border wall through the Cabeza Prieta National Wildlife Refuge, the Organ Pipe Cactus National Monument, and the San Bernardino National Wildlife Refuge, the widespread desecration of the Nation's religious and cultural sites in these areas could have been avoided. The Nation could have worked collaboratively on a government-to-government basis with the Department of Homeland Security to identify and exclude certain sensitive areas, and to propose additional mitigation measures. However, because ARPA's protections were waived, there were no meaningful procedural checks to protect the Nation's archaeological resources, and sites of great religious and cultural importance were severely and permanently damaged.

Native American Graves Protection and Repatriation Act (NAGPRA)

Together with the ARPA permitting process, the procedural requirements of NAGPRA provide significant safeguards for tribal human remains, funerary objects, sacred objects, and objects of cultural patrimony.⁵ Under NAGPRA, federal agencies planning intentional excavations are required to: (1) take reasonable steps to determine whether the planned activity may result in the excavation of human remains or other cultural items; (2) engage in consultation with relevant tribes and Native Hawaiian organizations regarding the planned activity; and (3) complete and follow a written plan detailing the planned treatment, care, and disposition of human remains and other cultural resources in connection with the planned activity.⁶

The waiver of these important procedural safeguards during border wall construction allowed the Department of Homeland Security to blast unfettered through the historic tribal gravesite at Monument Hill with no forethought to tribal impacts, no tribal consultation, and no plan for mitigation of the irreparable damage to tribal human remains and sacred objects.⁷ If NAGPRA had been properly applied, the known tribal burials and protected tribal objects at Monument Hill would have been identified and actively protected through consultation and careful planning, rather than senselessly destroyed. NAGPRA would also have protected inadvertently discovered remains and objects by requiring notification, halting of work in the impacted area, and reasonable efforts to safeguard the resources.⁸

National Historic Preservation Act

Certain cultural resources protected by ARPA and NAGPRA are also protected by the National Historic Preservation Act (NHPA), which requires federal agencies to consult with tribes when agency undertakings affect properties of religious or cultural significance.⁹ To comply with NHPA, federal agencies must follow a four-step review process prior to expending federal funds or issuing licenses.¹⁰ This review process requires the federal agency—in consultation with the relevant tribes—to evaluate the applicability of section 106 of the Act,¹¹ identify historic properties, and assess and resolve potential adverse effects.¹²

¹For purposes of ARPA, the “federal land manager” is the federal agency with primary management authority over the relevant lands. 16 U.S.C. § 470bb(2).

²16 U.S.C. § 470cc(a).

³16 U.S.C. § 470cc(c).

⁴43 C.F.R. § 7.7.

⁵25 U.S.C. § 3001 et seq.; 43 C.F.R. § 10.1(b)(2).

⁶43 C.F.R. § 10.3.

⁷See Firozi, Paulina, *The Washington Post*, *Sacred Native American burial sites are being blown up for Trump's border wall, lawmaker says* (Feb. 9, 2020) <https://www.washingtonpost.com/immigration/2020/02/09/border-wall-native-american-burial-sites/>.

⁸43 C.F.R. § 10.4.

⁹54 U.S.C. § 300101 et seq.

¹⁰36 C.F.R. § 800.

¹¹Section 106 requires federal agencies to account for the effects of their undertakings on properties listed or eligible for listing in the National Register of Historic Places and provide the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. 54 U.S.C. § 306108.

¹²36 C.F.R. §§ 800.3–800.6.

Given the religious and cultural significance of the sacred sites destroyed during the border wall construction, it is likely that NHPA and the Section 106 review process would have applied to the project if they had not been waived. Accordingly, the Nation and the Department of Homeland Security would likely have engaged in extensive consultation pursuant to Section 106, and entered into a Memorandum of Agreement outlining the measures the Department would take to avoid, minimize, or mitigate the adverse effects of the undertaking. With this Memorandum of Agreement in place, the Nation could have dramatically reduced the harm caused by the project and preserved more of our cultural resources for future generations.

Endangered Species Act

Other laws like the Endangered Species Act obligate federal agencies to, for example, consult and at least consider impacts on specific species and habitat, that may be crucial to the Nation's historic and cultural existence. The waiver of all these laws allowed the Department of Homeland Security to destroy tribal gravesites at Monument Hill and bulldoze in the area near Quitobaquito Springs, another site of cultural and religious significance to the Nation, without any consideration of the impacts to tribal cultural and archeological resources and sacred sites, not to mention the serious impacts to environmental resources, including wildlife and habitat of significance to the Nation.

National Environmental Policy Act

NEPA requires federal agencies to consider the potential environmental impacts and consequences of their proposed actions before they make decisions to undertake those actions.¹³ Environmental effects or impacts are broadly defined to include aesthetic, historic, cultural, economic, social and health effects, whether direct, indirect or cumulative (so NEPA sweeps in impacts and consultation under other statutes like NAGPRA, NHPA and the ESA).¹⁴ NEPA and its implementing regulations require that federal agencies, before taking action, consult with other interested agencies and tribal governments, consider the affected environment and environmental consequences, document the analysis of potential impacts in environmental assessments or environmental impact statements, consider reasonable mitigation measures to offset or avoid the environmental impacts, and make this information available to the public for comment before the implementation of the proposals.¹⁵ Tribes may participate in the NEPA process as cooperating agencies, to ensure that tribal resources are protected.¹⁶ NEPA also requires the Environmental Protection Agency to review and comment on environmental impacts described in NEPA documents and if the analysis is unsatisfactory, refer the matter to the Council on Environmental Quality (CEQ); NEPA also allows federal agencies involved in the NEPA process to refer matters to CEQ where there are disagreements with the lead agency about potential adverse environmental impacts.¹⁷

NEPA compliance would have required that the Department of Homeland Security consider all potential environmental impacts, comments from the Nation and the public, and mitigation of those impacts, before deciding to construct a border wall. The waiver of those requirements allowed the Department of Homeland Security to take action and recklessly construct that wall with absolutely no consideration of the impacts to the Nation's cultural, archeological, historic, and other resources and sacred sites—and no meaningful consultation with the Nation beforehand.

The Nation underscores that in 2017, the Nation met with senior Department of Homeland Security officials in Washington, D.C. on two separate occasions. In both meetings, the Nation reiterated its opposition to a border wall and requested more information on the Department's plans to formally consult with the Nation on the issue.¹⁸ DHS did not grant the Nation's request for formal consultation, but rather proceeded with construction without it. The unnecessary destruction of culturally sensitive and sacred sites was the result.

¹³ 42 U.S.C. § 4332; 40 C.F.R. § 1500.1–3.

¹⁴ 40 C.F.R. 1508.1.

¹⁵ 40 C.F.R. §§ 1500–1507.

¹⁶ 40 C.F.R. § 1501.8, 1508.1(e).

¹⁷ 40 C.F.R. § 1504.2–3.

¹⁸ In these meetings, the Nation provided DHS with a copy of a Resolution enacted by the Tohono O'odham Legislative Council, *Resolution of the Tohono O'odham Legislative Council: Border Security and Immigration Enforcement on the Tohono O'odham Nation*, No. 17-053 (Feb. 7, 2017).

Question 2. Are there other sacred sites or resources of significance to the Nation that could be negatively impacted by additional border wall construction?

Answer. Aside from the cultural resources previously identified in Tucson Sector Projects 1, 2 and 3 and Yuma Sector 3, the Nation anticipates several additional sites and resources will be identified as future surveys are taken along the Organ Pipe border, and in other parts of our ancestral territory. We also anticipate frequent inadvertent discoveries of tribal human remains and cultural objects throughout the course of the construction project, given the Nation's extensive history in the region. In light of these concerns, it is imperative that NEPA, ARPA, NAGPRA, NHPA, and other applicable laws protecting the Nation's sacred sites and cultural and natural resources be applied strictly to any future border wall construction to prevent further irreparable harm.

Dr. GOSAR [presiding]. Thank you very much, Mr. Chairman.
I now recognize Lieutenant Nores for his 5 minutes.

**STATEMENT OF JOHN NORES, LIEUTENANT (RETIRED),
SPECIAL OPERATIONS, MARIJUANA ENFORCEMENT TEAM,
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE,
MORGAN HILL, CALIFORNIA**

Mr. NORES. Good afternoon, Chairman Gosar and esteemed Members of Congress. It is an honor to speak with you all today in our nation's capital, and I am grateful for the opportunity to speak on a subject we are all very passionate about.

I was a game warden in California for 28 years, part of our nationwide thin green line of conservation officers protecting our country's wildlife, waterways, and wild lands. I am also the author of the book "Hidden War," that goes into greater detail on today's topic.

The cartels from Mexico, along with other worldwide transnational criminal organizations, what we call TCOs, have become the biggest domestic public safety threat and some of the greatest destroyers of our natural resources throughout America.

Our first violent encounter with the cartels was during an allied agency raid on an illegal trespass cannabis grow on public land in the Silicon Valley foothills, where I was born and raised. When ambushed by cartel gunmen, my young warden partner was near fatally shot through both legs by an AK-47.

This was also the first time we would see and learn of the highly toxic EPA-banned insecticide and rodenticide poisons, nerve agents, and anticoagulants with trade names like carbofuran, furadan, and Metaphos being smuggled into the United States through our southern border by cartel operatives, along with the massive amounts of water stealing and water pollution, the anti-personnel traps like Vietnam-era punji pits throughout some of these clandestine grow sites, and the killing of numerous wildlife and aquatic species.

These public land grow sites can be as remote as 10 miles in the back country of a national forest wilderness area or as close as a few hundred yards from a children's outdoor science camp and Silicon Valley hillside homes.

After four more officer-involved shootings and other violent encounters during anti-cartel grow operations, I was honored to co-develop and lead the Marijuana Enforcement Team, the MET, in 2013, a specialized tactical unit of game wardens dedicated to

fighting this problem statewide. MET's first 6 years of operations paints a very ominous picture of public land wild land illegal grow operations. Through 800 missions, our team eradicated 3 million cannabis plants, most all of those plants toxically tainted with EPA-banned chemicals; destroyed 29 tons of processed cannabis for sale on the black market nationwide; and made 973 felony arrests on growers, many classified as deportable felons with extensive criminal histories.

On the environmental damage front, our team removed 450 tons of gross site waste, 455 miles of water-diverting pipe, 756 gallons of illegal and toxic chemicals, and dismantled and restored waterways being diverted by 793 dams accounting for millions of gallons of water being stolen from our pristine wild lands.

Fast forward to today, as we are seeing more black market cannabis operations on not only public land but on rural private land tracks, as well, causing just as much if not more egregious water depletion and environmental destruction throughout California and other states. These operations are being run not only by the Mexican cartels, but now dominated by the Chinese and Hmong organized crime groups. These Asian TCOs are now smuggling in their own highly toxic grow site poisons. And because of these grow operations, rural communities are now experiencing human trafficking, animal cruelty, and intimidation while being run out of their home towns by cartel growers, as we witnessed in California's remote Siskiyou County as just one example.

As poly-criminals, the cartels are involved in more crimes than just illegal cannabis. These groups are also running the fentanyl and methamphetamine production that is killing hundreds of thousands of Americans annually, in addition to multibillion-dollar human and child sex trafficking operations throughout our great nation.

Given everything we have seen while combating these criminal groups, stopping them from operating within America to poison our citizens, prey upon our children, and destroy our wild land resources must be a top priority.

Thank you, and happy to answer any questions you may have.

[The prepared statement of Mr. Nores follows:]

PREPARED STATEMENT OF LIEUTENANT JOHN NORES JR. (RET.), CALIFORNIA DEPT. OF FISH AND WILDLIFE, MARIJUANA ENFORCEMENT TEAM (MET), SPECIAL OPERATIONS

My name is John Nores, and I am a retired special operations game warden Lieutenant from the California Department of Fish and Wildlife (CDFW). It was an honor to be a game warden and serve 28 s protecting our nation's wildlife, waterway and wildland resources and stopping wildlife and environmental protection law violators was a privilege.

California game wardens are statewide police officers while also being federally deputized to enforce Federal wildlife protection laws. I began my journey with the police training academy in 1992 and at that time I could never have anticipated that the end of my operational career two decades later would be spent leading a specialized unit of game wardens dedicated to combating Transnational Criminal Organizations (TCO's), aka "cartel" infiltration of our nation's pristine public and rural private lands to grow toxically tainted black-market cannabis for nationwide distribution.

This proved to be true as drug cartel operations within and outside of our nation's border have become some of the most egregious environmental and wildlife resource crimes and public safety threats we have seen throughout America. These crimes are occurring not only on our border, but throughout the rest of America with many of these crimes committed by non-citizens here illegally.

Through their use of US EPA banned chemical insecticides and rodenticides (carbofuran, Metaphos, Q-Furan, etc.) and massive amounts of water theft (especially alarming during recent peak drought years in the country) throughout tens of thousands of clandestine cannabis grow sites on both public and private land, cartel cells are poisoning waterways, killing numerous wildlife species, destroying wildland trees, vegetation and grass lands while posing a severe threat to our public's safety.

The public safety threats posed by these criminal cells are evident in cartel grow sites we have encountered with firearms, stabbing blades, and various anti-personal traps (i.e., Vietnam war era punji pits) as well as toxic poisons and other public safety threats common throughout these sites.

The cartel's propensity for violence, however, was first witnessed on a deadly cannabis grow arrest and eradication mission in the Silicon Valley foothills we conducted with the Santa Clara County Sheriff's Office on August 5th, 2005.

While entering the grow site, our allied agency enforcement team was ambushed by cartel gunmen defending their multi-million dollar complex and a gunfight ensued. A near-fatal bullet from a grower's AK47 struck our young warden teammate, penetrating both of his legs before an agonizing three hour wait for his helicopter evacuation to the hospital.

That incident was the first time a law enforcement officer in America had been hit and nearly killed by a clandestine marijuana grower's bullet, and our first violent encounter with tactically savvy cartel operatives from Mexico running their operations in the US, in this case within the Silicon Valley.

We would have four more officer involved shooting incidents and numerous other violent encounters with cartel grower groups defending their black-market cannabis operations throughout California before I was tasked with co-developing and leading a special operations group of game wardens within our agency called the Marijuana Enforcement Team (MET).

Comprised of officers with extensive tactical experience, wilderness fieldcraft, (stalking, apprehension, and survival skills), amazing lifesaving apprehension and detection K9 partners, a sniper unit, national guard, and allied agency law enforcement helicopter teams, the MET's mission was clear:

- Apprehend and prosecute illegal and dangerous growers to protect our public.
- Eradicate their black market (in many cases poisonous and highly toxic) crop before reaching the national black market.
- Environmentally restore illegal outdoor trespass grow sites by removing water diversions, restoring waterways, removing grow site poisons, encampments, and other waste to reclamate the site back to its natural state on pristine public and private lands.

I led the MET until operational retirement in December 2018 and between July 2013 and December 2018, our documented production levels paint an ominous picture during those first five years:

- **800** arrest, eradication, environmental reclamation missions.
- Destroyed **three million** toxically tainted cannabis plants.
- Destroyed **58,677 pounds (29 tons)** of toxically tainted processed cannabis for sale and distribution.
- Made **973 felony arrests** (*approximately 90% of those arrests made on cartel or cartel affiliated Mexican nationals operating in the US illegally*).
- Seized and destroyed **601 firearms**.
- Removed **899,945 pounds (450 tons) of grow site waste** and other pollutants.
- Removed **2.35 million feet (455 miles) of irrigation pipe**.
- Removed **91,728 pounds (46 tons) of fertilizers**.
- Removed **756 gallons of illegal toxic chemicals**.
- Dismantled **793 water stealing dams** from these clandestine grow complexes with these dams (and many other illegal cannabis water diversions) *depleting billions of gallons of water during California's peak drought period*.

Having seen numerous cartel generated public safety, wildlife, and waterway destruction threats in my home state of CA for decades, it was not until February 2020 that I would witness these same threats on and near our remote southern border. While hosting and producing the pilot film for our Thin Green Line documentary series we were big game hunting on a remote 50,000-acre ranch near

Candelaria, Texas. Our outfitters for that project were well aware of the cartel trafficking routes through this ranch, having had several violent encounters with trafficking groups moving drugs and people into the US through the property.

During filming, we witnessed and documented canyonland caves on the property being used for cartel trafficking way-stop camps, all littered with trash, human excrement, other waste, and graffiti delineating gang and/or cartel group affiliation. When contacted by a border patrol helicopter shortly after this find we learned that approximately 20 cartel affiliated drug and human traffickers were being pursued by border agents on another area of the ranch. I was informed by the border patrol pilot that these trafficking operations through the ranch (and many other ranches along that area of the border) were happening weekly, and often more frequently.

While our MET unit's production figures between 2013–2018 and the trafficking activity we witnessed on the Texas/Mexico border are alarming, we must be cognizant of the disturbing reality this relates to today. These statistics were generated during a period when some form of border security measures was in place, and more were in the works in an effort to slow down TCO members from entering and committing crimes throughout the US. Now five years later and lacking any effective border security policy and the recent expiration of Title 42, our border has never been easier to cross with threats to our public's safety and wildland and water resources continuing to escalate.

I witnessed this first-hand in May 2022 when being interviewed for and assisting on the production of Daily Caller's Narcoformia documentary film in northern California's Siskiyou County. One of the most remote and pristine counties on the west coast, Siskiyou County contains a handful of small towns comprised of families that have lived there for generations. Livestock ranching, agricultural farming, trade jobs and a love for community prevail throughout the region.

Shortly after California's new recreational cannabis regulations under Proposition 64 were passed in 2016 that demographic began to change. While Prop 64 was hailed as a law to eliminate the black market and drive the cartels out of the weed market, the new law has done just the opposite. With unregulated outdoor public and private land cannabis production now watered down from a felony to a misdemeanor (and bumped down from a misdemeanor to an infraction for juvenile offenders) under the new law, the cartels have faced little, if any, penalties for mass producing illegal cannabis for our nation's black market. This law structure is incentivizing illegal cannabis production for a lucrative nationwide black market while driving legitimate and environmentally regulated cannabis growers out of business.

This has led to massive increases of unregulated private land grow sites throughout California and other states now dominated by the Asian (Chinese and Hmong) crime groups. According to my colleagues at the Drug Enforcement Administration, and just like Mexican cartel operatives, many Chinese nationals are currently entering the US through the flooded open border to conduct crimes for their organization.

These illegal Chinese cannabis production operations are not only widespread throughout California but other states including Oklahoma, Oregon, and Maine, with diverted and stolen water used for their black-market plants. We are also seeing new Chinese poisons that are being smuggled across the border and may be even more toxic than the Carbofuran type insecticide poisons traditionally used by the Mexican cartels with widespread human trafficking and coerced labor of grow site workers (primarily Mexican and Chinese nationals) throughout these private land sites being the norm.

While raiding grow sites throughout Siskiyou County with the Sheriff's Department we learned of approximately 10,000 illegal, outdoor private land grow complexes that have taken over the rural county. These grow sites are depleting millions of gallons of above ground and under-ground water table resources daily and stealing city water supplies for their grow operations. We saw numerous well drilling rigs and illegal wells throughout these grow complexes along with tons of trash, waste, and other pollutants in and around pristine streambeds adjacent to these sites.

Very alarming were the thousands of gallons of unknown chemical poisons in 55-gallon drums at every grow complex and the Tyvek hazmat like suits and respirator mask systems within each site. The growers were using these suits when spraying or smudge pot burning these insecticide poisons onto their cannabis plants indicating the toxic, and potentially deadly, nature of this cannabis reaching our nationwide black market.

Many Siskiyou County farmers, ranchers and other community members have been threatened with violence by cartel growers to look the other way as their farm and ranch water supplies are now being depleted and emptied by these criminal

groups. Feeling over run and in danger, many long time Siskiyou County community members have moved out of the area. Other crimes we saw throughout these grow operations included human trafficking, animal cruelty, water pollution and streambed alteration to name a few.

These travesties are not isolated to this specific region. Cartel generated crimes are occurring far beyond our northern and southern borders in every state and impacting us all. While I have outlined the wild land, waterway and wildlife resource crimes engendered by these criminal groups and the associated dangers to our public's safety from my experiences, we must remember that these TCO's are poly-criminals whose organizations engage in other damaging crimes beyond toxically tainted black market cannabis production.

DEA officials point out that the Mexican cartels (Sinaloa and Jalisco New Generation) are now partnered with the Chinese cartels to the benefit of both organizations. Chinese crime groups supply the pre-cursor chemicals the Mexican cartels need to produce and distribute fentanyl and meth-amphetamine killing hundreds of thousands of Americans annually, while the Chinese have virtually taken over the black market cannabis trade using America as the middle man to launder billions of untraceable cash dollars (<https://youtu.be/xMsLDv4M0VM?si=Bkk8IqHS5F4DEZsH>).

In all cases our nation's people and our pristine wildland, waterway and wildlife resources are poisoned and destroyed in the process. Even more disturbing is the multi-billion-dollar human and child sex trafficking networks these TCO's are running not only throughout America but across the globe and growing rapidly.

With growing awareness of these embedded cartel crimes, I am witnessing more interest and outrage from fellow Americans like never before as evident from a 100 times wider distribution rate of the 2022 second edition release of my latest book, Hidden War compared to distribution levels of the first edition published in 2019. High reach public figures like Joe Rogan are alarmed and networking these issues in an effort to make Americans aware of the criminal activities transpiring across our nation and their support and passion is inspiring.

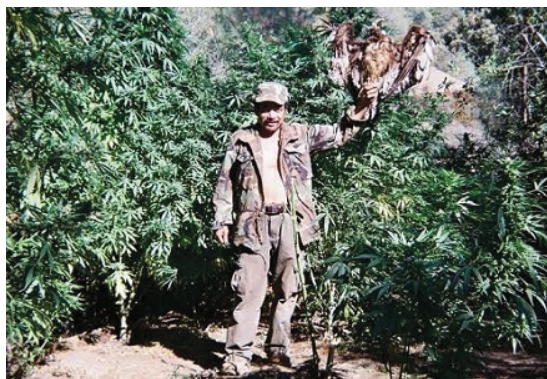
Given everything we have seen while combating these criminal groups, stopping TCO's from operating within America to poison our citizens and to prey upon our children must be a top policy priority. With the doorway for these groups to begin operations throughout our nation is our border, that door must be closed and controlled carefully.



Cartel gunman in national forest grow complex



Carbofuran grow site poisoned Mountain Lion



Cartel grower with poisoned golden eagle



Mexican cartel EPA banned grow site poisons



Vietnam era anti-personnel punji pit in National Park



Outdoor cartel grow site in state park



Mexican cartel grow—public river water stealing



Northern CA National Forest cartel grow site waste



Tyvek poison protection suit in Chinese private land outdoor grow site



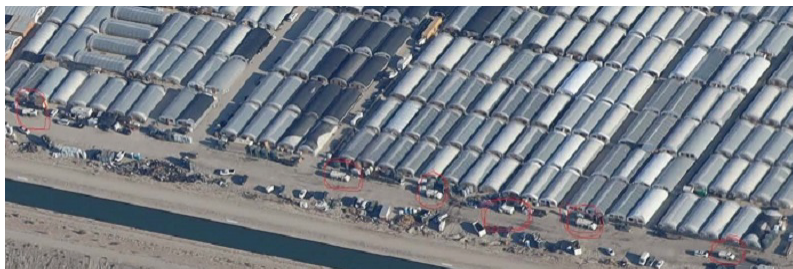
Mexican cartel gunmen in outdoor grow complex—CA



Cartel grow—EPA banned poison killed grey fox



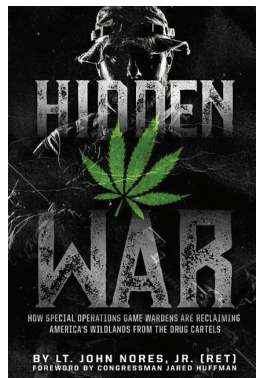
One of several new and highly toxic Chinese grow site poisons



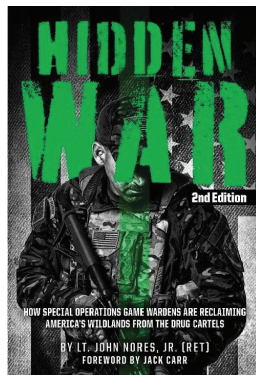
Massive cartel illegal private land cannabis complex—LA County
Note: Each red circle is a water truck pumping in stolen water with trucks running 24/7



Poisoned water and illegal well drilling operation on private land cartel grow site



Hidden War Edition 1—Forward by Congressman Jared Huffman



Hidden War—Updated Edition 2—Forward by Jack Carr

Dr. GOSAR. I thank the gentleman. I am now going to go to questions from the dais. We are going to start with the gentleman from Georgia, Mr. Collins, for his 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman.

Ms. Axelrod, the Biden administration hasn't conducted public notice and comment periods under the Administrative Procedure Act before taking many actions that have opened the southern border and damaged our environment. Why does a rancher who wants to graze 100 cattle on public land need to go through some sort of NEPA process, but the Administration can decide to let millions of people cross through our public lands on the border without any NEPA process at all?

Ms. AXELROD. Thank you. That is a very good question. I mean the answer is really that nobody has made them.

When NEPA was first passed in 1970, it contemplated thinking about the environmental impacts of people coming into the country, the population growing. And very early on, people, a lot of cases said, yes, population growths are what we have to think about. Obviously, immigration is part of this.

But no one sued. So, when NEPA first started being enforced it was because people started suing. And a lot of environmental groups sued over atomic energy. And the initial response from an agency is, like, well, we don't really need to do it. And the court said, "No, you need to do it. If there is a big environmental impact, you need to do something."

But what happened was INS said, and before Homeland Security, the Department of Homeland Security was INS. So, INS promulgated NEPA procedures, which every agency has to do, as mandated by law. And INS said, "I think all of our NEPA process is if we build a detention center, because then we are building a building. So, we have to think about the environmental effects of the building."

Well, NEPA doesn't say you do NEPA if you build a building or you lease a building. It says you do NEPA if you affect the environment. And in 2003, the Department of Homeland Security replaced INS and it later developed NEPA procedures. And its NEPA procedures don't say anything about immigration at all. They don't even think about it, even though it is a large part of their mandate and it is one of the most environmentally impactful mandates. So, basically, they just don't do it and they should.

Mr. COLLINS. What did the Administration say in response to the comment that it needed to do NEPA analysis in the few times it did conduct one for immigration policies, maybe such as the new rule on asylum?

Ms. AXELROD. Yes. They used to just ignore it altogether. When people started to comment, they started to actually reply in the administrative process. And what they would do was they would cite a categorical exclusion, which is in the NEPA process, where you say this category of actions doesn't need NEPA.

So, they would say, "Well, we don't really think you need to do NEPA on immigration because it is impossible to predict the effects of it. It would require a lot of speculation." Well, OK, that is what NEPA is for.

Mr. COLLINS. Yes.

Ms. AXELROD. NEPA is for doing the analysis when you don't know what the effects are going to be.

Mr. COLLINS. Right.

Ms. AXELROD. Of course, it is extremely predictable in this case. With these, if you open the border, it is extremely predictable that you will have environmental effects. I don't think anyone can really listen to what we hear today in a hearing and say there are no environmental effects to this, this is nothing. But they say, "Well, you know, we don't know. We are not really sure."

Mr. COLLINS. Yes, I think you can even see that. Everybody can see the environmental effects. Thank you.

Lieutenant Nores, you mentioned the cartels in black market cannabis production are shifting significantly from public land operations to rural private lands on the West Coast. Why the recent shift?

Mr. NORES. Yes, thank you, Congressman. The shifts largely come from our regulation structure in California under Proposition 64. That regulation structure for regulated cannabis recreational use has been in place since 2016, and we are on our 7th or 8th year of it. And because under Prop 64 we lowered the penalty for outdoor trespass growing or even private land growing illegally by these cartels, we lowered it from a felony to a misdemeanor and for a juvenile offender an infraction, which basically put very little deterrent bite in growing illegal cannabis anywhere in our private or public lands.

So, now the cartels are basically going to private lands, where they don't have to go as far into the woods, if you will, in the backcountry, and just putting thousands and thousands of grows, like in Siskiyou County that we referenced that Congressman LaMalfa also mentioned in his question previously.

And at this point now we have a lot of enforcement action out that my previous agency is working hard through their cannabis enforcement program to stop, as well as other agencies. But it is a matter of numbers and playing whack a mole. We are just outnumbered and really outresourced from the standpoint of these private land grows because of an incentivized black market through the new law.

Mr. COLLINS. Right. OK. I know I am over.

Dr. GOSAR. I thank the gentleman.

Mr. COLLINS. Thank you.

Dr. GOSAR. The gentleman from Arizona, Mr. Grijalva, the Ranking Member of the Full Committee, is recognized for 5 minutes.

Mr. GRIJALVA. Thank you, Mr. Chairman.

Ms. Axelrod, I agree with you on the sanctity of NEPA, I really do. I think that is fundamental to many things, to transparency and to the public. And the fact that Biden in this latest fence wall construction waived 18 laws, including NEPA, I opposed that, and I feel that a process with NEPA would have been appropriate and necessary regarding the airfield, because that is the sanctity of that law.

Do you specify it just to the issue of population and immigration, or is NEPA the broader concept that I am talking about right now?

Ms. AXELROD. NEPA is not just population growth. NEPA applies to any action that is likely to have a major environmental impact. So, the fentanyl coming across the border, I mean, when it comes to the border, the people coming across the border have immediate physical impacts, but they also have impacts when they—

Mr. GRIJALVA. So, we shouldn't waive or affect NEPA with regard to that important legal process and public process when it comes to the siting of a mine, the permitting of particular drilling and extraction, the building of a wall.

Ms. AXELROD. Well, I am a lawyer, so I am talking about what is legal and what is not legal. In the law we have been given, all administrations have been given the right to waive NEPA if they build a wall because of the immediacy of the problems, including environmental problems of the southern border being open. So, the Illegal Immigration and Nationality Act said yes, you can waive it, but it would apply if not waived, of course.

Mr. GRIJALVA. Ms. Axelrod, I have 5 minutes, and I apologize if I am being curt, but Ms. Axelrod, you are with the Center for Immigration Studies. You are aware that they are labeled by the Southern Poverty Law Center as a hate group?

Ms. AXELROD. A lot of places are labeled as a hate group by the Southern Poverty Law Center because it seems to be that it labels places that disagree with them politically as hate groups. That is their opinion. I mean, they have been sued over it, and they have lost, actually, in court, for some of the people they have named hate groups.

Mr. GRIJALVA. Well, the label was because of repeated circulation of White nationalists and anti-Semitic writers in its weekly newsletter and the commission of a policy analyst who had previously been pushed out of the Conservative Heritage Foundation for the embrace of racist pseudoscience. The development, its historical association, and the record of publishing reports that hype the criminality of migrants were one of the reasons they were labeled. I am sure you are aware of that.

Ms. AXELROD. I am aware that a lot of people who can't deal with the fact that it is very clear that there are environmental impacts of immigration—

Mr. GRIJALVA. Mr. Chairman?

Ms. AXELROD [continuing]. Instead of dealing with that and dealing with the fact that the Biden administration—

Mr. GRIJALVA. Mr. Chairman?

Ms. AXELROD [continuing]. Has been breaking the law, instead of dealing with that want to call names. I am aware of that.

Dr. GOSAR. The gentleman is trying to reclaim his time.

Mr. GRIJALVA. I am not a lawyer, but I think consistency would be important for your presentations before Congress.

Ms. AXELROD. I think consistency would be important—

Mr. GRIJALVA. Mr. Chairman—

Ms. AXELROD [continuing]. For people who say that they care about the environment, but don't want to do NEPA.

Dr. GOSAR. It is the gentleman's time.

Mr. GRIJALVA. Mr. Chairman, thank you very much for being here again.

The O'odham Nation and its relationship to the two sites that you mentioned and the cultural resources and the protection of those sites going forward as a sovereign nation, how would you best recommend to Congress about that relation of consultation, about that relation of the trust responsibility, and where the Nation fits in in any discussion, given a wall, so that we don't have the same situation, unfortunately, that cannot be remedied that happened on tribal land and adjacent to tribal land on Federal land?

Mr. JOSE. Committee Chair and honorable Committee members, Ranking Member Grijalva, thank you for the question.

Where I see going forward in this whole issue here, the border wall and the immigration, there needs to be true consultation so that we can avoid and we can address some of the issues that not only I and other members that have come before you have talked about, because I believe that that is what is absent: true consultation to address some of these issues. You have been hearing about NEPA, so it applies here but it doesn't apply there. It applies here but it doesn't apply there. We need to look at that collectively. And the Tohono O'odham Nation requests a seat at the table.

So, to your question, how do I see it going forward, that the Nation be included at the table, as stated in the testimony, that we have a vested interest in this, as well, and to protect the lands, to protect the people, to protect the environment, to protect the homeland. If we do that, I believe, the Nation believes that we can address the issues that become confrontations.

Mr. GRIJALVA. Thank you very much.

I yield back. Thank you, Mr. Chairman.

Dr. GOSAR. I thank the gentleman. Just to add kind of advice, we need to treat our panelists with respect. I know that we got a little terse there. So, I would like to make sure that that is—

Mr. GRIJALVA. If I in any way insulted, I just tried to get my time back so that I could ask the Chairman a question, but I don't think I was rude.

Dr. GOSAR. OK. Well, Ms. Axelrod, I want to give you the permission to talk to me about the Southern Poverty Law Center. I am like you, I disagree with them. And they hold it against us for our policy, our beliefs, instead of what we actually truly are.

Now, I have been labeled every name in the book. I am not one of those anti-Semites. I am not one of any of those. So, from that standpoint it is very prejudicial. And I think they are a very prejudicial group.

Ms. AXELROD. I mean, I am Jewish, so I am really not an anti-Semite.

Dr. GOSAR. Well, thank you very, very much. Would you like to say anything in short fashion in regards to the Southern Poverty Law Center?

Ms. AXELROD. I mean, again, I think when people don't want to deal with the fact that you have a valid point about immigration, they call you names instead. And I think it is really unfortunate that instead of actually talking about the environmental effects of immigration on our country, and the effects of the border, and instead of doing NEPA, we call people names who want to bring up important issues.

Dr. GOSAR. I agree with you. I absolutely agree with you.

Lieutenant Nores, in talking with you and seeing some of your pictures and stuff like that, can you elaborate on the environmental consequences of illegal immigration from the marijuana operations on the public lands?

Mr. NORES. Yes. I am happy to, Chairman.

The environmental impacts are exponential. Obviously, when we have these illegal growers in the forest to set up, say, a public land grow, trees are going to be removed, grasses, habitat. Creeks are going to be impacted by putting water diversions in and blocking water that feeds not only wildlife, but leads to city water supplies at the bottom of canyons.

Also, when we talked about the EPA-banned poisons that I mentioned in my intro, these are so toxic that a couple tablespoons of carbofuran poured into a small creek could destroy that creek for miles, no exaggeration, and kill every living aquatic within it for that span of distance.

So, what is the aftermath of that? Animals are going to die. There are potential water pollution sources for small towns and even large cities. On the private land front, even though we are not in the remote wilderness anymore in those pristine areas, we are still in a rural tract where we have creeks. We also have the underground water supply, the water table being impacted underground.

A lot of these illegal growers now throughout Northern California are bringing in illegal well-drilling operators, equipment, and they are going underground and taking millions and millions of gallons of water for, say, 10,000 grows as an approximation in Siskiyou County, and depleting the water supply so severely that ranchers that have lived in Siskiyou County for 100 years, farmers and community members in a small, rural "American town" that was safe are losing their water and having to leave town and move out of the area because of this infiltration.

So, it is an exponential compilation of environmental crimes that just continue, besides just dead animals inside a grow site.

Dr. GOSAR. And over the last 3 years have you seen an increase in that degradation and the wantonness? I mean, we have cashless bail, we have all sorts of different things. And particularly with the cartels, they are becoming very emboldened. Do you see a difference in the application toward public lands and to the environment?

Mr. NORES. We see a decrease in public lands, from what I am told by the agencies I worked for previously, over the last couple of years. But they still are on public lands. Obviously, national forests, national parks, as our Forest Service and national park representatives testified to earlier.

But the influx on private land, with as much if not more environmental damage, is definitely increasing exponentially, and not only in California. The Asian TCO cartel groups that I mentioned are in Maine, they are in Oklahoma, they are in Oregon, as well as California and possibly some other states.

The type of chemicals we are seeing right now that are coming in that are not from the Mexican cartels coming across our border, the carbofuran, but these new Chinese chemicals with labels on them going back to that country in these grow sites throughout all

of California, not just Northern California, and other states where they are run by Chinese organized crime groups, primarily, and not necessarily the Sinaloa Cartel, like historically in Mexico.

So, now we have two different cartels working environmental crimes throughout the nation because they can get here and they can operate with impunity the way our current structures are from cannabis regulation, and also what is happening on the border and the ease of entry.

Dr. GOSAR. It is almost like they are in sync, right?

Mr. NORES. I am sorry.

Dr. GOSAR. Like they are in sync, they are coordinating.

Mr. NORES. They very much are. And you brought up a good point with that coordination. My DEA colleagues have just exposed the fact that the Sinaloa Cartel and the Asian transnational criminal organizations are now working together in certain crimes. China is providing all the precursor chemicals for fentanyl production and methamphetamine that the cartels out of Mexico primarily run, and now we are seeing the private land, especially illegal grow sites going on in private land, with these new chemicals being run predominantly by the Chinese and Asian cartels.

Dr. GOSAR. Got you.

Mr. NORES. In a switch.

Dr. GOSAR. I just have a few seconds. Chairman Jose, tell me, you have infrastructure aspects of a road close to the border. How does that infrastructure differ from a fence? And what kind of degradation do we get from car traffic on those? Can you give me an idea of what the difference is?

Mr. NORES. I am sorry, are you talking to—

Dr. GOSAR. No, I am talking to Chairman Jose.

Mr. JOSE. Chairman, thank you for the question.

The Tohono O'odham Nation has an agreement with the Department of Homeland Security to maintain that road on the border. And it is fairly maintained.

The other roads on the Tohono O'odham Nation that are traveled by the Border Patrol and others are not maintained. So, the areas that are being patrolled are not on the border. They are off the border. I drive the border. I was just on the border Sunday. There is not a human wall on the Tohono O'odham Nation. There is a vehicle barrier. There are migrants coming up, there is illegal activity coming up. But the majority of that stuff is coming through the ports of entry or the places where there is a wall, not on the Tohono O'odham Nation.

Is there some coming across? Yes. The road is somewhat maintained along the border, but the Border Patrol is not patrolling the border.

Dr. GOSAR. Well, so you say that the fentanyl and these chemicals are coming through the ports of entry, but we don't know what we don't know. I mean, we have 155 this year alone, terrorists on the terrorist watch list. We have 155. And those are the ports of entry. We know all these gotaways, do you think most of these people on the terrorist watch list want to be caught? They do not.

That is why we extrapolate. And even what we found, even in the ports of entry, this fentanyl can kill the population of Arizona

time and time again, all of us, so I just want to make sure that everything is in proper perspective.

My time is up. I now acknowledge the Chairman for the Full Committee, Mr. Westerman, for his 5 minutes.

Mr. WESTERMAN. Thank you, Chairman Gosar. And, again, thank you to the witnesses.

Lieutenant Nores, I am fascinated by the work that you have done. I have been to tribal land. I have heard talk about these grow sites. I have read about it in other places. I am quite surprised that it is not more publicly known, that the press hasn't done more to get the word out on this, and it would make an interesting documentary, I think, to see how these cartels are operating on U.S. soil.

I have flown in helicopters over the border and miles off the border. I have seen the sites where cartels are operating and the smuggling operations. And it is really eye opening to me, even knowing what is happening, that these cartels are operating like this on our side of the border.

How do you respond to Americans who are not living near unregulated private or public land grow operations and do not see the direct cartel threats?

Why should this be a priority issue?

Mr. NORES. Thank you, Congressman, especially for your interest in it. And I agree, we aptly named the new book "Hidden War" because so many people don't know the depth throughout America of what these cartels are doing.

And what we have seen at this point is not everybody is a cannabis user in America. Not everybody lives next to an illegal grow site, even a rural private land grow site or maybe deep into the national forest. What we need to remember is this cannabis that is coming from these transnational criminal organizations, these cartels, has these EPA-banned poisons on it, and they are not washing that stuff off. They are not worried about health and human safety.

So, these criminal groups, that marijuana is going out to the masses on a black market in almost every state in the Union, even though those people may not live next to that grow site. They could possibly be affected by consuming an inorganic, unregulated cannabis product.

The other thing we need to remember is, with the human trafficking, the fentanyl crisis, and methamphetamine, like we have talked about throughout the day with various witnesses, that affects everybody. That is in all 50 states. And while illegal cannabis may not be grown in all 50 states by the cartels, that other stuff is happening.

So, this is a domestic problem that I think we need to handle as a complete priority, and look at the cartels as poly-criminals, as they are defined, and not just cannabis, or human trafficking, or fentanyl, or gun-running, but really the biggest domestic threat I believe we have in America that needs to be handled like anything we would consider a national security issue harming our people.

Mr. WESTERMAN. I appreciate your work on that. I want to ask one other just quick question about it before I move on.

From what I understand, some of these chemicals, pesticides or insecticides, herbicides, the things that they are using, if the farmers back in my district wanted to get them to grow a legal crop, they would have no access to it, nor should they have access to it. That is the kind of chemicals that we are talking about.

Mr. NORES. We indeed are, Congressman. These are chemicals that were made in the 1940s and 1950s. There are nerve agents in them, there are anticoagulants. They are very effective at keeping rodents, insects, pretty much anything off of a marijuana plant that a cartel crime group would not want to have their plant infringed for the profit loss.

What we need to remember, though, is when EPA got their technology up to study these chemicals that were legal in America at one time, they realized that, when properly used, they were still too toxic for human use and consumption on our fruit crops, on our agricultural products.

And keep in mind one bottle or one 12-ounce crystalline powder container of carbofuran was made to be diluted into 5,000 to 6,000 gallons of water before it was put on our American agricultural crops, and EPA determined that that was too toxic. The growers we see using this stuff literally have 5-gallon backpack sprayers, and they pour bottles of this stuff into that backpack sprayer and put it on the cannabis, they put it in the groundwater below, they put some of it in tuna cans and other little traps to have animals suck in and poison them so they don't infringe upon their cash crop.

And these new Chinese chemicals are mind blowing. We are just finding out in the last couple of months that they are not just spraying them and diluting them with a liquid. They are actually pouring them into paint cans, mixing them up and burning them in smudge pots. And these smudge pots give off a smoke aroma inside an enclosed grow house, like a hoop house, which is obviously much more contained than being in the outdoor, pristine woods of, say, a grow in a national forest. And this stuff is just nasty.

We are seeing Tyvek suits that the growers are using with the fitted masks and full rebreather, ventilated filters similar to or actually a hazmat suit—

Mr. WESTERMAN. I can see you are passionate about that. I hope you will keep telling your story, and I hope we can help tell that story from this Committee and here in Congress.

I am almost out of time. I had more questions. But Chairman Jose, I just have to ask you. If I have problems with Ranking Member Grijalva, can you help me out with that?

[Laughter.]

Mr. WESTERMAN. That was a yes.

I yield back.

Dr. GOSAR. I thank the Chairman.

You came a long way. One of my questions that I have, one last question, what was the question you wanted to have been asked, and what is the answer?

I will start with you, Ms. Axelrod.

Ms. AXELROD. Well, I guess I wanted to have people ask me what could be done to force the Administration to start following NEPA instead of ignoring it so much.

And I think one thing that could be done is it could be clarified that Americans really are harmed by immigration in terms of standing, and that they are harmed by the illegal immigration, and that the DHS, their procedures really are inadequate because they have NEPA procedures that just don't describe immigration whatsoever at all. And they just say, "Well, those aren't really our procedures, they are not binding." They just escape by saying, "Well, you can't prove that any one thing we did caused this problem because we did so many things. So, you can't prove it was this or that, and you can't sue on all of them together."

Dr. GOSAR. Thank you, Ms. Axelrod.

Chairman Jose, what was the question you wanted to be asked and what is the answer?

Mr. JOSE. Honorable Chairman, distinguished members of the Committee, the question I was hoping to get was, "Chairman Jose, what would you do to address the border issues?"

And my response would be if I could have a magic wand, and I could wave it across the United States and have the United States kick its drug habit, that would be partially to satisfy some of the border issues.

The second thing I would do with that magic wand, I would wave that magic wand across and create true immigration reform.

I think if we addressed those two things, which are attainable, which are doable, we can address the majority of the border issues. Thank you for the question.

Dr. GOSAR. Thank you, Chairman.

Lieutenant, what was the question you wanted asked that wasn't asked, and what was the answer?

Mr. NORES. I guess the question really is, for me, it is first a statement of appreciation for taking the time to address this issue, for bringing it to the light, taking the hidden war and exposing it into the light that we are facing throughout America.

And I would just ask each and every one of you to take what we have discussed today, and I know everybody is, and make it a national priority. Let's educate and make this not a hidden war. Let's make this common knowledge to the American public. Let's look at it as a national security issue. Let's look at drug abuse, and basically the demand for some of these drugs and some of the commodities that the cartels are making not millions, but billions of dollars off of us Americans, while using our country basically as a stomping ground to run their criminal enterprises at the demise of the American public.

And I just thank everybody listening today that we can do something with that moving forward, and hope we can.

Dr. GOSAR. Thank you. I thank the witnesses for their testimony, and the Members for their questions.

The members of the Committee may still have some additional questions for the witnesses, and we ask that you respond to these in writing. Under Committee Rule 3, members of the Committee must submit questions to the Subcommittee Clerk by 5 p.m. on October 23. The hearing record will be held open for 10 business days for their responses.

If there is no further—

Mr. GRIJALVA. I have a question for my two colleagues.

Dr. GOSAR. Go ahead.

Mr. GRIJALVA. Are we going to vote again on the Floor or should we make other plans, Westerman?

Mr. WESTERMAN. We will vote on the Floor some time. I don't have any——

Mr. GRIJALVA. Maybe today? Maybe tomorrow?

Dr. GOSAR. Definitely probably tomorrow, but maybe tonight.

Mr. WESTERMAN. Say tomorrow.

Mr. GRIJALVA. Yes, we should all take a deep breath for a little while.

[Laughter.]

Dr. GOSAR. With that in mind, this meeting is adjourned.

[Whereupon, at 4:49 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Statement for the Record
Government Accountability Office

Chairman Gosar, Ranking Member Stansbury, and Members of the Subcommittee: Thank you for the opportunity to submit this statement regarding our work on cultural and natural resource impacts from border barrier construction along the U.S. southwest border. To help address illegal cross-border activity, the federal government has constructed hundreds of miles of physical barriers along the southwest border in recent decades, including on federal lands managed by the Department of the Interior where important cultural and natural resources are located. These resources include sacred sites for tribal communities, as well as the habitats of dozens of threatened and endangered species of animals and plants. Federal and tribal lands make up a total of 760 miles, or approximately 40 percent, of the nearly 2,000-mile border.

In January 2017, an executive order directed the Secretary of Homeland Security to immediately plan, design, and construct a contiguous wall or other impassable physical barrier at the southwest border.¹ In response, the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP) initiated the Border Wall System Program to replace and construct new barriers along the southwest border. In 2019, the President declared a national emergency that directed the Department of Defense (DOD) to provide additional support to CBP efforts.²

DHS and DOD used legal authorities to waive various cultural and natural resource-related laws in constructing border barriers from January 2017 through January 2021.³ Within DOD, the U.S. Army Corps of Engineers (USACE) was tasked to help expedite the construction of border barriers using billions of dollars in DOD funding made available following the National Emergency Declaration. A presidential proclamation paused construction in January 2021.⁴

My statement is based on our September 2023 report entitled *Southwest Border: Additional Actions Needed to Address Cultural and Natural Resource Impacts from Barrier Construction*.⁵ It discusses border barrier installed from January 2017 through January 2021 and its impacts to natural and cultural resources, and CBP and DOD assessments of potential impacts of border barrier construction during that time.⁶

For that report, we reviewed laws, regulations, and guidance applicable to the construction of border barriers. We described border barrier installed by analyzing CBP's geospatial data and overlaying data from the U.S. Geological Survey. To identify impacts from the construction and to evaluate CBP's and DOD's pre-construction assessments, we reviewed agency documents, including assessments, and interviewed officials from CBP, USACE, Interior and its component agencies, and the U.S. Department of Agriculture's Forest Service. We also interviewed a non-generalizable sample of two tribal governments and five nongovernmental stakeholders regarding their perspectives and visited project sites along the border in Arizona and Texas. The report contains a more detailed description of the scope and

¹*Border Security and Immigration Enforcement Improvements*, Exec. Order No. 13767, § 4, 82 Fed. Reg. 8793, 8794 (Jan. 30, 2017) (issued Jan. 25).

²*Declaring a National Emergency Concerning the Southern Border of the United States*, Pres. Proclamation No. 9844, 84 Fed. Reg. 4949 (Feb. 20, 2019) (issued Feb. 15).

³The laws DHS waived included, but were not limited to, the National Environmental Policy Act of 1969 (NEPA), Endangered Species Act, Federal Water Pollution Control Act (Clean Water Act), Clean Air Act, National Historic Preservation Act, Migratory Bird Treaty Act, Archeological Resources Protection Act, Paleontological Resources Preservation Act, Safe Drinking Water Act, Solid Waste Disposal Act, and the Native American Graves Protection and Repatriation Act. See e.g., 84 Fed. Reg. 52118 (Oct. 1, 2019). The laws DOD waived included: NEPA, National Historic Preservation Act, Endangered Species Act, Migratory Bird Treaty Act, Migratory Bird Conservation Act, Eagle Protection Act, Clean Water Act, Fish and Wildlife Coordination Act, and the Clean Air Act.

⁴*Termination of Emergency With Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction*, Pres. Proclamation No. 10142, 86 Fed. Reg. 7225 (Jan. 27, 2021) (issued Jan. 20). This proclamation also revoked Executive Order 13767, which called for construction of a border wall.

⁵GAO, *Southwest Border: Additional Actions Needed to Address Cultural and Natural Resource Impacts from Barrier Construction*, GAO-23-105443 (Washington, D.C.: Sept. 5, 2023).

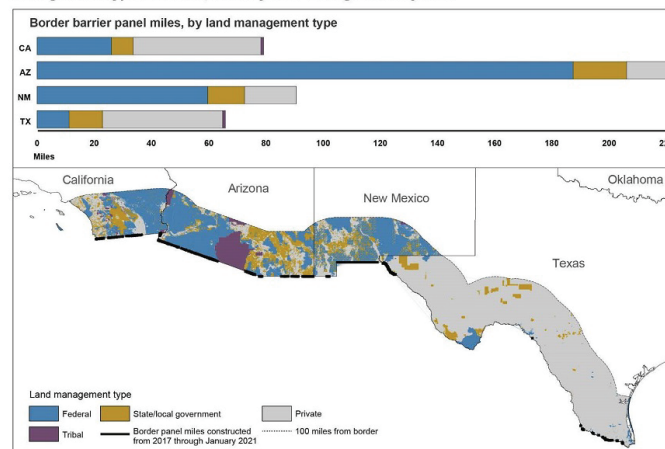
⁶In our report, we also assessed actions taken to address impacts to cultural and natural resources since January 2021.

methodology of our review. Our work was performed in accordance with generally accepted government auditing standards.

Barrier Construction from January 2017 through January 2021 Had Various Impacts on Cultural and Natural Resources

In our September 2023 report, we found that CBP and DOD, via USACE, installed approximately 458 miles of border barrier panels across the southwest border between January 2017 and January 2021.⁷ About 284 of these miles (62 percent) were on federal lands, including those managed by the National Park Service, Fish and Wildlife Service (FWS), and the Forest Service, according to CBP data. For example, the agencies constructed 187 miles of barrier panels across federal lands in Arizona, more than in any other state, including through Organ Pipe Cactus National Monument, San Bernardino National Wildlife Refuge, Cabeza Prieta National Wildlife Refuge, and Coronado National Forest. Most of the barrier miles that the agencies planned to construct with DOD funding were on federal lands because selecting those locations expedited the contracting and construction process (see fig 1).⁸

Figure 1: Miles of Border Barrier Panels Installed along the Southwest Border, by Land Management Type and State, January 2017 through January 2021



Source: GAO analysis of U.S. Customs and Border Protection and U.S. Geological Survey, Protected Areas Database of the United States data. | GAO-24-107127

Notes: This figure shows locations of miles of border barrier panels installed from 2017 through January 2021. It does not include locations of miles of barriers installed prior to 2017. Tribal lands are American Indian Reservations-Federal and American Indian Trust Land, as defined by the U.S. Census Bureau.

The agencies installed pedestrian barrier panels (rather than vehicle barriers) for any project initiated as part of the border barrier system after 2017.⁹ According to CBP data, more than 80 percent of the miles of pedestrian barrier panels installed

⁷ Border barrier panels refer to the vertical pedestrian barrier component of CBP's border barrier system. CBP's full barrier system included pedestrian barrier panels—consisting of 18- to 30-foot-tall concrete-filled steel bollards—and other attributes such as lights and sensors. In some cases, the barrier system also included features such as roads or levees. In the report, we referred to barrier panels because most of these miles represented the installation of barrier panels rather than the completion of the entire CBP barrier system.

⁸ See GAO, *Southwest Border: Schedule Considerations Drove Army Corps of Engineers' Approaches to Awarding Construction Contracts through 2020*, GAO-21-372 (Washington, D.C.: June 17, 2021). We have previously reported that barrier construction on federal lands allowed CBP and DOD to proceed without the government first having to acquire real estate from private landowners—a process that could take years, according to CBP officials. GAO, *Southwest Border: Information on Federal Agencies' Process for Acquiring Private Land for Barriers*, GAO-21-114 (Washington, D.C.: Nov. 17, 2020).

⁹ Vehicle barriers are typically about 3 feet tall with wide enough openings to allow for wildlife passage.

replaced previously existing pedestrian or vehicle barriers. Our 2023 report includes additional details about the barrier panels installed.

We also found in our September 2023 report that a variety of impacts to cultural and natural resources occurred from border barrier construction, according to federal officials and representatives from Tribes and stakeholders we interviewed and our observations. Construction activities, the installed barrier system components, and incomplete project activities due to the cancellation of construction contracts after the January 2021 pause contributed to these impacts. For example, pausing construction and canceling contracts exacerbated some of the negative impacts because contractors left project sites in an incomplete or unrestored state as of the January 2021 pause, according to agency officials. We identified impacts in five broad categories: cultural resources; water sources and flooding; wildlife migration and habitats; vegetation and invasive species; and erosion. Examples of these impacts include:

- **Cultural resources.** Some projects caused significant damage and destruction to cultural resources, including historic sites and sites sacred to Tribes, according to tribal and agency officials and four of the five stakeholders we interviewed. For example, according to Tohono O'odham Nation officials, a culturally important site in Arizona was irreparably damaged when contractors used explosives to clear the way for expanding an existing patrol road. The blasting damaged portions of Monument Hill, a site that the Hia-C'ed O'odham, ancestors of the Tohono O'odham, and other Tribes historically used for religious ceremonies and that remains important to several Indigenous communities. According to Tohono O'odham Nation officials, Monument Hill was the site of intertribal battles and contains the remains of Apache and O'odham ancestors who fought in those battles.
- **Water sources and flooding.** The barrier system itself can disrupt the natural flow of water in heavy rain events. These rain events can occur regularly along rivers and drainages near the border, and barrier-related obstructions can exacerbate flooding, according to National Park Service and Bureau of Land Management officials. For example, during construction, the contractor built the patrol road several feet above the desert floor in Organ Pipe Cactus National Monument, in some places by as much as 8 feet. As a result, the raised road acts as a natural dam by impeding water flow during rain events. During heavy rains, water typically flows south across the desert into Mexico but now hits the side of the raised road, according to a National Park Service official. We observed that, as of May 2022, more than a year after the pause in construction, the contractor had not yet regraded the road to allow for proper drainage.
- **Wildlife migration and habitats.** Installation of pedestrian barrier has affected wildlife by impeding their movement across the landscape, including in habitat for threatened and endangered species, according to tribal and agency officials and all five stakeholders. For example, installing the full border barrier system in parts of the Rio Grande Valley in Texas has fragmented the endangered ocelot's habitat, according to a joint FWS and CBP documented agreement. The barrier system has also severed the animal's travel corridors across the border. These cumulative impacts have substantially elevated the risks of the ocelot's extinction in the U.S., according to the agreement.
- **Vegetation and invasive species.** Clearing lands for border barrier construction damaged native vegetation. FWS officials told us that invasive plant species took root at project sites in Texas, where contractors cleared native vegetation to create staging areas to store construction equipment and materials. Although construction contracts usually included reseeding native vegetation, in many cases the reseeding did not occur because of the January 2021 pause in construction, according to FWS officials.
- **Erosion.** Barrier construction on steep hillsides—and erosion control measures that were unfinished when construction was paused—have led to significant erosion in many locations, especially because the agencies were unable to address the erosion for more than a year in many cases, according to CBP officials. For some projects, contractors disturbed large tracts of mountainside to install barrier, build access roads, and clear construction staging areas, leaving steep slopes unstable. In addition, according to CBP officials, incomplete erosion control measures along the barrier and patrol roads threatened the integrity of the barrier system itself. For example, according to agency officials, contractors built a large construction staging area near the

top of a mountain in the Pajarito Mountains on the Coronado National Forest in Arizona, clearing the mountainside of vegetation that kept the soil in place. According to a Forest Service official, the entire mountainside is in danger of collapse (see fig. 2).

Figure 2: Erosion on the Coronado National Forest in Arizona (May 2022)



Erosion below the site of a cleared staging area (left), erosion below an area where only several border barrier panels were installed as of January 2021 (right).
Source: GAO. | GAO-24-107127

Some officials also reported positive impacts of barrier construction on natural resources. For example, one Coronado National Forest official noted that there was less trash and trampling of native vegetation after the barrier was built. CBP officials also noted that the addition of barrier in some areas reduced the amount of drug trafficking across some federal lands, making it safer for patrol agents to travel along the border.

CBP and DOD Considered Potential Impacts, but Agencies, Tribes, and Stakeholders Identified Concerns

In our September 2023 report, we found that CBP and USACE, within DOD, each took steps to assess potential cultural and natural resource impacts of border barrier construction and actions to help minimize these impacts for the projects they managed. Because the agencies waived legal requirements, including cultural and natural resource-related laws, before constructing border barriers between 2017 and January 2021, they did not have to conduct any activities required by those laws, such as environmental assessments required by the National Environmental Policy Act of 1969 (NEPA), as amended.

Despite the waived legal requirements, CBP and USACE officials told us they reviewed studies, conducted some assessments and surveys, and solicited input from federal agencies and others. Officials from both agencies said that their approaches differed from what they would have done if they had been required to comply with NEPA. However, CBP officials said they tried to meet, as closely as possible, NEPA's substantive requirements, when time permitted. USACE officials also said that they took the steps they could, while operating in the best and fastest way possible.

Land management agency officials, tribal officials, and stakeholders told us they have concerns regarding how CBP and USACE assessed potential cultural and natural resource impacts. In some cases, they noted that they shared these concerns with CBP and USACE. CBP and USACE officials also noted some concerns regarding the assessments. These concerns included:

- **Soliciting and incorporating input.** Land management agency officials, a tribal official, and all five of the stakeholders we interviewed suggested that CBP and USACE could improve their approach to soliciting and incorporating input regarding their assessments, such as by consulting with Tribes and providing more detailed information when soliciting input. For example, officials from FWS and the National Park Service both described instances when CBP solicited input on maps or project descriptions but did not include important details that would allow them to offer anything but general feedback. According to USACE officials, the short time frames limited their ability to solicit and incorporate additional input. CBP officials said that they did not always respond to the input they received and noted that they could do a better job of that in the future.

- **Sufficiency of analysis.** One stakeholder and a tribal official emphasized the importance of studying related issues before taking action to construct barriers, such as studying the impact on wildlife from installing lights on border infrastructure. In addition, some of the CBP and USACE assessment reports we reviewed identified limitations of the agencies' own analyses. For example, CBP's assessment of potential impacts for a project in Arizona stated that the agency did not survey the project location at the right time of year to identify many of the potentially affected species or their potential habitats. CBP officials explained that they did not undertake some studies because they would not have completed them in time to meet construction deadlines.
- **Flexibility in barrier decision-making.** Land management agency officials and three of the five stakeholders we interviewed also noted concerns about the agencies' limited flexibility in decision-making about barrier system installation, including barrier type (pedestrian or vehicle) and location. One Interior official said that having such flexibility could provide more opportunities to satisfy both CBP's border security mission and the land management agencies' missions, especially on federal lands that have been specifically protected for their natural resource value. CBP officials told us that the 2017 executive order and appropriations acts limited their flexibility in varying the barrier system components, such as their ability to install vehicle barrier.¹⁰ According to USACE officials, they also did not have flexibility in choosing barrier system components to install, and the military construction projects were to comply with CBP's standard for the border barrier system.

We found that CBP, which has committed to implementing mitigation actions and maintains its authority to construct border barriers, has not fully evaluated these concerns to inform future actions or efforts.¹¹ According to key practices that we and others have identified for both program and project management, it is important to identify and apply lessons learned from programs, projects, and missions to limit the chance of recurrence of previous failures or difficulties.¹²

CBP officials said they have not evaluated lessons learned regarding their assessments because they have not completed the barrier construction projects. They said that they would typically wait to consider such lessons once that occurs. However, CBP conducted its efforts to assess the potential impacts of those projects prior to January 2021, which would allow it to consider any lessons from those efforts now, even if it is conducting additional work at the project sites. Moreover, CBP's statutory authority to build border barrier, as well as to waive laws when doing so, remains in effect, so it is important to improve its process.¹³ By evaluating lessons learned, CBP could gain insights for imminent, ongoing, or future barrier construction efforts conducted using its waiver authority.

In our September 2023 report, we recommended that CBP, with input from Interior, DOD, Tribes, and stakeholders, evaluate lessons learned from its prior assessments of potential impacts. CBP agreed with this recommendation and stated it would collect information and compile a lessons learned report by June 2024.

Chairman Gosar, Ranking Member Stansbury, and Members of the Subcommittee, this concludes my statement for the record.

Anna Maria Ortiz,
Director, Natural Resources and Environment

¹⁰The 2017 executive order directed the planning, design, and construction of a contiguous and impassable physical barrier, and CBP's fiscal years 2018 through 2021 appropriations acts directed the agency to use operationally effective barrier designs that were already deployed as of May 2017. CBP's fiscal years 2020 and 2021 appropriations also permitted certain operationally effective adaptations of those earlier designs.

¹¹As of June 2021, DOD had canceled all military construction- and counterdrug-funded border barrier projects.

¹²GAO, *Project Management: DOE and NNSA Should Improve Their Lessons-Learned Process for Capital Asset Projects*, GAO-19-25 (Washington, D.C.: Dec. 21, 2018). Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition (2017); and *Implementing Organizational Project Management: A Practice Guide*, First Edition (2014). PMBOK is a trademark of Project Management Institute, Inc.

¹³In October 2023, DHS waived various cultural and natural resource-related laws again to facilitate installing additional physical barriers and roads along the border in Texas. *Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended*, 88 Fed. Reg. 69,214 (Oct. 5, 2023).

Submissions for the Record by Rep. Gosar

Statement for the Record

Kickapoo Traditional Tribe of Texas
Orlando Escareño, Director of Police

Introduction

Thank you for holding this hearing on important issues pertaining to environmental damage to federal lands and National Parks caused by the surge in immigrant and asylum-seeker (collectively, immigrant) crossings along the U.S.-Mexico border in southern Texas (Southern Border), particularly including how such crossings affect our tribe, the Kickapoo Traditional Tribe of Texas (Tribe), just outside of Eagle Pass, Texas.

The Tribe is one of three federally recognized tribes in the State of Texas (State). Our Tribe is located parallel to the Southern Border, with a membership of approximately 1,100 tribal citizens, most of whom reside on our Reservation near Eagle Pass in Maverick County. Our Tribe also has certain trust and adjoining fee lands that run directly parallel to the Southern Border, and some of these lands are located along the Rio Grande river system, and the Tribe also owns fee land for traditional hunting purposes in Maverick and Kinney Counties. As I discuss in greater detail below, our Tribal land has been the subject of a significant number of illegal border crossings by immigrants, many of whom are leaving behind waste on our lands and whose crossings are exacerbating the challenges our Tribal law enforcement officers experience with ensuring public safety.

I. The Kickapoo Traditional Tribe of Texas Police Department

Background. The Kickapoo Traditional Tribe of Texas Police Department (Tribal Police Department) is certified by the Texas Commission of Law Enforcement (TCOLE) and works in tandem with the law enforcement departments of Maverick County, the State of Texas, and the United States through various partnerships, including cross-deputization agreements. Our Tribal Police Department also coordinates with the United States Border Patrol (Border Patrol) to ensure the safety of our Tribal members and non-Indian communities along the Southern Border.

The mission of the Tribal Police Department is to protect the lives and property of the people we serve, to reduce criminal activity, to preserve the peace and to maintain a safe environment in partnership with the Indian and non-Indian communities both within and surrounding the Tribe's reservation. Our Tribal Police Department personnel includes 30 full time patrol officers, who proudly serve this mission. However, with only 30 patrol officers and limited resources at our disposal, our ability to carry out this mission is already severely strained. In addition to protecting and serving our Tribal members, our officers are also responsible for serving and protecting the patrons of our Tribe's Lucky Eagle Casino Hotel, located on our Reservation. This operation generates necessary tribal government revenue, which our Tribe puts towards the general welfare of Tribal members per the Indian Gaming Regulatory Act. Through this operation and other ventures of the Tribe, the Tribe is the second largest employer in Maverick County, one of the poorest counties in the State. Unfortunately, the surge of illegal entries at the Southern Border only further hampers our ability to protect our Tribal members, visitors, and surrounding non-Indian communities.

II. Illegal Entries on Our Tribe's Lands

Strain on our Tribal Police Department. Over the past six months alone, our Tribal Police Department officers have responded to 72 reported cases of suspected illegal border crossings and turned over approximately 356 subjects to Border Patrol. While this may seem like a small number of crossings relative to the number of crossings in other border towns and cities, I reiterate that we have only 30 patrol officers at our disposal to respond to these incidents 24 hours each day, not to mention all other calls for assistance from our Tribe's community and the patrons of our Tribal gaming facility. Furthermore, this is just a six-month snapshot of the situation.

To make matters worse, our Tribal Police Department officers have access to only squad vehicles with the capacity to carry two individuals in addition to our officers. Under these circumstances (i.e. without larger transportation vehicles), to transfer large groups of illegally-crossing and/or undocumented immigrants to federal holding facilities, our officers have had to make as many as three trips to such facilities, with each roundtrip taking approximately 45 minutes of our officer's

valuable time. Time for such trips expand if the immigrants need medical attention. This all leaves us with fewer officers on the Reservation to carry out standard police duties.

Moreover, our Tribal Police Department lacks a temporary holding facility to detain immigrants our officers find crossing through our Tribal lands. Normally, our Tribal Police Department's procedure when coming across individuals who illegally enter through the border is to detain such immigrants until Border Patrol agents can travel to our Reservation to pick up said immigrants. Typically, Border Patrol agents will not arrive to our Reservation until approximately three-to-four hours after one of our officers is able to establish communications with Border Patrol. In other words, under ordinary circumstances where one of our 30 Tribal patrol officers detain immigrants, our officers lose approximately three-to-four hours staying with detained immigrants, which they could be spending on protecting and serving our Tribal members and surrounding non-Indian community members. The Tribe does not have a tribal jail, so we have nowhere to hold individuals while we await Border Patrol (we are hoping to secure grant funds to assist the Tribe in building one).

Illegal crossings also put our Tribal members and other community members at risk when immigrants attempt to or actually flee detention by our Tribal Police Department officers. While many turn themselves in (especially families), this is not always the case. There are times when individual immigrants flee when being approached by our Tribal officers, resulting in on-foot pursuits of these individuals. This can expend even more of our officers' invaluable time. In addition, we have serious concerns about illicit activities some of these individuals, who have criminal intent, may be committing on our Tribal lands aside from illegally crossing the border (e.g., human trafficking; drug-trafficking). We, for example, have concerns that there may be some bad actors among those crossing, who are using our hotel as a stash house.

Our principal and overarching concern is the protection of our Reservation, including the safety of our Tribal members and visitors, and our ability to assist our non-Indian neighbor communities in their efforts for safety. We are concerned that our Tribal Police Department will lack the manpower to adequately respond to security risks on our Reservation when engaging in pursuits of illegally-crossing immigrants, transporting immigrants to Border Patrol, and having to expend additional police resources to address increased criminal activity by certain bad actors among those crossing.

Environmental Damage and Associated Costs. The strain on the capacity of our Tribal Police Department is but one of the many negative consequences from the surge in illegal crossings by immigrants has had on our Tribe. The spike in these illegal entries has also given rise to environmental and property damage caused by waste left behind by immigrants as they travel through our Tribe's lands.

It is not atypical for our Tribal members and law enforcement officers to come across waste discarded by immigrants, including clothing scraps, used diapers and scattered pieces of plastic, in various parts of our Reservation. Examples of this can be seen in the photographs below (titled "Exhibit A" and "Exhibit B"), which one of our Tribal employees informed me was taken at the Tribe's Pecan Farm on October 13, 2023:

Exhibit A. Photograph of clothing and plastic waste on the Tribe's Pecan Farm, taken October 13, 2023.



Exhibit B. Photograph of discarded clothing scraps on the Tribe's Pecan Farm, taken October 13, 2023.



The Tribe's Pecan Farm Director notified me that in the Tribal Pecan Farm area, it is not uncommon for employees to come across clothing waste in grassy areas of the farm, like the trash shown in the photographs above, which frequently damages farming equipment (e.g., clothing scraps lodged in lawn mowers). Similarly, Ricardo Barcena, Jr., Director, Road & Bridge Department of the Kickapoo Traditional Tribe of Texas (Road & Bridge Department), has described the increase in immigrant crossings as leading to what he referred to as a "crisis," in part, because his employees expend significant time taking measures to avoid machinery damage caused by clothing waste left by immigrants in grassy areas, which, in turn, delays Road & Bridge Department projects. He explained that his employees are constantly picking up clothes in grassy areas to avoid damage to Tribal equipment—particularly, lawn mowers.

Moreover, because the Tribe does not have an on-reservation landfill, to properly dispose of the waste, the Tribe must not only expend funds on Tribal employee labor to collect the waste strewn across our Tribal lands but also on transporting the waste from Tribal lands to landfills in off-Reservation locations and paying the fees associated with discarding such waste.

While we are unaware of any incidents of immigrants directly dumping their waste into on-Reservation bodies of water or nearby bodies of water, members of our Tribe have reported finding waste left by immigrants either on or near on-Reservation river banks of the Rio Grande, including wet clothing scraps and used diapers. This could pose health risks to our Tribal members were such waste to contaminate our local water supply, which we draw from the Rio Grande.¹ We note that we have not gathered data on whether waste disposed by immigrants near the Rio Grande is contaminating our water supply to the extent such disposal would actually pose a public health risk, however.

We also have concerns about environmental damage due to waste disposal and wear-and-tear from foot-traffic in areas on our Reservation that have increased cultural significance for the Tribe, such as our cemetery and our Traditional Home, near an area that immigrants have been using as a safe haven.

¹ See *Annual Consumer Confidence Report (CCR) for the period of January 1 to December 31, 2022*, Kickapoo Env'tl Protect. Agency (June 2023) ("Source of Drinking Water . . . The water for the Kickapoo Traditional Tribe of Texas Reservation is supplied by the City of Eagle Pass Water Works . . . drinking water plant. This water is surface water that comes originally from the Rio Grande River.") (CCR accessible here); *Drinking Water Fact Sheet*, World Health Org. (Sept. 13, 2023) ("Microbial contamination of drinking-water as a result of contamination with feces poses the greatest risk to drinking-water safety") (*Drinking Water Fact Sheet* accessible here).

III. Requests for Assistance

To help the Tribe address environmental damage and other related harms caused by the surge in illegal crossings on our Reservation, we are asking Congress for funds to assist the Tribe with: (1) procuring and/or constructing a temporary holding facility to detain immigrants; (2) procuring a large passenger transportation vehicle (e.g., a van) and other transit equipment for transporting large groups of immigrants to Border Patrol facilities, including car seats for transporting minors; (3) expanding the number of law enforcement officer positions available in our Tribal Police Department; (4) procuring and installing surveillance devices along the Southern Border and other parts of our Reservation that are frequented by illegally-crossing immigrants; and (5) expenditures on services arising from properly disposing waste left behind by immigrants.

Conclusion

We greatly appreciate your attention and commitment to addressing environmental harms caused by illegal crossings through our Tribe's land and other federal lands. Our view is that the individuals who are fleeing their countries to come to the United States must be treated humanely while at the same time the rule of law must be followed. We are happy to assist Border Patrol in the proper processing of these individuals and to ensure their humane treatment and we look to Congress to facilitate our efforts. We also look to Congress to help us acquire the resources we need to continue our stalwart efforts to keep our Reservation, our Tribal members, and our visitors safe.

Thank you, again, for your consideration of the requests of the Kickapoo Traditional Tribe of Texas. Congress has a duty to fulfill the federal trust responsibility owed to Tribal Nations in the United States, which, in this case, coincides with our efforts to keep our Reservation safe, particularly in light of increased immigrant crossings of the Southern Border through our Tribe's lands.

Submissions for the Record by Rep. Grijalva

The Extremist Campaign to Blame Immigrants for U.S. Environmental Problems

Center for American Progress, February 1, 2021 by Jenny Rowland-Shea and Sahir Doshi

With growing frequency over the past four years, right-wing pundits, policy-makers, and political operatives have fiercely and furiously blamed immigrants for the degradation and decline of nature in the United States. William Perry Pendley, who temporarily ran the U.S. Bureau of Land Management under former President Donald Trump, saw “immigration as one of the biggest threats to public lands,” according to an agency spokesperson.¹ A handful of right-wing anti-immigration zealots, including Joe Guzzardi, have repeatedly misused data published by the Center for American Progress on nature loss to make xenophobic arguments for anti-immigration policies.² This so-called “greening of hate”—a term explored by Guardian reporter Susie Cagle—is a common refrain in a wide range of conservative and white supremacist arguments, including those of Ann Coulter, Fox News host Tucker Carlson, neo-Nazi Richard Spencer, and the manifestoes of more than one mass shooter.³

The claim that immigration is to blame for America’s environmental problems is so absurd, racist, and out of the mainstream that it is easily debunked and tempting to ignore. The scientific community, and the little research that has been conducted in this area, resoundingly refutes the premise. Consider, for example, the environmental damage caused by weak and inadequate regulation of polluting industries; the destruction of wildlife habitat to accommodate wealthy exurbs and second homes; the design and propagation of policies that concentrate toxic poisons and environmental destruction near communities of color and low-income communities; the continued subsidization of fossil fuel extraction and trampling of Indigenous rights to accommodate drilling and mining projects; and the propagation of a throw-away culture by industrial powerhouses. All of these factors and others cause exponentially more severe environmental harm than a family that is fleeing violence, poverty, or suffering to seek a new life in the United States.

The extremist effort to blame immigrants for the nation’s environmental problems deserves scrutiny—and not merely for the purpose of disproving its xenophobic and outlandish claims. The contours, origins, funding sources, and goals of this right-wing effort must be understood in order to effectively combat it and ensure that the extremists pushing it have no place in the conservation movement. The individuals and organizations that are most fervently propagating this argument come largely from well-funded hate groups that are abusing discredited ideologies that were prevalent in the 19th-century American conservation movement in an attempt to make their racist rhetoric more palatable to a public concerned about the health of their environment.

While leaders of the contemporary, mainstream environmental movement in the United States have disavowed this strain of thought and are working to confront the legacies of colonialism and racism in environmental organizations and policies, a small set of right-wing political operatives are trying to magnify overtly xenophobic and false environmental arguments to achieve specific political objectives. In particular, these right-wing political operatives and their deep-pocketed funders are seeking to broaden the appeal of their anti-immigration zealotry by greenwashing their movement and supplying their right-wing base with alternative explanations for environmental decline that sidestep the culpability of the conservative anti-regulatory agenda. In their refusal to confront the true reasons for environmental decline, they are hurting the people—immigrants, Indigenous peoples, and people of color—who bear a disproportionate burden of environmental consequences and are increasingly the base of the climate justice and conservation movements.

Contextualizing anti-immigrant thought in environmentalism

Today’s right-wing activists who are blaming immigrants for the destruction of nature are, unfortunately, drawing from and building on a long and troubling history of racism, colonialism, and xenophobia in the U.S. environmental movement that harks back to the violent dispossession of lands from Indigenous tribal nations. To understand the power and dangers of this extremist movement—and where it diverges from the current mainstream environmental movement—it is important to

trace the origin of population control, eugenics, and anti-immigration ideologies within the U.S. environmental movement.

The discredited roots of environmental racism

Some of the earliest and most active proponents of land conservation in the United States also espoused anti-immigration, white supremacist, and racist views. For example, Madison Grant—a close friend of President Theodore Roosevelt and influential voice in species conservation, including playing a role in protecting the American bison and California redwood—served as director of the American Eugenics Society and vice president of the Immigration Restriction League.⁴

Grant played a key role in the passage of a 1924 law restricting immigration by Asians and Arabs.⁵ John Muir, known as the father of national parks, expressed racism toward Black and Native Americans and promoted ideas of restricting immigration by nonwhites.⁶

The notion that immigration was to blame for environmental destruction resurged in the 1970s, just as Europe's population was plateauing and that of the Global South began to grow. During this period, many deemed overpopulation-driven resource depletion one of the largest challenges facing the planet. Paul Ehrlich's 1968 book, *The Population Bomb*, which argued that overpopulation would fuel famine and global upheaval, proved very influential in the environmental movement at the time.⁷ This idea—which ignored the enormous difference in consumption patterns between countries—reinforced the idea already floating among U.S. nativists, which falsely associated global population growth and immigration growth.

Throughout the 1980s and 1990s, these xenophobic ideas existed within some environmental nonprofits, including Earth First! and the Rewilding Institute, both of which were started by extremist activist Dave Foreman.⁸ The environmental argument for anti-immigrant policies also tracks closely with the Sierra Club's history, and its association with one person—John Tanton—has had perhaps the most lasting impact.⁹ Tanton, whom the Southern Poverty Law Center (SPLC) calls “the racist architect of the modern anti-immigrant movement” and who died in 2019, was a Sierra Club official in the 1980s and went on to form many prominent anti-immigration groups, including many that dabble in environmental messaging.¹⁰

Up until the 1990s, population control was part of the Sierra Club's core platform. For decades, a faction within the organization—including Tanton—worked to use the Sierra Club's influence to promote policies to block immigration and undermine immigrant rights. In 1998, Tanton and others pushed a vote about whether or not the Sierra Club would take a strong public stance against immigration. The proposal was narrowly defeated by the Sierra Club's members, leading to a full separation from this ideology in the early 2000s.¹¹ But Tanton's groups continue to try to influence environmental progressives.¹²

Unfortunately these views still exist within some environmental groups as well. For example, the Rewilding Institute advocates for restrictions on immigration into the United States as part of its stance on global population growth.³ The group also maintains a relationship with their founder, Dave Foreman, whose views on immigration, published in op-eds and books, are far outside the main-stream, and who is an advisory board member of the SPLC-designated hate group, Californians for Population Stabilization.¹⁴

Today, as major environmental groups grapple with their own systems of exclusion and injustice and reevaluate heroes and founders such as Muir and Roosevelt, the mainstream conservation movement no longer considers anti-immigrant arguments legitimate or accurate.¹⁵

The ‘greening of hate’

While the history of this anti-immigrant argument has roots in environmentalism, today, this line of thinking is primarily propagated by extremists who are cloaking themselves as conservationists to make their arguments more palatable. Researchers refer to this phenomena as the “greening of hate.”¹⁶ The individuals making these arguments are backed by many of the most prominent anti-immigration groups and funders, several of which the SPLC have flagged as white supremacist hate groups.

Greenwashed anti-immigrant groups and their funders

Groups

Most formal arguments claiming immigrants as the source of environmental degradation can be traced back to a handful of anti-immigration groups that are far outside of the mainstream environmental movement.

Federation for American Immigration Reform (FAIR). Founded by John Tanton, FAIR was deemed a hate group by the SPLC because of its ties to white supremacist groups and eugenicists.¹⁷

Center for Immigration Studies (CIS). Also founded by Tanton, CIS was deemed a hate group by the SPLC because it repeatedly publishes and promotes white supremacist and anti-Semitic writers and makes false claims about the criminality of immigrants.¹⁸

Progressives for Immigration Reform (PFIR). PFIR, also tied to Tanton, is perhaps the most central organization in the anti-immigrant greenwashing universe.¹⁹ The group has been flagged by the SPLC for hosting a “cynical greenwashing campaign to recruit environmentalists to the anti-immigrant cause by blaming them for urban sprawl, overconsumption and a host of other environmental problems.”²⁰

Californians for Population Stabilization (CAPS). CAPS was founded by Garrett Hardin, a University of California, Santa Barbara professor and FAIR board member, who famously wrote the essay, “The Tragedy of the Commons,” which he used to support his ideology of preventing the “wrong” people—specifically nonwhite people—from reproducing.²¹ Like many others on this list, the group has ties to Tanton and was found to have hired white supremacists.²²

NumbersUSA. Also founded by Tanton, the group is considered a nativist organization along the lines of FAIR and CIS.²³ Don Weeden, of the Weeden Foundation, formerly served as the group’s treasurer and on the board of directors and until recently was one of the group’s independent directors.²⁴

Funders

Colcom Foundation. Based in Pittsburgh, Colcom was founded by Mellon Bank heiress Cordelia Scaife May, who believed that her life’s purpose was curbing the threat of overpopulation by limiting immigration to the United States.²⁵ According to public tax filings, Colcom is the single-largest funder of anti-immigrant groups in the United States, giving around \$150 million since 2005.²⁶ The foundation provides the bulk of funding to Tanton’s anti-immigration groups, including PFIR, NumbersUSA, FAIR, and CIS, along with nominal money for environmental causes. In February 2020, activists protested Colcom, describing it as “not an environmental organization that dabbles in white supremacy, [but] a white supremacist group that dabbles in environmentalism.” Several environmental organizations have subsequently severed ties to the foundation.²⁷ Colcom Vice President John Rohe, who decades ago published a book about Tanton, denied activists’ claims about the organization, saying, “To be concerned about the level of immigrants due to overpopulation is not anti-immigrant.”²⁸

Weeden Foundation. Led by Don Weeden, the foundation has provided funding to CAPS, NumbersUSA, PFIR, FAIR, and CIS, along with biodiversity and wilderness conservation organizations and projects, including the Rewilding Institute.²⁹ Several of its officers have also been very active in leadership and boards within the anti-immigration groups that they fund.³⁰

Foundation for the Carolinas. Despite generally being well liked for their work to improve economic opportunity in Charlotte and around North Carolina, the group manages a donor-advised fund that has funneled money to FAIR, CIS, and NumbersUSA. Between 2006 and 2018, the foundation gave nearly \$21 million in donor-advised gifts to at least nine anti-immigrant organizations, 85 percent of which went to Tanton-linked organizations.³¹

Anti-immigrant groups cloaking themselves in environmentalism to push a xenophobic agenda is not new.³² While their scientifically meritless arguments are no longer welcome within the mainstream environmental movement, they continue to fuel the vitriol—and bad policy decisions, including draconian cuts to immigration levels, the evisceration of the U.S. refugee asylum systems, and the separation of families at the border—that hurt legitimate, effective solutions to the conservation and climate crisis.³³

Racist rhetoric undermines the conservation movement

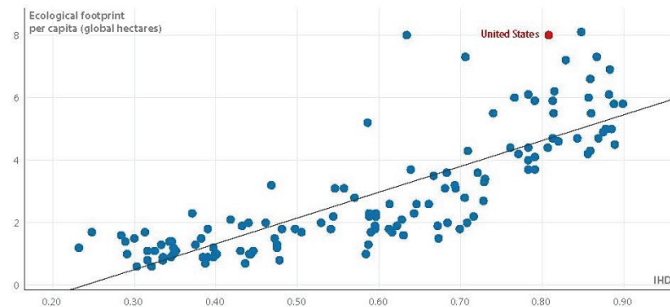
This small but organized and well-funded fringe of anti-immigration activists has produced arguments that range from openly bigoted and racist stereotypes to the more insidious and purportedly science-based claims about population that resonate with Eurocentric environmentalism of the 20th century. It bears repeating: These claims do not have the support of the scientific community, and the little research that has been conducted in this area resoundingly refutes them.³⁴ In fact, the vast majority of behavioral studies demonstrate that immigrants live more

environmentally sustainable lifestyles than native-born Americans, so much so that immigrant density is associated with lower carbon emissions.³⁵

FIGURE 1

The United States is an outlier in terms of its ecological footprint compared with its standard of living

Inequality-adjusted Human Development Index (IHDI) score and ecological footprint per capita, 2019



Notes: Includes only countries with more than 1 million people and for whom data were available.

Sources: United Nations Development Programme, "Human Development Report 2020" (New York: 2020), available at <http://hdr.undp.org/sites/default/files/hdr2020.pdf>; Global Footprint Network, "Home," available at <https://data.footprintnetwork.org/#/> (last accessed January 2021).

Population-based arguments against immigration, meanwhile, are built on a series of flawed assumptions. The first is that the environmental health of the United States exists in isolation from the rest of the world, which has never been more untrue than in 2020, as the country grapples with climate change, the collapse of transnational migratory species, and a coronavirus pandemic born out of nature destruction and overexploitation of wildlife in another continent.³⁶ The second is that it allows the interests driving the real problem—overconsumption and unregulated development—off the hook.³⁷ For example, corporate interests such as the oil and gas industry have undue influence on U.S. policy.³⁸ Per capita, the United States has a greater rate of climate emissions, air pollution, and nature destruction than most other countries and is an outlier even among countries with similar standards of living.³⁹ Policies aimed at limiting corporate capture and protecting public health—not curtailing immigration—are the solutions to these problems.

Polls show that communities of color—to which most immigrants and second-generation Americans belong—are the most concerned about this destruction and the likeliest to support policies that would protect the environment.⁴⁰ For example, polls show high Latino support for conserving water, reducing air pollution, and protecting wildlife.⁴¹ This comes as no surprise given that communities of color—especially those that are also low-income—are more likely to suffer the consequences of unplanned urban sprawl, oil and gas drilling, deforestation, and pollution.⁴² Studies show that white people contribute disproportionately to the problem of air pollution, while Black and Latino people are the likeliest to bear the burden of air pollution where they live.⁴³ Immigrants, who contribute less to pollution on average than native-born Americans, are still disproportionately likely to suffer the consequences of toxic pollution from industrial polluters.⁴⁴ In this context, genuine environmentalism cannot exclude or antagonize immigrants and second-generation Americans, who form a core constituency of the conservation movement.

Instead, this vitriol could actively harm the conservation movement by alienating and erasing both potential and existing allies, members, and leaders who are from immigrant backgrounds.⁴⁵ For example, immigrant leaders were central to the labor-driven movement to ban the use of toxic DDT pesticides in the 20th century.⁴⁶ More recently, Asian immigrants in the fishing industry faced the worst consequences of the 2010 Deepwater Horizon oil spill and participated heavily in cleanup efforts.⁴⁷ At the local level, immigrants are at the forefront of a range of environmental justice and conservation efforts, even as they remain underrepresented at the tables of national organizations and government agencies.⁴⁸ Moreover, the racist rhetoric that runs throughout the anti-immigration fringe could undermine the United States' ability to cooperate across borders with countries that will be key allies in fighting climate change, conserving biodiversity, and,

ultimately, fighting the ecological degradation and disasters that often force people to flee their home countries to begin with.⁴⁹

One of the most dramatic examples of how greenwashed nativism can harm the planet is the Trump administration's U.S.-Mexico border wall. Its construction was not only regarded as ineffective and wasteful but has also caused immense damage to the environment, including by blasting mountains, destroying ancient cactus, desecrating sacred sites of the Tohono O'odham Nation, and disrupting the migration routes and survival of nearly 100 already imperiled species ranging from jaguars to monarch butterflies.⁵⁰ Notably, the Trump administration's extensive use of waivers to circumvent environmental standards and regulations allowed the federal government to destroy these lands with impunity in the name of immigration control.⁵¹

Focusing, instead, on the root causes of human displacement and migration—including those rooted in nature destruction and climate change—and increasing well-designed legal channels for people to seek entry to the United States would help U.S. immigration policy become more humane, more effective, and more environmentally sustainable.⁵² Moreover, the Biden administration has an opportunity to focus on repairing the cruel and counterproductive mistakes of the Trump era to establish a working legal immigration system, asylum process, and pathway to citizenship—all of which will benefit the U.S. environmental movement.⁵³

Conclusion

Anti-immigrant sentiments were a staple of mainstream Eurocentric conservation in the 19th and 20th centuries—but so were eugenics, unscientific species exterminations, and the purposeful usurpation of land from Indigenous tribes who often stewarded natural resources more effectively than the managers who followed. As an examination of funding sources and policy positions have found, the extremist groups now hawking misleading and easily debunked green-hate arguments are not acting in good faith.

Twenty-first century environmentalism is, by necessity, a multiracial, multi-generational, international, and anti-elitist movement whose diversity only makes it stronger. It is built of, by, and for all people—and immigrant-dense communities are its base.⁵⁴ If the evidence of bad actors funding green hate, the mounting scientific data, and 650 miles of border wall devastation are not evidence enough, this fact alone should make clear that these arguments do not belong in the modern environmental movement.

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CENTER FOR IMMIGRATION STUDIES

Southern Poverty Law Center

<https://www.splcenter.org/fighting-hate/extremist-files/group/center-immigration-studies>

Founded in 1985 by John Tanton, the Center for Immigration Studies (CIS) has gone on to become the go-to think tank for the anti-immigrant movement with its reports and staffers often cited by media and anti-immigrant politicians. CIS's much-touted tagline is "low immigration, pro-immigrant," but the organization has a decades-long history of circulating racist writers, while also associating with white nationalists.

While CIS and its position within the Tanton network have been on the Southern Poverty Law Center's (SPLC) radar for years, what precipitated listing CIS as an anti-immigrant hate group for 2016 was its repeated circulation of white nationalist and antisemitic writers in its weekly newsletter and the commissioning of a policy analyst who had previously been pushed out of the conservative Heritage Foundation for his embrace of racist pseudoscience. These developments, its historical associations and its record of publishing reports that hype the criminality of immigrants are why CIS is labeled an anti-immigrant hate group.

CIS reports have been widely criticized and debunked by groups such as the Immigration Policy Center and the CATO Institute. Alex Nowrasteh, an immigration policy analyst at CATO, said in early 2017: "Oh, I'm convinced that [CIS executive director Mark Krikorian is] wrong about all the facts and issues. They're wrong about the impact of immigrants on the U.S. economy and on U.S. society." Speaking about CIS to Univision in August 2017, Illinois Rep. Luis Gutierrez stated: "Their research is always questionable because they torture the data to make it arrive at the conclusion they desire, which is that immigrants are criminals and a burden on the U.S. and our economy. It is the worst kind of deception, but politicians, the conservative media and some Americans eat it up because it always looks somewhat legitimate at first glance." CIS has also defended the usage of "anchor babies" and released a report on "terror babies," popular concepts among the nativist movement.

While capable of appearing as a sober-minded policy analyst in some settings, longtime CIS executive director Mark Krikorian's contributions to the immigration policy debate rarely rise above petulant commentary dashed with extremist statements. Often, these statements are highly revealing.

At his perch at *National Review* and on Twitter, Krikorian has asked, "How many rapists & drug-dealers are the anti-deportation radicals protecting?" and argued that Mexico's "weakness and backwardness has been deeply harmful to the United States." Krikorian has called Mexican American journalist Jorge Ramos a "white-Hispanic ethnic hustler" and ruffed that if the U.S. were a police state, as Chelsea Manning claimed, then "this mentally ill traitor would have been dumped in a shallow grave years ago." In one exchange on Twitter, Krikorian tried to whitewash the role eugenicists played in the 1924 Immigration Act, only to stop responding when Harry H. Laughlin's role in advancing the legislation was mentioned. Laughlin was the most prominent eugenics advocate prior to WWII and went on to co-found the racist pseudoscience-promoting Pioneer Fund, which Tanton had close ties to through the 1990s.

More recently, CIS has been in the headlines for its connections to former Trump Administration adviser Stephen Miller, a man who in college collaborated with white nationalist Richard Spencer to bring another white nationalist, Peter Brimelow, onto campus for a debate on immigration. Miller was instrumental in pushing for anti-immigrant policies in the Trump White House, regularly drawing from CIS. In early 2017, Miller made the rounds on national media defending the Trump administration's Muslim ban by citing the CIS. "First of all, 72 individuals, according to the Center for Immigration Studies, have been implicated in terroristic activity in the United States who hail from those seven nations, point one," Miller said on NBC's "Meet the Press." Fact-checkers at *The Washington Post* debunked the talking point, which collapsed several categories of crimes related to terrorism to reach a higher number, and awarded it "Three Pinocchios."

In Their Own Words

"We send out a weekly roundup of immigration commentary from all sides, including people we don't agree with. I include *The New York Times*, and their editorials on immigration are usually things we completely disagree with, and we

include a pretty broad range, including some sites that publish other material that frankly I find kind of objectionable. But if they are important sites of immigration news, we include them because the whole point is, see the broad spectrums of views and judge for yourself.”—CIS executive director Mark Krikorian on C-SPAN defending the inclusion of white nationalist group VDARE in CIS’s weekly newsletter, 2019.

“Am I a bad person for thinking it was already a holiday?”—CIS executive director Mark Krikorian commenting on a story about the major Islamic holiday Eid al-Adha falling on Sept. 11, 2016.

“Obama’s Justice Dept has been doing everything in its power for 7.5 yrs to foment race war. Happy now?”—CIS executive director Mark Krikorian on Twitter, 2016.

“It’s ironic—it’s illegal for them to work, but they’re working for the immigration service in a sense. . . . I don’t have any problem with it in principle. The question is: Is it run well?”—CIS executive director Mark Krikorian on private detention centers with “volunteer” work programs that pay undocumented immigrants \$1 to \$3 a day for cleaning, cooking and other jobs, 2015.

“The diminution of sovereignty engineered by the EU is bad enough for some share of the population, but many more will object to extinguishing their national existence à la *Camp of the Saints*.”—CIS executive director Mark Krikorian referencing the racist novel published by John Tanton’s white nationalist publishing house The Social Contract Press, 2015.

“We can expect a disaster. In sum, we’ll witness the unmaking of America.”—CIS senior policy analyst Stephen Steinlight commenting on the prospect of 2014 immigration reform passing, 2014.

“Send him back to Liberia so it’s on their dime.”—CIS executive director Mark Krikorian on a Liberian immigrant who was diagnosed with Ebola in Texas, 2014.

“We have to have security against both the dishwasher and the terrorist because you can’t distinguish between the two with regards to immigration control.”—CIS executive director Mark Krikorian on anti-Muslim conspiracist Frank Gaffney’s radio show, 2014.

“There’s no court that will stop Obama from doing anything. And we all know, if there ever was a president that deserved to be impeached, it’s this guy. Alright? And I wouldn’t stop. I would think being hung, drawn, and quartered is probably too good for him.”—CIS senior policy analyst Stephen Steinlight at a Tea Party meeting, 2014.

“You don’t know how long it will be here before the political activists get engaged in [the Mexican] community and foment something that will look like the civil rights movement for African Americans, but I can promise you it will be a lot bloodier.”—CIS senior policy analyst Stephen Steinlight on the prospect of Mexican immigrants attaining U.S. citizenship, 2013.

“Tomorrow is Ash Wednesday. . . . It’s a season of repentance, prayer, and self-denial, to prepare the believer for the commemoration of Christ’s suffering and death and for the celebration of his resurrection. And a group of Evangelical grantees has decided to mark the holy season by prostituting scripture for political ends.”—CIS executive director Mark Krikorian in response to a group of evangelical leaders calling for immigration reform, 2013.

“My guess is that Haiti’s so screwed up because it wasn’t colonized *long enough*.”—CIS executive director Mark Krikorian after the 2010 Haitian earthquake that killed 160,000 people, 2010.

“That means the children and grandchildren of immigrants are committing a lot of crime, making this a long-term problem. That’s much worse news.”—CIS research director Steven Camarota arguing that the children of immigrants are prone to criminality in response to research showing that immigrants commit less crime than the native U.S. population, 2008.

“Perhaps the simplest way to approach [skills-based immigration] would be to admit anyone who scores above 140 on an IQ test.”—CIS executive director Mark Krikorian advocating for an IQ test component in a draconian immigration policy regime, *The New Case Against Immigration: Both Legal and Illegal*, 2008.

“There are real differences between groups, not just trivial ones that we happen to notice more than we should. Race is different in all sorts of ways, and probably the most important way is in IQ. Decades of psychometric testing has indicated that at least in America you have Jews with the highest average IQ, usually followed by East Asians, and then you have non-Jewish whites, Hispanics and then Blacks. These are real differences. They’re not going to go away tomorrow, and for that reason we have to address them in our immigration discussions.”—CIS contributing writer Jason Richwine, during a panel about Krikorian’s book, 2008.

History

The Center for Immigration Studies, like the rest of the organized anti-immigrant movement we see in America today, was founded by the late John Tanton, a Michigan ophthalmologist turned population-control alarmist whose racist beliefs stirred him to create a network of organizations with a simple agenda: heavily restricting the immigration levels to the United States in order to maintain a white majority. As Tanton wrote in 1993, “I’ve come to the point of view that for European-American society and culture to persist requires a European-American majority, and a clear one at that.”

Tanton founded his flagship organization the Federation for American Immigration Reform (FAIR) in 1979, an organization that was for years supported by the eugenics promoting Pioneer Fund. Soon after founding FAIR, he was eager to enhance the legitimacy of the anti-immigrant policies FAIR was proposing. To do that, Tanton needed an independent think tank, which came to fruition in 1985, called the Center for Immigration Studies (CIS).

Tanton founded his correspondences to the University of Michigan and among the conversations with Klan lawyers and white nationalists, his role in establishing CIS is made clear. In a letter dated Sept. 16, 1985, Tanton spelled out the need for creating CIS and explicitly confirmed that it would start as a project of FAIR. “After a careful and prolonged study, the FAIR board has concluded that a ‘Think Tank’ on the scale of the Worldwatch Institute is needed. For credibility, this will need to be independent of FAIR, though the Center for Immigration Studies, as we’re calling it, is starting off as a project of FAIR.” The next day, Tanton wrote to Gregory D. Curtis in Pennsylvania where he again described CIS as a “project,” writing, “We’re in the process of setting up independent projects both the Center for Immigration Studies, and the Litigation Program.”

Scholar Steven Gardiner describes in his 2005 paper, “White Nationalism Revisited,” “There are also organizations, the Federation for American Immigration Reform (FAIR) for example, that in their push for mainstream acceptance vehemently denying racist motivations, even while playing to radicalized fears and allying themselves with doctrine white nationalists.” The same can be said of CIS despite the best efforts of Tanton and others to play up its independence from FAIR and Tanton himself.

CIS became independent in 1986, but the relationship with Tanton and FAIR was far from over. In another memo also written in 1986, Tanton talked about the need to get CIS fully funded and properly functioning, “To expand our fund-raising market, we created the Center for Immigration Studies last year. We need to get CIS fully funded and entrenched as a major Washington think-tank, one that can venture into issues, which FAIR is not yet ready to raise.”

In another 1986 memo to a file kept for the purpose of eventually writing an autobiography, Tanton described CIS as an organization over which he had direct control, as opposed to others that he said were “one level removed from our control.” Eight years later, in 1994, Tanton wrote that he was still setting what he called “the proper roles for FAIR and CIS.”

In 1989, Tanton recorded his oral biography, where he discussed how FAIR donated board members to CIS and also discussed hiring the man who served as the think tank’s first executive director. Tanton stated: “We actually donated several of our board members and donors to the Center for Immigration Studies as it was called—Gene Katz became one of their important donors. Liz Paddock left the main FAIR board and went over to the Center for Immigration Studies board. We subsequently hired a retired foreign service officer, David Simcox, to run CIS.” Tanton also remarked, “Forming [Immigration Reform Law Institute] and CIS were part of an effort to develop a balanced program—a neatly rolled rug!”

Otis Graham—Tanton’s friend and confidant at CIS

A look at the FAIR and CIS boards today shows that not much has changed. CIS and FAIR share one board member, Frank Morris, and two people who have served on FAIR’s advisory board currently sit on the CIS board: Peter Nunez and William Chip.

The man Tanton recorded his oral biography with was a close friend, Otis Graham, who helped grow CIS during its early years before the arrival of its current executive director, Mark Krikorian, in 1995. When Tanton started CIS as a FAIR project in 1985, Graham was a member of the FAIR board. But Tanton’s correspondence makes clear that he was able to get Graham to leave the FAIR board in order to run CIS, a job he did until Krikorian took over. Graham did hold the role of executive director and others that were not specified.

Tanton frequently wrote Graham revealing letters. In 1991, he told him about former Klan leader David Duke's campaign for governor of Louisiana that year, which he described as based on "the excesses of affirmative action and illegitimate pregnancy." Tanton told Graham that "there is a lot going on out there on the cultural and ethnic (racial) difference" front and added, in a hopeful tone, that it was "all tied to immigration policy. At some point, this is going to break the dam."

A 1994 Tanton letter also shows that he was critical to raising funds for CIS. Although Tanton said he played a "behind-the-scenes role" at CIS, he revealed that key backers of his other organizations had ponied up millions for CIS. Those large donations were key because CIS does not do direct-mail fundraising.

Krikorian hired and Tanton revisionism

In 1995, another CIS transfer from FAIR occurred, this time in the person of Krikorian. Krikorian worked at FAIR as a newsletter writer and then working at a few newspapers before joining CIS. His stint at FAIR is not mentioned on his bio page at the CIS website. Within a few weeks of his appointment, Tanton sent Krikorian a letter of congratulations, telling him, "If there is anything I can do to help out at any point, please let me know."

It was around this time, too, that the historical revisionism around the founding of CIS began. Though there is no explicit evidence of collusion between Tanton, Krikorian and Dan Stein, FAIR's president, all three have attempted to change the narrative, attempting to put some distance between FAIR, Tanton, and the think tank. The crux of the tale is that Tanton simply raised money for CIS and nothing more. In his letter congratulating Krikorian in February 1995, Tanton wrote, "I have tried in particular to help with fundraising through the years, and have been able to steer some small amounts of money toward CIS." Less than a year before Krikorian joined CIS, Dan Stein was recording his own oral biography with Tanton. When CIS came up, Stein admitted that both organizations shared office space but also stated, "Yes, CIS was never a project of FAIR, but it was a bit of a spin-off." This is a bit of a whitewash of the facts contained in Tanton's memo almost 10 years earlier where he specifically states that CIS was starting off "as a project of FAIR."

In a correspondence sent to the SPLC as well as testimony before Congress, Krikorian has also pushed this narrative. "We've never had any institutional relationship," Krikorian told the SPLC in an email in 2009. "He's never been on our board or served as an employee, he's never even been in our offices." He said Tanton "had some role back in the mid-80s in helping rustle up money for CIS," but added that he and Tanton had no "personal relationship." Krikorian sounded a similar note in 2004, when he testified before an immigration subcommittee of the House Judiciary Committee. "He wrote us a check, I think it was a year ago," he said of Tanton. "It was the first check I have seen from him in nine or 10 years. . . . We have no institutional relationship."

The narrative about CIS's independence, especially from a white nationalist like Tanton, is key to the organization being seen as credible in the Beltway. As Stein put it in his oral bio: "Well, yes, there has always been an important role for CIS with its research-oriented profile and greater appearance of objectivity. Its reports have been accepted by the media and some members of Congress as authentic research; it's certainly as authentic as anything that the Urban Institute or any of the Ford Foundation groups have put out. So it plays a very valuable role, and has continued to develop as an independent organization and perform much of the mission it was originally designed to carry out."

Despite Krikorian's having no "institutional relationship" with Tanton, it is clear through Tanton's correspondences that the two men stayed in touch over the years. Tanton would send Krikorian suggestions and also included him in letters penned to white nationalists. In 1997, Tanton invited Krikorian and others to participate in the annual "Writers Workshop" event put on by his racist publishing house, the Social Contract Press (TSCP). TSCP has published a number of racist texts, including an English language translation of the French novel *Camp of the Saints*, a book penned by Frenchman Jean Raspail. The novel depicts an invasion of France by immigrants from India who are painted as sexually voracious savages who destroy the country and rape white women. The book gained more notoriety during the 2016 election campaign after reports that Trump's senior adviser and then-Breitbart executive Stephen Bannon was a major fan of the novel.

TSCP also publishes a quarterly journal, *The Social Contract* (TSC), which has routinely published nativist screeds authored by influential white nationalists including the late Sam Francis, Patrick Buchanan and Peter Brimelow. TSC's long-time editor is white nationalist Wayne Lutton, a man described by Gardiner in his 2005 paper as one of the "intellectual theorists of white nationalism." While Tanton

hobnobbed with white nationalists and shared their beliefs, Lutton has a long track record of directly working for white nationalist groups. For a number of years, Lutton was on the editorial advisory board of the *Citizens Informer*, the publication of the white nationalist group Council of Conservative Citizens (CCC), which Charleston shooter Dylann Roof credited with being his gateway into white nationalism. Before working for Tanton, Lutton wrote for and sat on the advisory board of the Institute for Historical Review (IHR), one of America's longest-running Holocaust denial organizations. In 2002, Lutton joined the editorial advisory board of the antisemitic *Occidental Quarterly* publication.

Both Krikorian and his staff are regular attendees at the TSC Writers Workshop, which also attracts white nationalists, and their writings regularly appear in TSC. In 2016, CIS fellow John Miano spoke at the gathering, while Krikorian did the year before, and Jessica Vaughan, CIS's director of policy studies, spoke in 2012. Krikorian has four pieces published in TSC, and Steve Camarota, the CIS director of research, is published there three times. CIS fellow Don Barnett and CIS board members Frank Morris, and William Chip as well as former member Vernon Briggs are also published in TSC.

Racism in CIS Reports and Speeches

In an interview with NPR in early 2017, in response to the SPLC listing CIS as a hate group Krikorian stated: "Our work is out there. We have published and spoken, myself and my staff, millions of words and there is nothing in there that you're gonna be able to say that is based on a sort of using a religious or racial or ethnic criteria in running our immigration policy. It's just not there." Despite its efforts to "vehemently deny racist motivations" as Gardiner points out in the case of FAIR, the group is capable of "playing to racialized fears." Among the millions of words both written and uttered by CIS staffers, including Krikorian, are a litany of examples of attacks on Latinos, Muslims and immigrants in general.

Hired in 2005 by Krikorian, CIS's senior policy analyst Stephen Steinlight perhaps best epitomizes the organization's general distaste of modern, that is to say largely nonwhite, immigrants. In "The Jewish Stake in America's Changing Demography," a report Steinlight wrote for CIS four years before he joined the organization, he painted American Muslims as Jew haters, writing: "For reasons that appear simultaneously self-evident and self-serving, spokespersons from the organized Muslim community regularly cite the figure of six million Muslims. The number is chosen because it constitutes both a form of demographic riposte to the hated figure of the six million Jewish victims of Nazism that Muslims believe confers vast moral and political advantages on Jews and, secondly, it allows Muslims to claim they have already achieved numerical parity with American Jews." Krikorian, for his part, called Muslims a "vicious people," writing in *National Review* in 2011, "Well, I'm afraid that in the Islamic world democracy faces the problem of a vicious people, one where the desire for freedom is indeed written in every human heart, but the freedom to do evil." In July 2017, as tensions mounted in Jerusalem, Krikorian tweeted that Palestinians want to "exterminate the Jews."

At a Tea Party event in 2014, Steinlight was filmed calling for the hanging of then-President Obama. Speaking at the Highlands Tea Party in Florida, Steinlight stated, "We all know, if there ever was a president that deserved to be impeached, it's this guy. Alright? And I wouldn't stop. I would think being hung, drawn and quartered is probably too good for him." Krikorian's response to the incident, which was widely covered in mainstream press was to tell HuffPost, "Steve sometimes has used impolitic language and I admonished him to choose his words more carefully in the future," and put a reprimand in Steinlight's personnel file.

No such reprimand occurred when Steinlight, speaking at a Tea Party gathering in Texas in 2013, said the following about Mexican immigrants: "Within a few years, I promise you, and I love it when they say, 'Oh, those people don't care about political rights, they just care about jobs.' Do you know how long they will be here before the political activists get engaged in that community, and foment something that will look like the civil rights movement for African Americans, but I can promise you it will be a lot bloodier." At another Tea Party event in 2014 in Texas, Steinlight anticipated President Trump's Muslim ban by calling for the return of something similar to the McCarran Internal Security Act, which excluded communists and fascists from immigrating to the United States, but applied to Muslims. He stated, "If I had my druthers, we would bring back something like the McCarran Act, in the '50s which barred communists and fascists on the grounds that they believe in things that are subversive to the Constitution. Muslims believe in things that are subversive to the Constitution." Steinlight conducted an interview in 2013 with the conservative *Washington Times*, stating, "Hispanics don't exemplify 'strong

family values.” He also warned in 2004 that immigration threatens “the American people as a whole and the future of Western civilization.”

Krikorian also has a long track record of racist remarks. Perhaps his most vile came in the aftermath of the devastating earthquake in Haiti in 2010, that killed an estimated 160,000 people. Writing in his regular column on the conservative *National Review* website nine days after the natural disaster, Krikorian remarked, “My guess is that Haiti’s so screwed up because it wasn’t colonized *long enough*.” (His emphasis).

He has also routinely attacked influential Americans of color. In 2017, he described civil rights leader John Lewis as “Like a grown man who won the big game in high school and never stops talking about it.” After Justice Susan Sotomayor was appointed in 2009, Krikorian took to *National Review* to say that Americans should not be “giving in to” the “unnatural” pronunciation of her last name.

The new case against immigration: Both legal and illegal

In 2008, Krikorian wrote a book on immigration restriction, *The New Case Against Immigration: Both Legal and Illegal*. Krikorian says today’s immigrants “look” a lot different than immigrants from 100 years ago. Explaining that Europeans previously accounted for the majority of immigration, he laments most immigrants today come from the “third world.” He believes this is the main issue with immigration today. These immigrants, he claims, have intense difficulties with assimilation such as learning English, transnationalism, and “affirmative action for immigrants.”

A hallmark of Krikorian’s argument is to exploit the plight of black Americans. “Today’s ‘systematically different’ immigrants are simply continuing the traditional pattern (common among the Irish and Italians and others in the past) of trying to climb over the backs of black Americans to achieve assimilation” he says. He adds, “Hispanics and Asians are simply the latest immigrant groups trying to use their location on the nonblack side of the divide as an assimilation tool.” And despite otherwise never advocating on behalf of black Americans, he takes advantage of their position in society to serve his argument. “Bridging this basic divide in American society between black and nonblack—bringing our black countrymen into full membership in the American nation in every respect—is our most urgent long-term domestic concern,” he claims.

Krikorian believes many of these immigrant communities make America vulnerable and the threat “isn’t confined to radical Islam.” In fact, he says America is also susceptible to threats from North Korea, “Communist China,” and Colombia. He adds that Colombian communities in the United States would “serve as a base of operations for FARC attacks in the United States in the event of war.”

On Mexicans he says, “It could well be that there are cultural or other reasons that Mexican immigrants are especially deficient in institution building, but they nonetheless reflect a broader trend in modern society.” Krikorian adds, “But Mexico, already the eight-hundred pound gorilla of immigration policy, is the eight-thousand-pound gorilla with regard to sovereignty, due to its domination of the immigration flow, its proximity, and the historical resentments that many of its people harbor toward our country.”

Krikorian’s book cites his own organization, CIS, and Krikorian himself over 50 times, while also citing white nationalists Peter Brimelow, Steve Sailer and Patrick Buchanan.

Failing studies and bad stats

CIS reports and blog pieces have also been widely discredited and debunked by such groups as the Immigration Policy Center and CATO Institute, which criticized CIS in 2015 for exaggerating immigrant welfare use. But a number of publications also contain bigoted language demonizing immigrants from all walks of life and making a mockery of CIS’s “pro-immigrant” tagline.

In a 2008 blog, Jessica Vaughan decried the Temporary Protected Status (TPS) program, which provides relief for thousands of individuals who have fled war-torn nations and countries dealing with natural disasters. Vaughan wrote, “One legacy of TPS has been its contribution to the burgeoning street gang problem in the United States.” A 2008 report authored by CIS fellow David Seminara referred to immigrants as “Third-World gold-diggers.” In the same report, he wrote, “The use of fraudulent marriage petitions is prevalent among international terrorists.”

In 2010, another CIS fellow David North attempted to blame teenage obesity on immigrants in a piece titled, “Farfetched? Does Illegal Immigration Facilitate Teenage Obesity?” Also in 2010, following the BP oil spill, then CIS writer Phil Cafaro attempted to blame immigrants for the spill, writing, “Population makes a

difference—and immigration levels make a difference to our overall population,” before concluding, “In the long-term, regarding efforts to create a sustainable society, these demographic trends loom a lot larger than whether or not BP or Halliburton made some greedy, foolish decisions to cut corners in the Gulf.”

CIS reports are a big hit with white nationalists, for which immigration is their “most important” issue, as Gardiner accurately points out. One white nationalist who has routinely cited CIS figures is Jared Taylor, one of the most prominent white nationalists of the past quarter century. After Hurricane Katrina in 2005, Taylor wrote, “Blacks and whites are different. When blacks are left entirely to their own devices, Western civilization—any kind of civilization—disappears”—a comment indistinguishable from Krikorian’s following the Haitian earthquake in 2010. Taylor’s columns in his now-defunct *American Renaissance* journal and AMREN website cites CIS at length. Krikorian, in a recent Reddit AMA, attempted to distance himself from Taylor, writing, “Sorry, I never ‘promoted’ him. He came to a public event once and asked a question. You could’ve done the same—would I be promoting you?” But again, Krikorian’s swift dismissal doesn’t tell the whole truth. Taylor has actually asked questions at multiple CIS events, and both men have attended Tanton’s Writers Workshop events in the past. Tanton was a big fan of Taylor’s and helped fund the *American Renaissance* journal when Taylor launched it in 1990.

CIS staffers cozying up with racists

The Taylor-Krikorian connections don’t stop there. CIS circulates a weekly email to its supporters that contains articles on immigration written by people from across the political spectrum. A study conducted by the SPLC and the Center for New Community (CNC) found that CIS circulated over 2,000 pieces of material from racist websites or penned by white nationalists, including three pieces published on the AMREN website.

Over 1,700 articles circulated by CIS in its weekly email came from VDARE, a racist website that serves as a hub for white nationalists, antisemites and nativists. VDARE stands for Virginia Dare, the supposed first white child born in the Americas. VDARE was founded by English white nationalist Peter Brimelow, a former *National Review* contributor who now is seen as a key player in the racist “alt-right” movement. Brimelow’s relationship with CIS dates back decades, when Tanton would write to him and Krikorian. Krikorian wrote a review of Brimelow’s infamous anti-immigrant book *Alien Nation*, calling it a “flawed jewel.” CIS also published Brimelow in a 1998 colloquy titled “What, Then, Is the American, This New Man?”

Brimelow wrote 51 pieces circulated by CIS. Other VDARE authors CIS circulated include antisemite Kevin MacDonald, a former psychology professor at California State University, Long Beach, who published a trilogy that supposedly “proves” that Jews are genetically driven to destroy Western societies. CIS staffers have also written articles for VDARE throughout the years. CIS fellow John Miano has written dozens of pieces for VDARE, dating back to 2001, and in 2016 attended VDARE’s Christmas party.

Kevin MacDonald was far from the only antisemite circulated by CIS to its supporters. One article CIS circulated was authored by Holocaust denier John Friend, who has described the Holocaust as a “manufactured narrative, chock full of a wide variety of ridiculous claims and impossible events, all to advance the Jewish agenda of world domination and subjugation.”

Another piece CIS circulated is from Rense.com, a site full of Holocaust-denial material which published a birthday ode to Adolf Hitler in 2015 including lines like, “You NEVER built Jewish gas chambers,” and “You removed Jews and their Zionist agenda from positions of power in banking, media and politics, but only after World Zionism declared World War on Germany in 1933 and proved their hatred for the German people.” The piece refers to Jews as “predators” and includes lines including: “How come that the Jews are so rich? Only Jews are offended by the question because they are too arrogant and insecure to recognize [sic] that every stranger, not necessarily a Jew, is being asked from time to time who is he and what makes him tick.”

Six articles written by the notorious Norwegian anti-Muslim blogger Peder Are Nostvold Jensen who writes under the name “Fjordman,” were also circulated by CIS in its weekly emails. Fjordman was cited over 100 times in the manifesto of racist mass murderer Anders Behring Breivik, who killed 77 people in Norway in 2011.

In 2008, CIS circulated a Taki’s Magazine article by white nationalist Richard Spencer—the face of the alt-right movement—and two pieces from Spencer’s old white nationalist website AlternativeRight.com. CIS also distributed one piece by

William Regnery, the founder of the National Policy Institute (NPI) the white nationalist think tank Spencer now runs. Regnery also founded the Charles Martel Society, the publisher of the racist and antisemitic journal *Occidental Quarterly*.

In 2007, Krikorian accepted an invitation to speak at Michigan State University from its chapter of Young Americans for Freedom (YAF), a conservative college organization. This chapter of YAF, however, was not like many of its sister chapters across the country. The chapter was led by one of Richard Spencer's friends, white nationalist Kyle Bristow. The MSU-YAF had been widely covered in the media for a series of nasty stunts—staging a “Catch an Illegal Immigrant Day,” holding a “Koran Desecration” competition, and posting “Gays Spread AIDS” flyers across campus. Krikorian was part of the same speaker series that included Nick Griffin, a Holocaust denier who heads the extremist British National Party, and Jared Taylor (whose speech was later cancelled). Bristow is now the white nationalist movement's go-to lawyer.

A number of CIS reports have also appeared reprinted in the *Journal of Social, Political and Economic Studies*, published by Roger Pearson, a white nationalist who has been active on the far right since the 1950s. In 1958, Pearson founded the Northern League, a “Pan-Nordic cultural organization” dedicated to convincing Northern Europeans to recognize “their common problems and their common destiny,” and to come to “an appreciation . . . of the threat of biological extinction with which we [i.e. Nordics] are threatened.” The members of this new group included Nazis. In 1957, Pearson wrote, “If a nation with a more advanced, more specialized, or in any way superior set of genes mingles with, instead of exterminating, an inferior tribe, then it commits racial suicide, and destroys the work of thousands of years of biological isolation and natural selection.” In total, three reports published by CIS were reprinted in Pearson's journal, two back in 2002, and one in 2009. The civil rights group Center for New Community contacted Pearson about the 2009 reprint, and his response was, “If I remember correctly, it was reprinted with the permission of Center for Immigration Studies.”

On multiple occasions CIS staffers have granted interviews with another antisemitic outlet, American Free Press (AFP). AFP was founded by now-deceased antisemite Willis Carto, who like Pearson was active on the radical right for over half a century. AFP carries stories on Zionism, secret “New World Order” conspiracies, and thinly veiled vilification of American Jews and Israel, something that could be learned by conducting a simple Google search.

Mainstream credibility

Tanton described in his oral biography that CIS “has gone on to be quite successful” and that most certainly is the case in part due to the group working hard to distance itself from its founder, while at the same time fostering relationships with elected officials and government agencies. This was a key goal of Tanton's, first described in a memo he wrote back in 1986. Under the subheading “Infiltrate the Judiciary Committees,” Tanton wrote: “This is a long-range project. We should make every effort to get legislators sympathetic to our point of view appointed to the House and Senate Judiciary Committees, and their Immigration Sub-Committees. Think how much different our prospects would be if someone espousing our ideas had the chairmanship! If we secure the appointment of our people as freshmen members of the committee, we will eventually secure the chairmanship. Remember: we're in this for the long haul.”

Later in the memo, Tanton wrote about the need to “develop strong relationships with the [U.S. Immigration and Naturalization Service], and with the Bureau of Consular Affairs in the State Department (which supervises the issuance of visas). Here I'm speaking of not just the people in Washington, but the workers in the field. We should recruit field people to membership, and get their ideas on how to change things, drawn from their perspective of daily work with the problem. The Departments of Labor and Education also have a piece of this pie, and we should get to know them as well.”

Steinlight and other CIS staffers have not been shy about promoting their strong ties with agencies now under the Department of Homeland Security (DHS), a department formed long after Tanton wrote his strategic memos.

The CNC detailed the relationships between CIS and these agencies at length in a 2015 report titled “Blurring Borders: Collusion Between Anti-Immigrant Groups and Immigration Enforcement Agencies.” Speaking specifically about CIS, it reads, “In a July 2014 appearance on the internet radio show Cotto & Company, CIS Senior Policy Analyst Stephen Steinlight admitted that a recent CIS publication that inspired multiple Congressional inquiries could not have been done “without our ongoing good connections with whistleblowers in agencies like Immigration and Customs Enforcement.” As recently as March 31, 2015, CIS's Jessica Vaughan

published analysis based on, as she opaquely phrased it, “DHS statistics, which have not been released to the public, but were obtained by the Center.”

CIS has also worked with Border Patrol in the past, most notably during border tours that the group organizes on both the U.S./Mexico and U.S./Canada borders.

While members of Congress are comfortable working with FAIR, CIS currently has the monopoly when it comes to testifying before Congress. In total, CIS staffers have testified over 100 times, and 11 times since the beginning of 2016. FAIR has not testified before Congress since 2012, according to its website.

While CIS routinely hosts panel discussions featuring nativist members of Congress, including Rep. Mo Brooks of Alabama and Rep. Lou Barletta of Pennsylvania, a more blatant example of CIS’s deep relationships with elected officials occurred during the last major push for comprehensive immigration reform in 2013. CIS director of national security policy Janice Kephart left the organization to take up of special counsel to the Senate Judiciary Committee. During the heated debates over the bill in the Senate, then-Sen. Jeff Sessions of Alabama, a longtime ally of the anti-immigrant movement, was the key spokesperson on the Senate floor in opposite to the bill. During Sessions’ rebuttals Kephart could be seen sitting behind the senator.

In early 2014, as the prospect of comprehensive immigration measures diminished, CIS again relied on leaks from its friends in DHS to publish two reports. The first claimed that ICE “released 68,000 aliens with criminal convictions” in 2013 and the second cited internal DHS metrics claiming that 36,000 immigrants awaiting the outcome of their deportation proceedings were released by DHS under President Obama’s watch that same year. The 36,000 number promoted Rep. Lou Barletta, a close ally of the anti-immigrant groups, to write an op-ed citing the first CIS report where he claimed its release was “the day immigration reform died.”

Following the tragic shooting death of Kate Steinle in San Francisco in July 2015 by an undocumented immigrant, CIS and other anti-immigrants used it as an opportunity to attack so-called “sanctuary cities.” CIS published a map of sanctuary jurisdictions on its website that prompted a backlash. In July 2017, Mark Krikorian published a piece on the two-year anniversary of Steinle’s death, using it to push for anti-sanctuary policies. A week earlier, Steinle’s father, who was with her on the night she died, provided quotes in a piece in the *San Francisco Chronicle* titled, “Leave Kate Steinle Out of the Immigration Debate.” “I don’t know who coined ‘Kate’s Law,’” Jim Steinle stated, “It certainly wasn’t us.” In 2015, Steinle said in an interview that his family is not opposed to sanctuary policies.

History of attrition through enforcement

Since its inception, CIS has been advocating for some form of “attrition through enforcement.” Various CIS writers have advocated for this policy, from David North to Jessica Vaughn.

What began as a reflection of IRCA in 1987 has evolved into CIS’s core policy. David North explains in his 1987 article that immigrants need to be treated as poorly as possible so that they themselves choose to leave, alleviating the work of immigration enforcement. “Being arrested as one heads illegally over-the border, and then being sent back to the nearest port of entry, is a nuisance, and little more. Being arrested in illegal status in New York, and being sent home to Lima or Sydney is a major disincentive, and the individual either will not try again, or will not try again quickly,” he says.

Attrition through enforcement was formalized in the anti-immigrant movement in 2005. The United States needs to “shrink the illegal population through consistent, across-the-board enforcement of immigration law,” Krikorian proclaimed. Krikorian says in denying immigrants access to jobs, identification, housing and “in general making it as difficult as possible for an illegal immigrant to live a normal life here,” undocumented individuals would “self-deport.”

Kris Kobach, former Kansas secretary of state and counsel for the Immigration Reform Law Institute (IRLI), a legal department of FAIR, an SPLC-designated hate group, is responsible for some of the most anti-immigrant legislation, particularly attrition through enforcement. Kobach has also attended a TSC Writers Workshop.

Kobach first began experimenting with this policy on a smaller scale, helping to draft and then defend legislation like Ordinance 5165 in Fremont, Nebraska, which barred undocumented individuals from renting property. These ordinances were then rolled into bigger omnibus packages which were introduced in Arizona as SB 1070 and then in Alabama as HB 56. Both bills allow law enforcement to racially profile individuals when there is “reasonable suspicion” they are undocumented.

In 2008, Kobach authored *Attrition Through Enforcement: A Rational Approach to Illegal Immigration*, in which he touts the Legal Arizona Workers Act (LAWA),

which requires all employers in Arizona to use E-Verify, as a successful example of attrition through enforcement.

E-Verify

E-Verify is an integral component of attrition through enforcement according to Krikorian. In 2015, Pew published a report, “More Mexicans are Leaving Than Coming to the U.S.,” which found a net decline in immigration from Mexico from 2009 to 2014. Working off the results of this report, Krikorian accounted this decline to attrition through enforcement. He says the Pew report suggests that if the U.S. implements nationwide E-Verify, tracks and punishes individuals who overstay their visas, prosecutes “border infiltrators” and deports every “illegal arrested by local police,” then the “illegal population will shrink considerably.” However, no analysis or evidence is provided to substantiate this claim. The Pew report Krikorian cites actually says family reunification is the top reason for leaving.

Advertised as a free system for employers to verify if employees are documented, E-Verify is estimated to cost almost \$1 billion to implement nationwide. An audit published by U.S. Citizenship and Immigration Services (USCIS) in 2009 estimates it would cost the federal government \$635 million, an additional \$10 million in compliance costs, and at least \$200 million to the private sector alone.

In addition to the cost of implementation and maintenance of this program, E-Verify often wrongly presumes workers guilty and forces individuals to defend their documented status. This affects all people—not just the undocumented. E-Verify has an almost 1% inaccuracy rate for wrongly identifying legal workers as unauthorized.

The ACLU estimates there are 154 million workers in the United States, and if the E-Verify system fails just 1% of the time, it will keep 154,000 people from working. These 154,000 people can be denied by the system for a number of reasons, but the cause is rarely obvious. The E-Verify system compiles data from 20 different databases, and the effort to clear the system error can be not only rigorous, but costly as well.

Across two administrations: Trump to early Biden years

Donald Trump’s rise to power brought CIS and the rest of the nativist movement closer to the White House and closer to shaping immigration policy than ever before.

Krikorian bragged to Reuters in October 2016 that the Trump team had received requests for research and studies during the campaign. In August, Trump released a campaign ad that specifically cited CIS. Also in August, Krikorian met with Trump officials in New York, where he was asked to be a campaign surrogate, a position that he turned down.

Trump’s major national security speech, also delivered in August 2016, contained a call for an “ideological screening test,” similar to the one used in the Cold War and touted by Krikorian in December 2015. In his *National Review* column he wrote, “The narrowest solution would be to restore the principle of ‘ideological exclusion’ to U.S. immigration law. With the end of the Cold War—which too many imagined to be the End of History—we eliminated the legal bar to enemies of America who were not actual members of terrorist organizations or card-carrying members of totalitarian political parties.”

Trump’s victory resulted in nativists obtaining top jobs in the administration and DHS and Alabama Senator Jeff Sessions was appointed Attorney General. Aside from working hand in hand with Kephart in 2013, Sessions has endorsed the work of CIS and participated in a panel discussion event the group organized in 2006 and spoke on a CIS teleconference in 2013. During the 2016 campaign, Sessions spoke at a reception for guests invited to a CIS conference. Stephen Miller, a Sessions staffer-turned Trump adviser and speechwriter, served as the keynote speaker at a CIS awards ceremony in 2015. In 2017, CIS staffer Jon Feere left the organization and took up a position at the DHS. Former FAIR executive director Julie Kirchner also was hired for a position at USCIS.

In 2016 CIS began commissioning Jason Richwine, a disgraced former Heritage Foundation analyst, to write reports and blogs for the organization. Richwine’s racist views were exposed in 2013 after he co-authored a major Heritage Foundation report on the “costs” of the most recent comprehensive immigration reform bill. Journalists, as well as civil rights groups such as the SPLC and the Anti-Defamation League, reported on a the racist nature of Richwine’s Harvard dissertation in which he claimed, “No one knows whether Hispanics will ever reach IQ parity with whites, but the prediction that new Hispanic immigrants will have low-IQ children and grandchildren is difficult to argue against.” Richwine’s beliefs in IQ differences between the races are prevalent not only in anti-immigrant circles, but also white nationalist ones. He authored pieces for the white nationalist website *Alternative Right*, founded by Richard Spencer.

But five years prior to this, Krikorian was exposed to Richwine's views on race and IQ in a panel discussion organized by the American Enterprise Institute to discuss Krikorian's book, *The New Case Against Immigration*. With Krikorian sitting on the same panel, Richwine stated: "There are real differences between groups, not just trivial ones that we have to notice more than we should. Race is different in all sorts of ways, and probably the most important way is in IQ. Decades of psychometric testing has indicated that at least in America you have Jews with the highest average IQ, usually followed by East Asians, and then you have non-Jewish whites, Hispanics and then blacks. These are real differences. They're not going to go away tomorrow, and for that reason we have to address them in our immigration discussions."

Present

With the election of Joe Biden, the anti-immigrant movement, including CIS, found itself at an inflection point. The previous four years represented a recent high-water mark of the nativist movement's ability to influence federal immigration policy. However, with the Biden administration's promise to reverse former President Trump's draconian immigration agenda, CIS and other anti-immigrant hate groups shifted from a proactive strategy to one centered on preserving the anti-immigrant status quo they helped usher in.

As part of the effort to defend its policy victories over the last four years, CIS has welcomed several former Trump administration officials to its staff, some of whom had worked at CIS in years past.

One former Trump administration official who joined CIS is Robert Law. From 2017 to 2021, Law worked at U.S. Citizenship and Immigration Services (USCIS), first as senior policy adviser and subsequently as chief of the Office of Policy and Strategy. Law, who prior to joining the Trump administration had held multiple positions at FAIR, reportedly helped draft President Trump's executive order that temporarily blocked the issuance of new green cards in April 2020. Currently, Law serves as CIS's Director of Regulatory Affairs and Policy.

Jon Feere is another former Trump administration official presently working at CIS. Since 2002, Feere has worked at CIS on and off, in a variety of positions. During his time in the Trump administration, Feere served in ICE as the senior adviser to the director and as ICE's chief of staff from January 2017 to January 2021. Feere was a political appointee of the Trump administration, meaning his nomination did not require Congressional approval. At CIS, Feere is the director of investigations.

CIS is currently focused on using a state-centric strategy to protect the anti-immigrant policy remnants of the Trump administration. In a Dec. 6, 2021, report, CIS Director of Policy Studies Jessica Vaughan noted the importance of a state and local government-led blueprint that reiterates CIS's commitment to an extreme slate of "self-deportation" policies, which are long proven failures for the states and communities that have adopted them over recent decades.

Statement for the Record

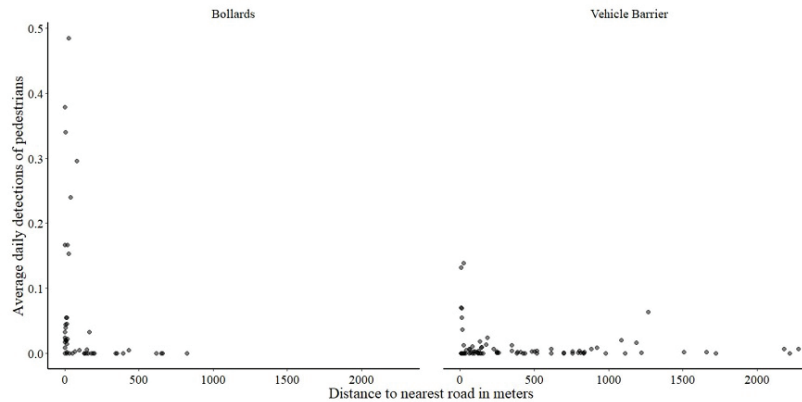
Sky Island Alliance

Pedestrian Traffic Highest Near Roads at the U.S.-Mexico Border in Southeastern Arizona

October 12, 2023

Sky Island Alliance operates a network of 110 motion and heat-activated wildlife cameras along the U.S.-Mexico border on federal lands of southeast Arizona. Camera detections of pedestrians within 1.5 miles of the border from March 2020 to present were analyzed from Coronado National Forest, San Rafael State Natural Area, Coronado National Memorial, San Pedro Riparian National Conservation Area, and San Bernardino National Refuge Area. During this period, the cameras detected a total of 13,978 vehicles and 634 people on foot including recreationists, biologists, ranchers, and refugees. Refugees constitutes no more than 17% of total observed pedestrians. Vehicles outnumber pedestrians 22:1.

Daily rates of pedestrian detections are plotted against distance from the camera to the closest road for cameras north of border with bollard barriers (Coronado National Memorial, San Pedro Riparian National Conservation Area, and San Bernardino National Wildlife Refuge) and vehicle barriers (Coronado National Forest and San Rafael State Natural Area):



Key takeaways:

- There are significantly higher daily detection rates of pedestrians on federal lands near roads.
- The highest daily rates of pedestrians occur on federal lands with bollard barrier at the border.

Statement for the Record

Sky Island Alliance

No Trash Detected on Four Federal Land Units along U.S.-Mexico Border in Arizona

October 12, 2023

Sky Island Alliance operates a transect of motion and heat-activated wildlife cameras along the U.S.-Mexico border on federal lands of southeast Arizona. Cameras facing the international boundary on Coronado National Forest, Coronado National Memorial, San Pedro Riparian National Conservation Area, and San Bernardino National Wildlife Refuge Area detected no instances of trash between June 6 and September 19, 2023:

Federal Land Unit	Management Agency	Number of Cameras	Trash Items Detected
Coronado National Forest	U.S.D.A. Forest Service	15	0
Coronado National Memorial	National Park Service	2	0
San Pedro Riparian National Recreation Area	Bureau of Land Management	3	0
San Bernardino National Wildlife Refuge	U.S. Fish and Wildlife Service	20	0

Example photos

International border road at San Pedro Riparian National Conservation Area:



International border road at San Bernardino National Wildlife Refuge:

