



Stephanie Garcia Richard
COMMISSIONER

State of New Mexico
Commissioner of Public Lands

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OFFICE**

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April 13, 2022

Paul Enriquez
Deputy Director, Infrastructure Portfolio
U.S. Customs and Border Protection
U.S. Border Patrol Headquarters
1300 Pennsylvania Ave., 6.5E Mail Stop 1039
Washington, D.C. 20229-1100

RE: El Paso Sector Proposed Remediation Actions Associated with the Construction of Border Barrier in Luna and Dona Ana counties

Dear Deputy Director Enriquez:

The New Mexico State Land Office (NMSLO) is providing the following comments in response to the solicitation of the El Paso Sector's Proposed Remediation Actions Associated with the Construction of Border Barrier in Luna and Dona Ana counties.

First, I would like to emphasize that the NMSLO has tried to correspond with U.S. Customs and Border Protection (CBP) related to the repeated trespass on New Mexico state trust lands by CBP and its hired contractors. These trespasses are outlined in the attached letter that was submitted to your office in January of 2021, and again via email in June 2021. CBP and its hired contractors, have no legal authorization to deposit materials on state trust lands, to commandeer state trust lands as staging areas, or to enter or utilize trust lands for any other purpose related to border wall construction.

As indicated in my January 2021 correspondence, I did not, and do not, support of the border wall. The violations and damage to the United States' integrity in the eyes of our own people and abroad; hurt untold numbers of families coming to this country to escape persecution and violence; and have desecrated wildlands along the border, including lands recognized as sacred by tribal nations.

In addition to our original request to remove these unlawful encroachments from NMSLO lands and cease trespassing or inviting third parties to trespass on state trust land, NMSLO is providing the following suggestions related to the remediation of boarder barriers in Luna and Dona Ana counties:

- If any trenches are left unfilled, even temporarily, escape ramps should be installed for wildlife. These can be created using existing fill.

- Close and remediate irregularly or infrequently used roads associated with construction, including reseeded with natural vegetation.
- In areas where water was historically present, but where access has been eliminated or limited by construction, create wildlife waters.
- If any additional lighting associated with the barrier construction was installed, remove lighting. Lighting disrupts animal movement and migration patterns.
- We support remediation efforts that will aid in wildlife movement and dispersal. This can include the installation of culverts, or wildlife crossings that allow for historical movement across the border to be reestablished.

To follow up with our office, please reach out directly to Assistant Commissioner of Surface Resources, Dana Vackar Strang. She can coordinate a meeting regarding the trespass issues outlined in the letter from January 2021 and can be reached at 505-827-5723 or dvstrang@slo.state.nm.us.

Sincerely,

A handwritten signature in blue ink that reads "Stephanie". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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January 17, 2021

Via Certified Mail and Email

Peter T. Gaynor (peter.gaynor@fema.dhs.gov)
Acting Secretary
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Washington, DC 20528

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Lt. Col. Patrick M. Stevens V
District Commander, Albuquerque District
United States Army Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque, NM 87109

Re: Trespass on New Mexico State Trust Lands for Illegal Border Wall Construction

Gentlemen:

The New Mexico State Land Office recently has determined that one or more of your agencies, or your hired contractors, have repeatedly trespassed onto New Mexico state trust lands in the course of undertaking the Trump Administration's unlawful border wall construction project. I am writing to you today to ask that you direct your agencies and your hired contractors to immediately cease this trespass, promptly remove encroachments from state trust lands, and educate your staff and contractors to avoid future trespasses.

Your agencies, or your hired contractors, have wrongfully occupied New Mexico state trust lands in recent weeks in at least three locations in Luna County, New Mexico, placing steel beams on Lot 8/N2, Section 16, Township 29S, Range 08W, and stockpiling crushed rock on Lots 1-2 and 4, Section 16, Township 29S, Range 11W. Although my predecessor issued several rights-of-way to Customs and Border Protection for road access some years ago, some of those rights-of-way have now expired and in any event, the recent encroachments documented by State Land Office staff are far outside the lands encompassed by the rights-of-way. Your agencies, and your hired contractors, have no legal authorization to deposit materials on state trust lands, to commandeer state trust lands as staging areas, or to enter or utilize state trust lands for any other purpose related to border wall construction.

The harms that the federal government has inflicted through its dangerous wall-building program are extensive and well-documented. Federal agencies' ongoing violations continue to damage the United States' integrity in the eyes of our own people and abroad; hurt untold numbers of families coming to this country to escape persecution and violence; and have desecrated wild lands along the border, including lands recognized as sacred by tribal nations. Equally important, federal courts repeatedly have determined that the Trump administration's border wall construction is unlawful. *See Sierra Club v. Trump*, 977 F.3d 853 (9th Cir. 2020); *Washington v. Trump*, 441 F. Supp. 3d 1101 (W.D. Wash. 2020).

New Mexico state trust lands are not available for the outgoing administration's illegal and immoral misadventure. Accordingly, please remove these unlawful encroachments from New Mexico state trust lands and cease trespassing (or inviting third parties to trespass) on state trust lands immediately. I am also asking that you confirm you will notify your agencies and hired contractors to avoid trespassing on state trust lands in the future. The New Mexico State Land Office stands ready to take any and all legal action necessary to protect its lands from the Trump administration's continued law-breaking.

Sincerely,



Stephanie Garcia Richard
Commissioner of Public Lands