



Congress of the United States
House of Representatives
Washington, DC 20515-0906

November 1, 2023

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
2702 Martin Luther King Jr. Ave, SE
Washington, DC 20528

Dear Secretary Mayorkas,

As you know, on January 20, 2021, President Biden issued a proclamation halting the construction of the border wall along our southern border. Prior to this, President Biden said “not another foot” of the border wall would be built on his watch.¹ However, on October 5, 2023, the Department of Homeland Security (DHS) announced it would resume construction of barriers along the Southwest border citing the need to deter unlawful migration in areas that experience large numbers of illegal crossings.²

While the continued building of the southern border wall is a welcome development – as more than 6 million migrants have been encountered at our border since Biden took office, with at least 1.7 million migrants evading Border Patrol completely³ the public notice issued by DHS, only pertains to building the wall in one Texas county – Starr County.⁴

Though the Rio Grande Valley where Starr County is located has been ravaged by the recent border crisis, they are not the only county or sector affected. In fact, local officials in Starr County have noted that a new border wall in the county is unlikely to have an impact – at least in the short term – because they have not experienced recent surges in migration.⁵ Indeed, both the El Paso and Del Rio sectors experienced more encounters in FY2023.⁶

This raises the question of why DHS would start with – and only restart – border wall construction in Starr County, even going as far as waiving 26 federal laws to do so,⁷ and not restart border wall construction in additional sectors or counties along the border.

Further, and perhaps not coincidentally, Starr County has been the subject of federal litigation surrounding the border wall. In July 2021, the General Land Office of the State of Texas (GLO) filed legal action against the Biden Administration for halting border wall construction along the Texas-Mexico border, claiming that GLO-controlled property in Starr County witnessed an increase in unchecked migration and citing concerns of criminal activity and harm to the local economy.^{8,9} In October 2021, Texas and Missouri filed a similar lawsuit which was consolidated with the GLO lawsuit. Recently, in June 2023, the U.S. Court of Appeals

¹ <https://www.wsj.com/politics/policy/biden-administration-to-resume-border-wall-construction-in-policy-reversal-7ff41d2e>

² https://public-inspection.federalregister.gov/2023-22176.pdf?utm_campaign=pi+subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email.

³ <https://homeland.house.gov/2023/10/21/chairman-green-on-historic-september-border-numbers-mayorkas-policies-have-made-us-less-safe-secretary-must-be-held-accountable/>

⁴ <https://s.wsj.net/public/resources/documents/BidenBorderBarriers.pdf>

⁵ <https://www.nytimes.com/2023/10/11/us/border-wall-biden-texas-starr-county.html>

⁶ <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters-by-component>

⁷ <https://www.nbcnews.com/politics/immigration/biden-administration-waives-federal-laws-allow-border-wall-construction-rcna118959>

⁸ <https://www.glo.texas.gov/the-glo/news/press-releases/2021/july/complaint.pdf>.

⁹ <https://www.glo.texas.gov/the-glo/news/press-releases/2021/december/commissioner-george-p-bush-announces-construction-of-texas-border-wall-on-state-lands.html>.

for the Fifth Circuit ruled that Texas and Missouri, along with GLO, had legal standing to pursue their claims against the President.¹⁰

Additionally, the DHS notice has provided contradictory positions on the construction of the border wall. In fact, on the very day DHS noticed its plan to restart border barrier construction in Starr County, DHS also issued a press release saying, “from day one, this Administration has made clear that a border wall is not the answer.”¹¹ President Biden issued a proclamation pausing border wall construction on his first day in office and has maintained opposition to placing fencing and other fortifications on the U.S.-Mexico line,^{12,13} until now.

Thus, the recent notice to restart border wall construction – only in Starr County – raises the question of whether or not DHS and the Department of Justice (DOJ) are preempting a Starr County-specific lawsuit filed by GLO. It also raises questions as to why the Biden administration is not restarting border wall construction in other border sectors.

Our border is still in chaos. The American people deserve to know the extent of the executive branch’s border security decisions and the motivations behind them. As such, please provide answers to the following questions by November 15, 2023:

1. Why did the October 5, 2023, memo call to restart border barrier construction only in Starr County, Texas?
2. Was *General Land Office of the State of Texas et al v. Biden et al*, including the legal standing of the case, taken into consideration when deciding to issue the notice restarting border wall construction in Starr County, Texas?
3. For what reason did DHS initiate the October 5, 2023, notice to restart border wall construction in Starr County, especially since illicit border crossings have remained consistent since January 2021?
4. Does DHS have plans to construct border barriers in parts of Starr County and the RGV Sector not listed in the October 5, 2023, notice?
5. Why has DHS not restarted construction of border barriers in other sectors or regions of the border that experience illegal entries, including but not limited to the Del Rio and El Paso sectors?
 - a. Does DHS have plans to restart construction of border barriers in other sectors or regions of the border that experience illegal entries, including but not limited to the Del Rio and El Paso sectors?
6. Please provide the numerical figure of the number of illegal migrant encounters in FY2023 in the 10 areas listed under section 2 of the October 5, 2023, Federal Register notice.

Thank you for your attention to this inquiry.

Sincerely,



Chip Roy
Member of Congress



Michael C. Burgess, M.D.
Member of Congress

¹⁰ <https://www.courthousenews.com/fifth-circuit-reinstates-red-states-lawsuit-over-bidens-redirection-of-border-wall-funding/>.

¹¹ <https://www.dhs.gov/news/2023/10/05/statement-secretary-mayorkas-recent-news-reports>.

¹² <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

¹³ <https://www.cnn.com/2023/10/05/white-house-waives-26-laws-for-us-mexico-border-wall-construction.html/>

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