

October 16, 2023

President Joseph R. Biden
The White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500

Re: We urge your administration to rescind Sec. Mayorkas' discretionary border wall waiver and restore legal protections to border communities and wildlife

Dear President Biden:

We write to express our profound dismay and opposition to Secretary Mayorkas' waiver of 26 federal laws to rush the resumption of border wall construction in Starr County, Texas. Both you and Secretary Mayorkas have stated that the administration has no choice but to fast-track the construction of these border walls because Congress refused to rescind the remaining prior fiscal year appropriations for border walls. Without taking a position on the administration's interpretation of appropriations law, we must make clear that there is no legal requirement to waive laws that protect vulnerable border communities and wildlife in the appropriations language or elsewhere. This waiver of law has been issued at the discretion of your administration and your administration has the power to reverse it.

There is a disturbing irony in Secretary Mayorkas' recent statement regarding the resumption of wall construction that "we are compelled to follow the law,"^[1] while the Secretary has chosen to waive 26 federal laws (and all state and "other laws, regulations and legal requirements related to the subject of these laws") enacted to protect the communities, the environment, Indigenous interests, archeological and historic properties and wildlife.^[2]

We must reiterate that there is no legal requirement to waive any laws for border barrier construction. This choice was entirely discretionary. Secretary Mayorkas' decision to cast aside these critical protections to rush the construction of a wall that you admit "does not work," but

^[1] Statement by Secretary Mayorkas on Recent News Reports, Oct. 5, 2023, <https://www.dhs.gov/news/2023/10/05/statement-secretary-mayorkas-recent-news-reports#:~:text=We%20have%20repeatedly%20asked%20Congress,and%20modernized%20ports%20of%20e ntry.>

^[2] 88 Fed. Reg. 69214, Oct. 5, 2023. The laws being waived are the Administrative Procedures Act, the National Environmental Policy Act, the Endangered Species Act, the Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, the Federal Water Pollution Control Act, the National Historic Preservation Act, Migratory Bird Treaty Act, the Migratory Bird Conservation Act, the Clean Air Act, the National Wildlife Refuge System Administration Act, the Eagle Protection Act, the National Fish and Wildlife Act of 1956, the Fish and Wildlife Coordination Act, the Archaeological Resources Protection Act, the Paleontological Resources Protection Act, the Safe Drinking Water Act, the Archaeological and Historic Preservation Act, the Noise Control Act, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Antiquities Act, the Historic Sites, Building and Antiquities Act, the Farmland Protection Policy Act, the National Trails System Act, and the Federal Land Policy and Management Act.

that you are undertaking because the administration claims it is compelled to uphold appropriations law, suggests either serious confusion or troubling hypocrisy. We would like to believe that you are sincere in wanting to uphold the rule of all laws for all people in the United States, including the millions who call the border region home.

Lastly, we must take this opportunity to again underscore the profound and irreparable harms border walls have inflicted on border communities and wildlife. Just last month, the U.S. Government Accountability Office released a damning report detailing the severe damage border wall construction caused to wildlife, public lands, and Indigenous sacred sites and burial grounds along the U.S.-Mexico border, aided and enabled by the waivers of dozens of laws to rush construction.

Therefore, we ask that you immediately undertake the following actions to restore protections to border communities:

1. Direct Secretary Mayorkas to rescind all existing waivers that have been issued for border barrier construction, roads, procurement laws and associated actions.
2. Direct Secretary Mayorkas to pause moving forward with any border wall planning, property acquisition or construction in Starr County, Texas, until all applicable laws have been complied with by the appropriate agencies and robust community consultation has taken place.

Thank you for your attention.

Sincerely,

1. Center for Biological Diversity
2. ACLU
3. Sierra Club
4. Earthjustice
5. GreenLatinos
6. The Wilderness Society
7. Texas Civil Rights Project
8. Defenders of Wildlife
9. League of Conservation Voters
10. Carrizo/Comecrudo Tribe of Texas
11. United We Dream
12. MoveOn
13. Washington Office on Latin America
14. National Parks Conservation Association
15. Endangered Species Coalition
16. Hispanic Access Foundation
17. Chispa TX
18. American Friends Service Committee (AFSC)
19. America's Voice
20. Southern Border Communities Coalition
21. National Immigration Law Center

22. National Education Association
23. Center for Gender and Refugee Studies
24. The Urban Wildlands Group
25. Frontera Audubon Society
26. Wildlands Network
27. Voces Unidas RGV
28. Webb County TX Heritage Foundation
29. Center for Community Action and Environmental Justice
30. Coalition to Protect America's National Parks
31. Great Old Broads for Wilderness
32. Western Watersheds Project
33. Save RGV
34. Coalition on Human Needs
35. Endangered Habitats League
36. No Border Wall Coalition Laredo
37. Immigration Equality
38. Justice Action Center
39. Ocean Preservation Society
40. Women's Refugee Commission
41. Americans for Immigrant Justice
42. ARISE Adelante
43. Sky Island Alliance
44. Tucson Audubon Society
45. South Bay People Power
46. Cuenca Los Ojos
47. Al Otro Lado
48. Alliance San Diego
49. Border Network for Human Rights
50. Alianza Americas
51. Los Angeles Audubon Society
52. AZ Immigration Association
53. Wild Arizona
54. Church World Service
55. Environmental Protection Information Center (EPIC)
56. RESTORE: The North Woods
57. Another Gulf Is Possible Collaborative
58. South Texas Environmental Justice Network
59. Friends of the Sonoran Desert
60. Friends of the Wildlife Corridor
61. Latin America Working Group Education Fund
62. National Immigrant Justice Center
63. Mennonite Central Committee U.S.
64. NETWORK Lobby for Catholic Social Justice
65. End Streamline Coalition
66. Dorothy Day Catholic Worker, Washington DC
67. Vets United to Stop the Wall
68. Friends of Friendship Park
69. Witness at the Border
70. Florida Immigrant Coalition
71. Wendell State Forest Alliance
72. NAKASEC

73. Families for Freedom
74. Inter-Faith Committee on Latin America (IFCLA)
75. National Network for Immigrant and Refugee Rights
76. National Advocacy Center of the Sisters of the Good Shepherd
77. Congregation of Our Lady of Charity of the Good Shepherd
78. Interfaith Welcome Coalition - San Antonio
79. Florence Immigrant & Refugee Rights Project
80. Coalition for Humane Immigrant Rights (CHIRLA)
81. Minnesota8 (MN8)
82. Communities United for Status & Protection (CUSP)
83. Immigrant Families Together
84. International Refugee Assistance Project (IRAP)
85. Madrean Archipelago Wildlife Center
86. Amigos for Monarchs
87. Green Valley/Sahuarita Samaritans
88. National Wolfwatcher Coalition
89. Inland Coalition for Immigrant Justice
90. Hatian Bridge Alliance
91. Border Vigil Eagle Pass
92. Frontera de Cristo
93. Families for Freedom
94. Woori Juntos
95. Save Massachusetts Forests
96. Concerned Citizens of Franklin County
97. Welcome With Dignity
98. National Partnership for New Americans (NPNA)
99. The Enviro Show
100. Difference Makers Media
101. The River Piece Foundation
102. Poder Latinx
103. Black Alliance for Just Immigration
104. Friends of Merrymeeting Bay
105. Boxes of Hope
106. Lutheran Social Services of the National Capital Area
107. Wind of the Spirit Immigrant Resource Center
108. Howling For Wolves
109. Protége
110. Ocean Futures Society
111. Unitarian Universalists for Social Justice
112. Franciscan Action Network
113. National Immigration Project (NIPNLG)
114. Laredo Film Society
115. Asian Pacific American Labor Alliance - San Diego
116. Climate Clock
117. Unitarian Universalist Association
118. Disciples Home Missions
119. Social Workers for Immigration Justice and Human Rights
120. MinKwon Center for Community Action