

Statement of Robert García
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House Natural Resources Committee Forum on the Disastrous Impacts of President Trump's
Border Wall to Communities, the Environment and Wildlife

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To the Honorable Raúl Grijalva, House Committee on Natural Resources Chairman, Members Grace Napolitano, Jim Costa, Gregorio Sablan, Lacy Clay, and Debra Haaland, and other House Members

“Has any one of us grieved for the death of these brothers and sisters? Has any one of us wept?” Yes.

Protect people, values, wildlife and places on the border and beyond. Restore work, justice, democracy, and the rule of law. Stop the wall, shutdown, fear, hate, lies, and greed.

These comments are dedicated to Jakelin Caal Maquin and Felipe Gomez Alonso, the children from Guatemala who died in the hands of Donald Trump and this Administration. Soy Guatemalteco. Todos somos Americanos.

Overview

People who live and dream along the border are disproportionately children, low income, and of color, with limited political clout. The wall and shut down harms people, communities, cross-cultural understanding, public parks and recreation, and commerce, and hurts wildlife and the health and beauty of the natural landscape. The wall and shut down hurts people living in the borderlands and beyond. The wall and shut down will not stem child smuggling, undocumented immigration, drug trafficking, or violent crime.

A Personal Immigrant's Story

I am an immigrant. I came with my family from Guatemala to the US when I was four. My father Roberto was deported twice before that. My uncle Julio entered the US without papers to join the Air Force. When Julio was afraid of being deported, the commanding officer of his base helped him get his citizenship papers. Julio remained and retired from the Air Force after serving this country for 20 years. Julio helped our family obtain our green cards, our permanent residence to live, love, and work in the US. When we first landed in New Orleans, my cousin Leo was one year old and I was four. Leo went on to earn a Harvard MBA. After a successful career as an executive of a multinational corporation, he retired and runs an educational non-profit that helps other students succeed in college. I am a civil rights attorney, who graduated from Stanford and Stanford Law School, and served on the Law School Board of Editors. Our cousins and children have graduated from the finest universities in the nation, including Boston University, Cornell, and Princeton. We are business and social entrepreneurs, we create and fill coveted positions, we do working class jobs. We do not fill only jobs no one else wants. We pay taxes. We vote.

We came to the US for the same reasons many other immigrants flee their countries: as blowback to oppressive US policies that destroy democracy and the environment abroad. The US overthrew the democratically elected government of Guatemala in 1954, and here I am. The US over the following decades propped up murderous right wing military dictatorships that killed over 200,000 people, and disappeared, tortured, or kidnapped countless others more, as documented by truth and reconciliation reports published by the Catholic Church and the United Nations.

Pope Francis, the first Latino Pope, whose family immigrated to Argentina, prays for immigrants. “These brothers and sisters of ours were trying to escape difficult situations to find some serenity and peace; they were looking for a better place for themselves and their families.” Over the past 20 years, more than 6,000 people have died crossing the border between Mexico and the US. Pope Francis asks, “Has any one of us grieved for the death of these brothers and sisters? Has any one of us wept?” Yes. We grieve. We weep. And we fight for immigrants, human rights, and the rights of Mother Earth.

People Who Live along the Border Are Disproportionately Children, Low Income, and of Color

Families routinely cross the border for cultural, recreational, and religious gatherings, many on a daily basis. People, businesses and cities enjoy cross-border commerce and community. The 32 counties along the border are home to 6.5 million people, 1.8 million of them children. They bear the brunt of construction, environmental and health degradation, and other impacts of the wall.

- 37% of children along the border live in poverty — more than twice the national average of 17%.
- Three of the 10 poorest US counties are in the borderlands.
- 21% of border counties are economically distressed.
- The unemployment rate along the US side of the border is two to three times higher than the US average.
- 41% of native people in the borderlands live at or below the poverty level.
- The unemployment rate along the US side of the border is two to three times higher than the US average.
- 84% of those living within one mile of the border are people of color, compared to 36% in the US.
- 52% of the population is Latino, compared to 15% in the US.

The border region is sacred to indigenous people, such as the Tohono O’odham, whose ancestral lands straddle it. It’s home to Hohokam, Apache, Yaqui and Quechan peoples, among others.

More than 90 endangered and threatened species cross the 2,000-mile border to feed, breed and thrive, including jaguars, ocelots, snowy plovers, pygmy owls and the rare Mexican gray wolf. Many species are found nowhere else.

The borderlands include public parks, monuments, waters, and sacred sites, cultural and natural resources that require protection today and for future generations. Laguna Madre State Park, which hugs the Gulf Coast, is protected by both Mexico and the US as one of the world’s most important bird habitats. Santa Elena Canyon National Park in Mexico picks up where Big Bend National Park leaves off in Texas. On the US side, there’s Organ Pipe Cactus National Monument and Coronado National Forest in Arizona, seven national wildlife refuges, and dozens of state parks and wilderness areas. On the Mexican side of the border, El Pinacate and Gran Desierto de Altar Biosphere Reserve, a UNESCO World Heritage site, spans nearly 2,800 square miles of Sonoran Desert.

Benefits of parks and recreation include fun, health and wellness, and alternatives to gangs and crime. Consumers spend \$887 billion annually on outdoor recreation, creating 7.6 million U.S. jobs. Parks bring people together and encourage environmental stewardship. The lack of parks and open spaces challenges people, especially children of color and those living in poverty. The wall harms these people and resources along the border. The shutdown harms people and national parks, monuments, and waters across the nation.

A majority of people in the US oppose the wall, according to polls. Every elected Congressional representative along the border opposes the wall. Support for the wall is “wrong – morally, politically, and as a matter of sound public policy,” according to civil rights leader Tom Saenz, President and General Counsel of MALDEF.

Lawless Waivers Threaten People and the Environment along the Border

In 2005, Congress gave the Secretary of Homeland Security the authority to waive laws for border walls. More than three dozen environmental, American Indian, and historical-protection laws were waived under the REAL ID Act, and hundreds of miles of border barriers were constructed with little or no review. Thousands of miles of roads were created. New infrastructure was often constructed in ill-advised locations with poor engineering, resulting in flooding, erosion and damage to private property and public lands. This infrastructure blocked wildlife movement on a vast scale. Today, 650 miles of barriers block one-third of the 2,000-mile border. Roughly 300 miles is border wall, with the rest composed of vehicle barriers that allow most wildlife to come and go freely.

The waivers disproportionately harm people of color and low income people in border communities. No national emergency would justify the president acting unilaterally to build the wall, freed from checks and balances provided by the separation of powers. Such action would heighten the humanitarian and environmental crisis, and spark a constitutional crisis. There is no compelling state interest to justify discriminatory harms against people of color legitimately living in the US along the border resulting from the president unilaterally shutting down government and holding Dreamers as hostages to fund the wall. The shutdown and wall are ineffective, not necessary, and not narrowly crafted to secure national security and legitimate immigration interests along the border. Less discriminatory alternatives are available, including comprehensive immigration reform, an electronic barrier, and other border security steps, as illustrated by the bill that unanimously passed the Senate in December 2018. Such discrimination is objectively unlawful, outside the scope of presidential authority, and has no place under the Constitution. *See Trump v Hawaii*, 585 U. S. ____ (2018), slip opinion at 38 (reversing *Korematsu v United States*, 323 U. S. 214 (1944) as having been “gravely wrong the day it was decided” and “overruled in the court of history”) (Roberts, C.J.).

Rep. Will Hurd, a Republican and former CIA agent, represents the borderland and opposes the wall. “A wall from sea to shining sea is the most expensive and least effective way to do border security.” An electronic barrier, not concrete or steel slats, with other measures provides better security.

The Truth Trumps Lies about the Wall and Shutdown

There is a crisis in human rights, democracy, and the rule of law. Donald Trump has created that crisis through the government shutdown, based on fear, hate, lies, and greed. He fears losing reelection as a result of his broken campaign promises, proven corruption in his campaign and administration, and, reportedly, the ongoing investigation for obstruction of justice and national security violations.

While this president now asks for \$5.7 billion, past estimates have pegged the cost as much as \$70 billion.

There is no immigration crisis at the border with Mexico and the US. Undocumented immigration is at historic lows. Most undocumented immigrants in the US arrive with papers and overstay their visas. No wall will stop that.

There is no drug crisis at the border. I am a former federal prosecutor, an Assistant United States Attorney for the Southern District of New York - in the Public Corruption Unit and Narcotics Unit - under John

Martin and Rudy Giuliani. Most illicit narcotics enter the US through other ports of entry. No wall will stop that.

There is no crisis of violent immigrant crime. The crime rate is lower among undocumented people than among the general population. The wall will not solve violent crime.

The wall does not benefit low income African Americans and Latinos by saving their jobs from the threat of low paid immigrants. The wall and shut down are creating an economic crisis. About 800,000 federal workers cannot pay their mortgages and costs of living, and neither can federal contractors and entire communities dependent on federal paychecks. State budgets are threatened making up emergency short falls. Ending the shutdown will solve that economic crisis. No wall will.

Trump proclaimed on video: “I will shut down the government. I am proud to shut down the government for border security. . . . I will take the mantle for shutting down. I will be the one to shut it down.”

To paraphrase Ronald Reagan: Mr. Trump, give up this wall. Open the government and let the nation get back to work.

Thank you.

Robert García

The City Project, www.cityprojectca.org

Joined by Center for Biological Diversity, www.biologicaldiversity.org

California LULAC, www.californialulac.com

The Praxis Project, www.thepraxisproject.org

Resources

Marta A. Segura and Robert García, *Protect People, Wildlife, Places, and Values*, NRPA Parks & Recreation Magazine (Dec. 2017). Available in English and en Español at www.cityprojectca.org/blog/archives/45024.

Homily of Pope Francis on his Visit to Lampedusa (July 8, 2013), w2.vatican.va/content/francesco/en/homilies/2013/documents/papa-francesco_20130708_omelia-lampedusa.html.

N.Y. Times, Trump’s Speech to the Nation: Fact Checks and Background (Jan. 9, 2019), www.nytimes.com/2019/01/08/us/politics/trump-speech.html.

Emily Cochrane., *Only One House Republican Represents the Borderland, and He Opposes a Wall*, N.Y. Times, Jan. 17, 2019, www.nytimes.com/2019/01/17/us/politics/will-hurd-border-wall-trump.html.

Yale Law School Prof. Bruce Ackerman, No, Trump Cannot Declare an ‘Emergency’ to Build His Wall, N.Y. Times, Jan. 5, 2019, www.nytimes.com/2019/01/05/opinion/no-trump-cannot-declare-an-emergency-to-build-his-wall.html.

Harvard Law Prof. Lawrence Lessig, Trump’s border wall demand is constitutionally illegitimate, The Guardian (Jan. 4, 2019), www.theguardian.com/commentisfree/2019/jan/04/trumps-wall-is-constitutionally-illegitimate