



To: House Committee on Natural Resources Republican Members
From: Subcommittee on Oversight & Investigations Republican Staff; Sang Yi (Sang.Yi@mail.house.gov) (202-821-9930) and Meghan Holland (Meghan.Holland@mail.house.gov) (202-897-7480)
Date: May 24, 2021
Subject: Republican Forum titled “The Biden Border Crisis: Environmental and Humanitarian Consequences”

The Subcommittee on Oversight and Investigations Republicans will hold a forum titled “The Biden Border Crisis: Environmental and Humanitarian Consequences.” This forum will examine the crisis at our Southern Border and the environmental impacts of illegal border crossers on **Thursday, May 27, 2021, at 10:00 a.m. (EST)** online via Zoom.

Member offices are requested to notify Chandler Guy (Chandler.Guy@mail.house.gov) **no later than Tuesday, May 25, 2021 at 12:00 p.m. (EDT) if their member intends to participate.** All Members are encouraged to participate. This is a virtual forum, but Members may participate virtually from Rayburn House Office Building 2168 (Gold Room) if they choose, using their own devices and headphones. Committee Republican Staff will be present to assist during the forum.

Please contact Bailey La Sage (Bailey.LaSage@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- A porous border leads to vulnerabilities in U.S. border security, and criminal exploitation of those weaknesses. Constructing the border wall is an effective deterrent to illegal immigration.¹ President Biden’s administrative actions undoing President Trump’s immigration policies led to record levels of illegal border crossers.
- The Arizona Attorney General sued the U.S. Department of Homeland Security (DHS) for violating the National Environmental Policy Act (42 U.S.C. 4321 et seq., NEPA)

¹ Press Release, Dep’t of Homeland Security, The Border Wall System is Deployed, Effective and Disrupting Criminals and Smugglers (Oct. 29, 2020), *available at* <https://www.dhs.gov/news/2020/10/29/border-wall-system-deployed-effective-and-disrupting-criminals-and-smugglers>.

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based on the Biden Administration's halting construction of the border wall and cessation of the "Remain in Mexico" policy. As a result, population increase, particularly through illegal crossings, inevitably produces environmental consequences. According to the lawsuit, the Biden Administration improperly neglected to conduct an environmental analysis prior to implementing these policies.

- The environmental consequences of illegal immigration are well documented. As the number of illegal border crossers increases, higher levels of environmental degradation along the Southern border are anticipated.

II. WITNESSES

- **The Honorable Andrew R. Arthur**, Resident Fellow in Law and Policy, Center for Immigration Studies
- **Ms. Katie Conner**, Director of Media Relations, Arizona Attorney General's Office
- **Mr. Joe Johnson**, Rancher, New Mexico
- **Mr. Brandon Judd**, President, National Border Patrol Council

III. BACKGROUND

President Biden's Actions Created the Crisis at the Southern Border

During his campaign, President Biden vowed not to build "another foot" of the border wall.² On his first day in office, President Biden took administrative action to reverse many of President Trump's immigration policies, including halting construction of the wall along the U.S.-Mexico border.³ As a result, large gaps in the wall along the border remain,⁴ with unused materials rusting in the desert.⁵

Under the Trump Administration, DHS implemented Migrant Protection Protocols (MPP), commonly known as the "Remain in Mexico" policy.⁶ MPP resulted in approximately 60,000 people returning to Mexico for the duration of their immigration court

² Benjamin Siegel, *After Pledging Not to Build up Trump's Border Wall, Biden's Intentions Remain Unclear* ABC NEWS (Apr. 20, 2021), <https://abcnews.go.com/Politics/pledging-build-trumps-border-wall-bidens-intentions-remain/story?id=76928099>.

³ Proclamation No. 10142, 86 Fed. Reg. 16, 7225.

⁴ *Supra* note 2.

⁵ Jon Michael Raasch, *GOP Lawmakers Post Videos of Border Wall Materials Rusting in Desert After Construction Halted*, FOX NEWS (April 16, 2021), <https://www.foxnews.com/politics/gop-lawmakers-post-videos-border-wall-materials-construction-halted>.

⁶ DEP'T OF HOMELAND SECURITY, Migrant Protection Protocols, <https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols>.

proceedings.⁷ The Biden Administration ceased the “Remain in Mexico” policy and began processing certain individuals within the United States.⁸

President Biden’s immigration policies created a crisis at the Southern border.⁹ In March 2021, U.S. Customs and Border Protection (CBP) placed more than 171,000 people in custody.¹⁰ This total included more than 18,800 unaccompanied minors, a 99 percent increase from February 2021.¹¹ CBP arrested and detained 178,622 people in April 2021, representing the highest one-month total in two decades.¹² Ultimately, the Biden Administration is on a trajectory to be responsible for a 20-year high in illegal border crossings by the end of September 2021.¹³

These policies, however, have not just resulted in record numbers of illegal border crossings. The volume of drugs seized by CBP is also rapidly growing. As of April, CBP seized 6,494 pounds of fentanyl, which is 1,178 more pounds than all the fentanyl seized in 2020.¹⁴ Additionally, CBP has confiscated 105,032 pounds of methamphetamine so far this year,¹⁵ which already accounts for approximately 60 percent of all the methamphetamine seized at the border in 2020.¹⁶

The State of Arizona Sued the Biden Administration Over Immigration Policies

Arizona’s lawsuit against DHS poses legal arguments directly tied to the Natural Resources Committee’s jurisdiction. The case centers around the environmental analysis required under NEPA.

⁷ Jaclyn Diaz, *Biden Suspends Deportations, Stops ‘Remain in Mexico’ Policy*, NPR (Jan. 21, 2021), <https://www.npr.org/sections/president-biden-takes-office/2021/01/21/959074750/biden-suspends-deportations-stops-remain-in-mexico-policy>.

⁸ Press Release, Dep’t of Homeland Security, *DHS Announces Process to Address Individuals in Mexico with Active MPP Cases* (Feb. 11, 2021), <https://www.dhs.gov/news/2021/02/11/dhs-announces-process-address-individuals-mexico-active-mpp-cases>.

⁹ W. James Antle III, *Biden immigration policies causes a predictable border crisis. Why didn’t he plan for it?*, NBC NEWS (Mar. 14, 2021), <https://www.nbcnews.com/think/opinion/biden-immigration-policies-cause-predictable-border-crisis-why-didn-t-ncna1260992>.

¹⁰ Nick Miroff, *Border crossings in March jumped to highest level in 15 years, data shows*, THE WASHINGTON POST (Apr. 2, 2021), https://www.washingtonpost.com/national/march-border-crossings/2021/04/02/150ee61c-93b3-11eb-9af7-fd0822ae4398_story.html.

¹¹ *Id.*

¹² Nick Miroff, *Border arrests rose slightly in April, but fewer minors crossing without parents eases pressure on Biden administration*, THE WASHINGTON POST (May 11, 2021), https://www.washingtonpost.com/national/border-arrests-rise-fewer-unaccompanied-minors/2021/05/11/c4c74d02-b1a8-11eb-a3b5-f994536fe84a_story.html.

¹³ Michelle Hackman & Alicia A. Caldwell, *Biden’s Immigration Plan for Surge of Migrants at U.S. Southern Border: What You Need to Know*, THE WALL ST. J. (May 12, 2021), <https://www.wsj.com/articles/surge-of-migrants-at-u-s-southern-border-bidens-plan-and-what-you-need-to-know-11616788003>.

¹⁴ Luke Barr, *More fentanyl seized by CBP so far in 2021 than in all of 2020*, ABC NEWS (May 18, 2021), <https://abcnews.go.com/Politics/fentanyl-seized-cbp-2021-2020/story?id=77744071>.

¹⁵ *Id.*

¹⁶ *Id.*

On April 11, 2021, the State of Arizona filed a lawsuit against DHS and federal officials, asserting that President Biden’s immigration policies violate NEPA.¹⁷ Compliance with NEPA requires federal agencies to carefully consider environmental consequences and “potential alternatives to proposed action before the government launches any major federal action.”¹⁸ The State of Arizona argues in its lawsuit that the environment is impacted as the number of people in an area increase, due to factors like urbanization, infrastructure development, and pollution.¹⁹ Therefore, under NEPA, an environmental analysis should be conducted prior to implementing policies that could lead to population growth.

The State of Arizona also argues that the decisions to halt construction of the border wall and end the “Remain in Mexico” policy will result in thousands of immigrants settling in Arizona.²⁰ The Biden Administration, however, did not conduct any environmental assessments prior to implementing these policy changes.²¹ As a result, the suit alleges that the Biden Administration failed to comply with NEPA.²² The State of Arizona requests the U.S. District Court to provide injunctive relief until the appropriate environmental assessments are completed.²³

When discussing the lawsuit, Arizona Attorney General Mark Brnovich stated, “It’s the pinnacle of hypocrisy for the Biden Administration to claim it wants to protect our environment, while not enforcing federal statutes that are specifically designed for that purpose. We’re not going to sit idly by as the Biden Administration ignores real harms to our state resulting from its heavy-handed executive orders.”²⁴

Known Environmental Consequences of Illegal Border Crossings

Past surges of illegal border crossers have degraded the border environment. With record numbers of border crossings, increased environmental damage is anticipated to occur. One of the most evident examples of environmental degradation include trash accumulation and habitat destruction.

¹⁷ Complaint, State of Ariz. v. Dep’t of Homeland Security, No. 2:21-cv-00617-DWL (D. Ariz. Apr. 11, 2021), available at https://www.azag.gov/sites/default/files/docs/press-releases/2021/complaints/NEPA_As_Filed_Complaint.pdf.

¹⁸ Id.

¹⁹ Id.

²⁰ Press Release, Attorney General Mark Brnovich, State of Ariz., Attorney General Mark Brnovich Sues Federal Government Over Environmentally Harmful Immigration Decisions (Apr. 12, 2021), <https://www.azag.gov/press-release/attorney-general-mark-brnovich-sues-federal-government-over-environmentally-harmful>.

²¹ Id.

²² *Supra* note 17.

²³ Id.

²⁴ *Supra* note 20.

Trash Accumulation

Between 2007 and 2018, 460,000 pounds of trash discarded by illegal border crossers were collected along the 370 miles of the Arizona-Mexico border.²⁵ Based on past cleanups, the Arizona Department of Environmental Quality estimates that each border crosser leaves “approximately six to eight pounds of trash in the desert during their journey.”²⁶ The trash left behind by illegal migrants includes human waste, backpacks, medical products, plastic, vehicles, and clothing, all of which pose risks to wildlife.²⁷

Habitat Destruction

The Southern border includes 693 miles of federal or tribal-owned land,²⁸ some of which the United States has designated as protected areas. Illegal border crossers, however, do not respect these protections. For example, delicate sites such as the Sonoran Desert National Monument and Ironwood Forest National Monument required habitat restoration and mitigation after being used as major illegal smuggling corridors.²⁹ Other federal lands damaged by illegal border crossers include significant destruction of Organ Pipe National Monument,³⁰ creation of illegal trails throughout the Buenos Aires National Wildlife Refuge,³¹ and burning of hundreds of acres of Cleveland National Forest.³²

Additional Consequences of Biden’s Immigration Policies

In addition to additional environmental destruction anticipated from increased illegal border crossers, other concerns on border lands are also prevalent. For example, illegal border crossers create risks to the livelihoods of ranchers along the border. Not only do illegal border crossers cause property damage,³³ they disturb cattle and can threaten the physical safety of families who live on or near border lands. As the number of illegal border crossers increases, the disruption to day-to-day ranching operations are expected to increase.

²⁵ ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY, Arizona Border Trash, <https://www.azbordertrash.gov/about.html>.

²⁶ Id.

²⁷ Id.

²⁸ Memorandum from Carol Hardy Vincent, Specialist in Natural Resources Policy, Congressional Research Service, to Staff, Oversight and Investigations Subcomm., H. Comm. on Nat. Res. (Nov. 9, 2017) (on file with Comm.).

²⁹ *Southern Arizona Project, 2016 Border Report*, BUREAU OF LAND MANAGEMENT, U.S. DEP’T OF THE INTERIOR, available at <https://www.blm.gov/sites/blm.gov/files/documents/files/SAP%202016%20%28508%20Final%29.pdf>.

³⁰ *Enhancing DHS’ Efforts to Disrupt Alien Smuggling Across Our Border: Hearing Before the Subcomm. on Border, Maritime, and Global Counterterrorism of the H. Comm. on Homeland Security, 111th Cong.* (2010) (statement of Janice L. Kephart, Director of National Security Policy, Center for Immigration Studies).

³¹ Id.

³² *The Costs of Denying Border Patrol Access: Our Environment and Security: Hearing Before the Subcomm. on Oversight and Investigations of the H. Comm. on Nat. Res., 115th Cong.* (2018) (statement of Hon. Andrew R. Arthur, Resident Fellow in Law and Policy, Center for Immigration Studies).

³³ *Texas Rancher Says Illegal Immigrants Are Repeatedly Causing Property Damage and Trashing His Land*, THE DAILY CALLER (Mar. 12, 2021), https://www.ntd.com/texas-rancher-says-illegal-immigrants-are-repeatedlycausing-property-damage-and-trashing-his-land_579995.html.

President Biden's actions have opened the border to drug cartels and human traffickers.³⁴ The trend of illegal substances CBP seizes indicates that cartels are growing their smuggling operations. The states of Texas and Missouri also sued the Biden Administration for suspending the "Remain in Mexico" policy.³⁵ In particular, the states of Texas and Missouri assert that terminating the "Remain in Mexico" policy encourages cartels to exploit children through human trafficking.³⁶ President Biden's actions, and the subsequent "Biden Border Crisis" that has resulted, have increased the strain on CBP employees, and resulting frustrations have caused agents to consider early retirement.³⁷ This only increases the challenges for the CBP as they work to safeguard our borders, especially given that more agents are needed to address the surge.

³⁴ Steven Groves, *Have a Care for U.S. Sovereignty*, THE HERITAGE FOUNDATION (Feb. 12, 2021), <https://www.heritage.org/global-politics/commentary/have-care-us-sovereignty>.

³⁵ Adam Shaw, *Texas, Missouri Sue Biden Administration Over Scrapping of 'Remain-in-Mexico' Policy*, FOX NEWS (Apr. 13, 2021), <https://www.foxnews.com/politics/texas-missouri-sue-biden-administration-remain-in-mexico-policy>.

³⁶ *Id.*

³⁷ Ted Hesson, Kristina Cooke, & Mica Rosenberg, *'U.S. Welcome Patrol': How Some Border Agents are Struggling with Biden's Policy Shift*, REUTERS (May 14, 2021), <https://www.reuters.com/world/us/us-welcome-patrol-how-some-border-agents-are-struggling-with-bidens-policy-shift-2021-05-14/>.