November 28, 2022

The Honorable Patrick Leahy

Chair

Committee on Appropriations

United States Senate

S-128 The Capitol

Washington, DC 20510

The Honorable Chris Murphy

Chair

Subcommittee on Homeland Security

128 Senate Dirksen Office Building

Washington, DC 20510

The Honorable Rosa L. DeLauro

Chair

Committee on Appropriations

United States House of Representatives

H-307 The Capitol

Washington, DC 20515

The Honorable Lucille Roybal-Allard

Chair

Subcommittee on Homeland Security

House Committee on Appropriations

2006 Rayburn House Office Building

Washington, DC 20515

The Honorable Richard Shelby

Ranking Member

Committee on Appropriations

United States Senate

S-146A The Capitol

Washington, DC 20510

The Honorable Shelley Moore Capito

Ranking Member

Subcommittee on Homeland Security

135 Senate Dirksen Office Building

Washington, DC 20510

The Honorable Kay Granger

Ranking Member

Committee on Appropriations

United States House of Representatives

1036 Longworth House Office Building

Washington, DC 20515

The Honorable Chuck Fleischmann

Ranking Member

Subcommittee on Homeland Security

House Committee on Appropriations

1036 Longworth House Office Building

Washington, DC 20515

Dear Chairs and Ranking Members:

On behalf of the undersigned organizations dedicated to environmental protection, civil and human rights, and community uplift, including groups that have witnessed first-hand the devastating impacts of border wall construction on border communities and the environment, we write to thank you for providing resources to mitigate damage from border wall construction and for including language to add remediation as an additional use for remaining border wall funding in both the House and Senate FY 2023 Homeland Security appropriations bills. We commend both chambers for recognizing the importance of addressing the profound harms that border wall construction and militarization have inflicted on communities and wildlife in the borderlands and urge you to retain these provisions and the highest possible level of mitigation funding in the final FY 2023 Homeland Security appropriations bill.

As we have previously written, the prior administration’s insistence on unnecessary, wasteful, and harmful border wall construction wreaked destruction on the borderlands and the millions who call the border region home, including damaging lands sacred to the O’odham, Carrizo-Comecrudo, and Kumeyaay peoples; desecrating Native American burial sites; dynamiting pristine mountain wilderness; erecting walls in floodplains; separating imperiled wildlife populations; destroying fragile resources in national wildlife refuges, forests, monuments and other public lands; depleting ancient water sources in sensitive desert ecosystems; seizing ranches, farms, and backyards from families; risking lives by forcing migrants to cross into more remote regions; and fomenting dangerous racial hatred against migrants and Indigenous peoples.

To expedite wall construction, previous Secretaries of Homeland Security, under the authority provided by the REAL ID Act of 2005, waived eighty-four cornerstone federal laws, along with countless unnamed state and other laws and regulations, created to protect the environment, wildlife, religious freedom, historic and cultural sites, and taxpayers’ interest in responsible procurement. To date, those waivers of law have not yet been rescinded, thus continuing to deny equal protection under the law to the borderlands and the millions who call the border region home.

We recognize that the Biden Administration has taken an important step by canceling border wall projects slated for construction using funds that the previous administration had diverted from the Pentagon’s budget. And while the administration has undertaken some remediation projects, unfortunately, however, it also has continued construction of wall using funds previously appropriated for that purpose. The Department of Homeland Security (DHS) continues to construct additional wall through the Rio Grande Valley, an area of considerable cultural and ecological value including the conversion of preexisting earthen flood control levee into the most harmful type of wall for wildlife – concrete levee-border wall. The administration also is proposing to close so-called “gaps,” openings remaining in the wall, many of which are in crucial wildlife corridors and should be left open. This ongoing wall construction is being carried out using the waivers of law issued by prior administrations. The most effective means to prevent this continuing harm would be the rescission of remaining border wall funding, but, at the very least, uses of these funds should be expanded to allow remediation. In addition, it is imperative that Congress provide the resources necessary to restore and repair border communities, lands, and wildlife to mitigate the harms done.

**We appreciate that both House and Senate FY 2023 Homeland Security appropriations bills have begun to take these needed steps and urge Congress to include the following provisions in the final FY 2023 bill:**

* **Both House and Senate bills include statutory language authorizing the transfer of unobligated balances of border wall funding from DHS to the land management agencies to begin mitigation activities, including acquisition of land and scientific studies, for damage from border wall construction on federal lands. The House bill authorized the transfer of up to $100 million, the Senate up to $200 million for these purposes. We support no less than the Senate level of $200 million as a first step for these crucial activities.**
* **Both House and Senate bills also include language expanding the use of unobligated wall construction balances from FY 2018-FY 2021 to allow “remediation and environmental mitigation, including scientific studies, related to border barrier construction, including barrier construction undertaken by the Department of Defense….” We urge inclusion of this language in the final FY 2023 bill.**

The massive and needless damage to the border region and its people must be addressed as swiftly as possible. Again, we greatly appreciate the advancements in both House and Senate FY 2023 Homeland Security appropriations bills and urge the retention of the strongest possible funding levels and language.

Sincerely,