

November 9, 2021

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
245 Murray Lane S.W.
Washington, DC 20528

The Honorable Deb Haaland
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Dear Secretaries Mayorkas and Haaland:

On October 8 the Department of Homeland Security (DHS) issued a statement that Customs and Border Protection (CBP) intends to cancel the remaining border barrier contracts located within the Border Patrol's Laredo Sector and all border barrier contracts located in the Rio Grande Valley Sector.

Though the cancellation of border barrier contracts is welcome news, the announcement represents an incomplete solution and raises questions about the future of border barriers and other projects in these sectors. This is especially urgent for the Rio Grande Valley, where construction is ongoing on 13.4 miles of levee border walls that DHS has indicated will not be affected by the October 8 announcement.

When President Biden took office and paused border wall construction, three sections of flood control levees in the Rio Grande Valley that had been excavated through the course of construction needed repair. Contractors that had left holes in the levees when construction was paused filled them in, [completing repairs](#) by the end of May 2021. On June 9, DHS then [announced additional restoration projects](#) on 13.4 miles of "compromised" levees in the Rio Grande Valley. However, instead of restoring levees, CBP's contractors are building levee border walls that feature the same design as walls built by the previous administration, but with the singular distinction of having shorter bollards - misleadingly referred to as "[guardrails](#)" by the US Army Corps of Engineers.

Construction of these new walls entails [excavating levees that were all intact](#) and functional when President Biden took office, rendering construction unnecessary "[to avert immediate physical dangers](#)"; rather than addressing safety concerns, this new construction is, in fact, compromising the structural integrity of levees during hurricane season. Levee border wall construction is also happening within the Lower Rio Grande Valley National Wildlife Refuge, endangering wildlife and destroying protected habitat. Because the waivers of federal, state, and local laws enacted by previous DHS Secretaries through the REAL ID waiver authority remain active, CBP continues to bypass compliance with the National Environmental Policy Act, the Endangered Species Act, the Native American Graves Protection and Repatriation Act and other

federal and related state and local laws protecting our cultural, historic and ecological heritage for any of its ongoing and future border barrier and environmental planning projects.

Ongoing levee border wall construction is not only causing incalculable harm, but also represents a violation of [President Biden's commitment](#) not to build “another foot” of border wall. In light of the recent announcement's failure to comprehensively and conclusively deliver on this promise, the groups signed on to this letter call on the Department of Homeland Security to:

- Immediately stop ongoing construction of the 13.4 miles of levee border walls in the Rio Grande Valley, restore excavated levees without building more walls, and cancel the associated contracts
- Immediately rescind the 32 waivers of federal, state, and local laws enacted by previous DHS Secretaries through the REAL ID waiver authority
- Schedule briefings with the organizations signed on to this letter, Tribal governments, and other NGOs and stakeholder groups representing the interests of border communities and clarify the parameters of the recent announcement (see list of questions included in APPENDIX)
- Beyond briefings, engage in meaningful consultation with border communities, Tribal governments, environmental conservation groups, affected landowners and other stakeholders to share contracts, maps, planning documents, and all relevant analyses related to ongoing and planned border barrier and remediation projects; and to jointly develop environmental planning projects and ensure they are in compliance with the National Environmental Policy Act and all other applicable laws, respect Tribal sovereignty, and protect the interests and rights of border communities and affected landowners

Furthermore, the Department of the Interior, not DHS, is the appropriate agency to lead future remediation projects, which should focus on measures to restore the environment and address harms to sacred sites. We therefore call on the Department of the Interior to:

- Lead the multi-agency process funded by the House and Senate FY22 Homeland Security Appropriations Bills to “identify harm inflicted by construction of border barriers on private land, Tribal land, flood-prone areas, and wildlife corridors, as well as recommended remediation measures”
- Engage in meaningful consultation with border communities, Tribal governments, environmental conservation groups, affected landowners and other stakeholders to jointly develop environmental remediation projects and ensure they are in compliance with the National Environmental Policy Act and all other applicable laws, respect Tribal sovereignty, and protect the interests and rights of border communities and affected landowners

We would greatly appreciate your scheduling of the requested briefings within 10 days. We hope these serve as the beginning of a meaningful and fruitful consultation process but in no way should they constitute the full extent of your respective agencies' fulfillment of that process.

Sincerely,

American Friends Service Committee
American Immigration Lawyers Association-San Diego Chapter
American University Washington College of Law Energy Law and Policy Society
Animal Welfare Institute
Another Gulf Is Possible Collaborative
ARISE Adelante
Carnalismo Brown Berets de Laredo
Carrizo Comecrudo tribe of Texas
Casa Familiar
Center for Biological Diversity
Center for Gender & Refugee Studies
Church World Service
Comunidad Maya Pixan Ixim
Defenders of Wildlife
Earthjustice
Endangered Species Coalition
Environmental Protection Information Center
FOUR PAWS USA
Friends of the Earth
Friends of the Sonoran Desert
Friends of the Wildlife Corridor
Frontera de Cristo
Great Old Broads for Wilderness
Immigrant Legal Resource Center
Immigrants' Rights Working Group of Democratic Socialists of America
Kino Border Initiative
La Union del Pueblo Entero (LUPE)
Laredo Immigrant Alliance
League of Conservation Voters
Madrean Archipelago Wildlife Center
National Butterfly Center
National Education Association
National Immigrant Justice Center
National Immigration Project
National Parks Conservation Association
No Border Wall Coalition - Laredo
North American Butterfly Association
Progressive Democrats of America
Project Eleven Hundred
Rian Immigrant Center
Rio Grande International Study Center
Rio Grande Valley No Border Wall Coalition
San Diego Immigrant Rights Consortium
San Xavier District/Tohono O'odham Nation
Save RGV

Sierra Club
Sky Island Alliance
Somos Sunrise
South Bay People Power
South Texas Environmental Justice Network
Southern Border Communities Coalition
Texas Civil Rights Project
The Wilderness Society
Voces Unidas
Washington College of Law Environmental Law Society
Western Nebraska Resources Council
Western Watersheds Project
WildEarth Guardians
Wilderness Watch
Wildlands Network
Young Center for Immigrant Children's Rights
100% Skateboarder 956 chapter

APPENDIX

At the aforementioned briefings, we request that DHS provide clarification on the following non-exhaustive list of questions:

- Does CBP have any additional plans to build levee border walls in the RGV beyond the ongoing construction of 13.4 miles?
- What will the [Make Safe and Punch List Projects](#) to address “safety risks and environmental restoration issues” in the Rio Grande Valley entail, when will these projects commence, and to what end?
- Will CBP be otherwise engaged in any ongoing or new projects across the border, including “make-safe,” maintenance, remediation, “levee repairs” or other repair activities?
- When will contracts in the RGV and Laredo sectors be canceled? When will CBP contractors be instructed to remove their construction equipment and materials?
- What will the “environmental planning activities” indicated in the October 8 announcement entail, which specific project areas will they cover, and to what end? Will the waivers of law be rescinded for these projects?
- What will the “biological, cultural, and natural resource surveys for project areas” entail, which specific project areas will be surveyed, and to what end?
- What is the timeline and plan for the “comprehensive and targeted outreach with interested stakeholders” referenced in the October 8 announcement, who will be consulted, and to what end?
- Is DHS coordinating with DOI on environmental planning and remediation efforts? What does that coordination entail and who is involved?