

Testimony of Julie Axelrod
Director of Litigation
Center for Immigration Studies

To the Subcommittee on Oversight and Investigations of the Committee on Natural Resources
United States House of Representatives
For a Hearing titled “Securing Our Border, Saving Our National Parks”
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1324 Longworth House Office Building, Washington D.C.

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.