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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO-OAKLAND DIVISION**

SIERRA CLUB and SOUTHERN BORDER  
COMMUNITIES COALITION,

*Plaintiffs,*

v.

DONALD J. TRUMP, President of the United  
States, in his official capacity; MARK T. ESPER,  
Secretary of Defense, in his official capacity; and  
CHAD F. WOLF, Acting Secretary of Homeland  
Security, in his official capacity,

*Defendants.*

Case No.: 4:20-cv-01494-HSG

**APPENDIX OF DECLARATIONS IN  
SUPPORT OF PLAINTIFFS' REPLY  
IN SUPPORT OF MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

Judge: Hon. Haywood S. Gilliam, Jr.  
Trial Date: None Set  
Action Filed: February 28, 2020

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**DECLARATIONS IN SUPPORT OF PLAINTIFFS' REPLY IN SUPPORT OF MOTION  
FOR PARTIAL SUMMARY JUDGMENT**

<b>Title</b>	<b>Exhibit</b>
Supplemental Declaration of Kevin Bixby	1
Supplemental Declaration of Howard Dash	2
Supplemental Declaration of Edith Harmon	3
Supplemental Declaration of Rick LoBello	4

# Exhibit 1

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO-OAKLAND DIVISION**

SIERRA CLUB and SOUTHERN BORDER  
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CHAD F. WOLF, Acting Secretary of Homeland  
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*Defendants.*

Case No.: 4:20-cv-01494-HSG

**SUPPLEMENTAL DECLARATION OF  
KEVIN BIXBY**

My name is Kevin Bixby and I declare:

1. I am over the age of eighteen, and I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify to the facts in this declaration under oath if called upon to do so.
2. I am the Executive Director and founder of the Southwest Environmental Center (“SWEC”) in Las Cruces, New Mexico, an organization that forms part of the Southern Border Communities Coalition (“SBCC”). In addition, for over one year I have served on SBCC’s Steering Committee, directing and coordinating SBCC’s decisions at the organizational level.

3. I submit this declaration to supplement my previous declaration in *Sierra Club v Trump*, and specifically to reiterate the harmful consequences of proposed border wall construction on the lands that I recreate and work in.

4. As the Executive Director of SWEC and a long-time resident of Las Cruces, I have devoted more than 30 years to protecting sensitive wildlife and ecosystems in the southwestern United States, including along the border with Mexico. These lands are national treasures, and ever since I have been living in New Mexico, I have cherished the ability to recreate in such wondrous natural surroundings. I hope to continue to do so, but, as I stated in my previous declaration, the proposed wall construction threatens my ability to return to and enjoy these lands.

5. The government states that “there will be no construction in the bootheel” and, therefore, no harm to my recreational interests or to the diverse wildlife that lives in the area. Enriquez Decl. ¶¶ 61, 93. The government also alleges that I am “overstat[ing]” the injury caused by constructing “two and one-half miles of new bollard-style fencing” in El Paso B. Enriquez Decl. ¶¶ 94-95. According to the government’s logic, because these areas are remote, they cannot possibly have any aesthetic value for me.

6. These arguments are simply incorrect. According to the government’s own maps, construction will indeed take place in the bootheel, which is commonly defined by the Hidalgo County, NM border with Mexico. These maps show that more than 60 miles of El Paso Project B will be constructed in the bootheel.

7. Further, impact from wall construction adjacent to the bootheel will be felt in the surrounding area. Wildlife will be especially impacted. Construction of the wall in Cochise County, AZ and Luna County, NM will close off wildlife movement corridors, negatively affecting numerous species including endangered jaguars, Mexican wolves, ocelots, and white-sided jackrabbits.

8. As I stated in my prior declaration, the reason I enjoy the lands designated as El Paso Projects A and B is that they are serene and largely undisturbed by human activity. They offer a tranquil escape from the hustle and bustle of everyday life, and that is precisely why I enjoy hiking, birdwatching, camping, and spending time in these areas. The government's contention that an obtrusive, 30-foot wall, accompanied by grid power, a ground detection system, access roads, and bright lights will not hamper or irreparably harm my ability to enjoy these lands is absurd. The remoteness of these lands and the opportunity for solitude and reflection that they offer is precisely *why* they should be protected from a disruptive wall that will mar the landscape and forever disturb the peacefulness and beauty of the surrounding areas.

9. Although there is existing barrier in areas that are at some distance but visible from Mount Cristo Rey, it is in no way as intrusive nor does it blight the landscape in the same way that the much taller new border barriers will. According to the government's documents and maps, El Paso Project D includes construction of approximately 0.5 miles of new primary pedestrian fencing where there is currently no barrier along the southern base of Mount Cristo Rey. Unlike the existing barrier, this will be in much closer proximity to the

mountain and will be clearly visible from the peak, ruining the panoramic views.

Incidentally, it will be built in an area where an endangered Mexican wolf wearing a GPS collar crossed the border on January 24, 2017, thereby making it less likely that such wildlife crossings will occur in the future.

10. Further, as I previously stated, El Paso Project B includes parts of the Chihuahuan desert ecosystem that are scarcely populated and untouched by human development. This area is home to many species of wildlife including mountain lions, bobcats, coyotes, gray foxes, kit foxes, badgers, javelina, and mule deer, all species that would be harmed by the proposed construction.

11. I have worked for decades to protect and restore the lands that the government is so callously disrupting and damaging. These are lands that I and other SWEC members have visited and enjoyed countless times. Now, they are threatened with permanent, irreversible destruction. For the reasons stated above, the harms from construction are real, tangible, and will impact my continued ability to enjoy the lands I have treasured for decades. My injury is not “overstated.” A court order prohibiting construction in El Paso projects A, B, and D is the only way to prevent this harm.

I hereby declare under the penalty of perjury pursuant to the laws of the United States that the above is true and correct to the best of my knowledge.

EXECUTED this 8<sup>th</sup> day of May, 2020.

Kevin Bixby



# Exhibit 2

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO-OAKLAND DIVISION**

SIERRA CLUB and SOUTHERN  
BORDER COMMUNITIES COALITION,

*Plaintiffs,*

v.

DONALD J. TRUMP, President of the  
United States, in his official capacity; MARK T.  
ESPER, Secretary of Defense, in his official  
capacity; and CHAD WOLF, Acting Secretary of  
Homeland Security, in his official capacity,

*Defendants.*

Case No.: 4:20-cv-01494-HSG

**SUPPLEMENTAL DECLARATION OF  
HOWARD J. DASH**

My name is Howard J. Dash and I declare:

1. The facts set forth in this declaration are based on my personal knowledge and my review of publicly available information. If called as a witness, I could and would truthfully testify competently to these facts. Any opinions contained in this declaration reflect my personal opinion and judgment.

2. I previously wrote a declaration for this case in connection with the El Paso D border wall project. My declaration was submitted on April 13, 2020. I now submit this supplemental declaration in order to clarify the following facts.

3. The Government submitted a Declaration by Paul Enriquez (“the Enriquez Declaration”) which claims that “El Paso D, segment 4, will not be built on or over Mount Cristo Rey,” and therefore the El Paso D wall “will not ruin the panoramic vistas visible from the top of the mountain.” Enriquez Decl. ¶ 92.

4. Mr. Enriquez' statement is inaccurate. The attached map (Attachment A) indicates clearly that segment 4 of the El Paso D wall would be built over the southern slopes of Mount Cristo Rey. Attachment A shows that the wall goes over 300 feet uphill from its westernmost point to its easternmost point. So even if the wall would be built below the steepest part of the mountain, it is still clearly going to cross the side of the mountain.

5. Even if the wall were not technically going over Mount Cristo Rey, Attachment A shows that it is close enough to the mountain that it would impact my experience while hiking up the mountain; this is the point I made in my declaration.

6. The Enriquez Declaration further states that the proposed wall segment would not mar the feeling of boundlessness I get while at the top of Mount Cristo Rey because "there is already existing barrier in the area that is clearly visible from Mount Cristo Rey." *Id.*

7. The border wall as it exists starts at the end of the town of Anapra. So yes, at the very top of the mountain I can see that wall. But the way the view is from the top of Mount Cristo Rey, there are much better views to the north and south. To see out to the east and west, I actually have to go up the steps of the statue of Jesus Christ. From the mountaintop itself, the view to the east and west is slightly blocked, and it is much easier to see north and south. Currently, I see no walls from that vantage point to mar my view of the beautiful landscape. But if the government builds a wall directly beneath the mountain peak, on its southern slope, it will be very easy to see from the mountaintop.

8. Further, this wall would be both much bigger and much closer to me and thus would be more directly in my view. Currently, when I am looking from Mount Cristo Rey, even if there is a barrier visible it is not noticeable enough to make a difference. If there is a thirty-foot

wall so close to me, it would be a significant difference from the much smaller, more distant walls that are currently present.

9. I am further still worried about the impact that the construction of the wall would have on the mountain. For all these reasons, the construction of the El Paso D wall would significantly affect the enjoyment I get from hiking up Mount Cristo Rey.

I hereby declare under penalty of perjury pursuant to the laws of the United States that, to the best of my knowledge, the above is true and correct.

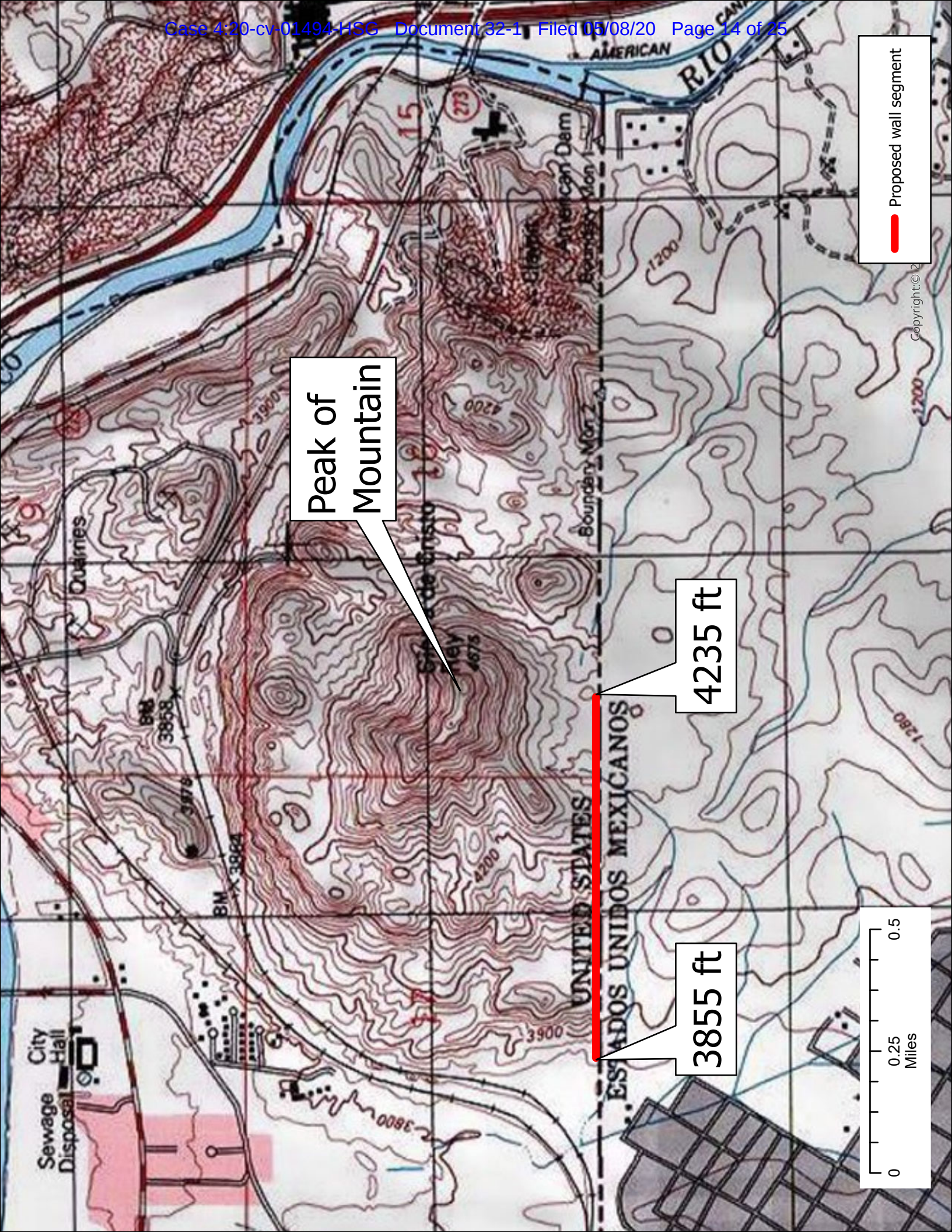
Dated: May 8, 2020

A handwritten signature in black ink, appearing to read "Howard J. Dash", is written over a horizontal line.

Howard J. Dash

# Attachment A





Peak of  
Mountain

4235 ft

3855 ft

Proposed wall segment

Copyright © 2012



# Exhibit 3

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO-OAKLAND DIVISION**

SIERRA CLUB and SOUTHERN  
BORDER COMMUNITIES COALITION,

*Plaintiffs,*

v.

DONALD J. TRUMP, President of the  
United States, in his official capacity; MARK T.  
ESPER, Secretary of Defense, in his official  
capacity; and CHAD WOLF, Acting Secretary of  
Homeland Security, in his official capacity,

*Defendants.*

Case No.: 4:20-cv-01494-HSG

**SUPPLEMENTAL DECLARATION  
OF EDITH G. HARMON**

My name is Edith G. Harmon and I declare:

1. I previously wrote a declaration for this case in connection with the El Centro A border wall project. My declaration was submitted on April 13, 2020. I now submit this supplemental declaration in order to clarify the following facts.

2. The facts set forth in this declaration are based on my personal knowledge and my review of publicly available information. If called as a witness, I could and would truthfully testify competently to these facts. Any opinions contained in this declaration reflect my personal opinion and judgment.

3. The Government submitted a Declaration by Paul Enriquez (“the Enriquez Declaration”) which spends much time discussing a change to the El Centro A project that will



reduce its length, and states that as a result of this change, my claims regarding the harm the wall would cause me are “overstated.” Enriquez Decl. ¶ 77.

4. Even with the changes, this shortened wall project would still cause great ecological destruction in areas that I visit often. Skull Valley would still have a wall built across it. I can walk to Skull Valley from my house; it is my favorite place in the Jacumbas to visit because it is such an easy walk from my house. I visited the access slopes and wash leading into Skull Valley just a few days before the writing of this declaration.

5. In fact, the path into Skull Valley—where governmental road construction has already begun—is the only way I know to get into the Jacumba Mountains Wilderness Area while walking from my home that does not require going up and over big boulder-strewn areas or up very steep slopes. At my age, I can no longer negotiate to some of the places I used to go because the rock falls and boulders are so big so it is physically impossible for me. If a wall is built across Skull Valley, I will likely have to see the wall anytime I want to hike anywhere in my favorite and most frequently visited parts of the Jacumba Mountains Wilderness. This would cause me continuing emotional harm.

6. The Enriquez declaration further states that because I could hike in other parts of the Jacumba Mountain Wilderness even if the El Centro A wall is built, my claims are “exaggerated.” Enriquez Decl. ¶ 80.

7. This is incorrect for two reasons. First, the negative consequences of this border wall would extend far past its immediate footprint. The Enriquez Declaration states that the project will involve “the installation of lighting, which will be supported by grid power . . . .” Enriquez Decl. ¶ 19. The nearest access to the power grid would be more than two miles away along Highway 98 near where Coyote 2 meets Highway 98. The government will have to place power

lines across the wilderness to connect the project to the grid, which would cause further damage to the environment, either by vehicle damage to install power poles or helicopters placing poles over the mountain to the east of Skull Valley. Thus, there would likely be a corridor of damage not only across the Jacumba Mountains Wilderness but also across BLM's Yuha Desert Area of Critical Environmental Concern, which includes the surrounding lands not in the wilderness area.

8. Further, I recently learned from the BLM El Centro Field Office Manager Ryan Chatterton that if construction continues, a water pipeline would be built to go from an existing well near the border wall on the east side of the mountain to the east of Skull Valley and that the water pipeline will go around the mountain to supply water for the construction site to allow the government to make concrete on-site. I am concerned about this groundwater usage based on what I have learned from being involved in more than forty-three years of litigation to stop the export of groundwater from this groundwater basin for industrial uses. The U.S. EPA designated the Ocotillo-Coyote Wells groundwater basin as a "Sole Source Aquifer" in 1996. The Sierra Club initiated litigation in January 1999, in part, related to the company U.S. Gypsum's proposed increase in export of groundwater from its three wells in the Ocotillo area, replacing an existing water pipeline with a larger diameter pipeline, and requested rights of way in Imperial County for water pipelines from both Ocotillo water wells to the west of US Gypsum's wallboard factory at Plaster City and from Imperial Irrigation District's Westside Main Canal to the east of the wallboard factory. The litigation also involved a separate water and electrical line to a gypsum mining quarry. Sierra Club's main concern was the potential adverse impact any increase in the export of potable groundwater for industrial use would have on the Sole Source Aquifer, as Imperial County had earlier approved U.S. Gypsum almost doubling the export of potable groundwater from the Sole Source Aquifer to its Plaster City factory and almost doubling the

mining of gypsum at its existing Fish Creek gypsum quarry, all without any California Environmental Quality Act (CEQA) environmental review. This litigation was finally concluded twenty-one years later with BLM's 2020 Record of Decision, following a 2019 Settlement Agreement between Sierra Club and Imperial County that imposed mitigation measures on U.S. Gypsum for impacts from its use of groundwater from the Sole Source Aquifer. BLM explained the importance of the Sole Source Aquifer designation in its Record of Decision, stating: "The BLM selected Alternative 3 because it would result in a feasible project that would reduce impacts on *the most critical resource, the sole source aquifer*, without impacting the productivity of the mine." U.S. Dep't of the Interior, Bureau of Land Mgmt., *United States Gypsum Mine Project Record of Decision* 6 (2020) (emphasis added). BLM's ROD further noted: "The use of the sole source aquifer for industrial purposes is counter to its designation." *Id.* at 12. The southern portion of this Sole Source Aquifer where I live, and from which the government would most likely be withdrawing groundwater for concrete mixing, has very limited transmissivity. According to U.S. Geological Survey's hydrogeologist recharge expert Dr. John Izbicki, there is no measurable recharge anywhere in the Sole Source Aquifer. This is because USGS groundwater monitoring since the 1970s reveals that there has been no increase in potable groundwater levels following the floods from hurricanes of 1976, 1977, 1981, and subsequent rain events that have left standing water over sinks in various parts of the basin. Thus, I believe any use of that groundwater by the government for industrial use concrete-mixing could adversely impact my drinking water availability.

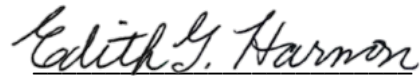
9. These are just two of numerous examples of additional damage the infrastructure and construction of the wall will cause far away from the immediate project area at the international border. I believe that the government is going to do many miles of serious damage before they

get to the project site. I have seen several locations near my house that were old campgrounds on BLM lands where restoration/reclamation has been attempted by BLM since the 1970's. I have also seen previous failed reclamation efforts at open-pit cyanide heap leach mines in eastern Imperial County and sand and gravel operation sites near the Coyote Mountains. They are disaster areas that have not improved and have been photo documented by USGS geologist Howard Wilshire as examples of mining reclamation failures. Once the government contractors start digging down, it will change the nature of the underlying geology and drainage patterns and damage root systems of existing vegetation lining the road. The government will not likely be able to fix this damage after construction finishes, given the failures at reclamation/restoration at other campground/ORV use sites in the Yuha Desert Area of Critical Environmental Concern where surface impacts were even less than what would occur related to the infrastructure impacts associated with the El Centro A project in the Jacumba Mountains Wilderness Area.

10. The second reason my claims are not exaggerated is because, as I mentioned above, the areas that will be walled off are the parts of the Jacumba Mountains I most enjoy. Skull Valley is walking distance from my home. I can see the flood lights from the construction that has already started there from my house. Just seeing the flood lights at night has left me in tears knowing the damage that is occurring or will occur if a border barrier is constructed at the south end of Skull Valley. It is Skull Valley to which I have most often taken visitors over the past four decades and Skull Valley which my husband and I explored so many times. It is Skull Valley where some of my best memories are. It is the easiest walk from my home; no vehicle is needed, and there are so many cultural resources and ancient foot trails that are evidence of prehistoric use of the area. To tell me to go hike somewhere else is callous and cruel and it just doesn't work for me because of where I live.

I hereby declare under penalty of perjury pursuant to the laws of the United States that the above is true and correct to the best of my knowledge.

Dated: May 8, 2020

A handwritten signature in cursive script, reading "Edith G. Harmon", which is underlined.

Edith G. Harmon

# Exhibit 4

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO-OAKLAND DIVISION

SIERRA CLUB and SOUTHERN  
BORDER COMMUNITIES COALITION,

*Plaintiffs,*

v.

DONALD J. TRUMP, President of the United  
States, in his official capacity; MARK T. ESPER,  
Secretary of Defense, in his official capacity;  
KEVIN K MCALEENAN, Acting Secretary of  
Homeland Security, in his official capacity; and  
STEVEN MNUCHIN, Secretary of the Treasury,  
in his official capacity,

*Defendants.*

Case No.: 4:20-cv-1494-HSG

**SUPPLEMENTAL DECLARATION  
OF RICK LOBELLO**

I, Rick LoBello, declare as follows:

1. I am over the age of eighteen, and I am competent to make this declaration. This declaration is based on my personal knowledge, and if called upon to do so I would testify under oath to the facts herein.

2. I submit this declaration to supplement my previous declaration in *Sierra Club v. Trump*, and specifically to reiterate the consequences of the proposed border wall project on my community, lands I cherish, and my work.

3. I have spent most of my adult life living and working on the US-Mexico border in west Texas and northern Mexico. I have family living on both sides of the border dividing this binational community. Over the past 50 years, I have interacted with all of the stretches of land to be impacted by this construction labeled El Paso Projects A and D, and I will continue to do so in my routine activities because they are in or near the city where I live.

4. In my previous declaration, I described existing walls. I also understand the nature of each of the segments of El Paso D, including that new wall will be *near* Mount Christo Rey in New Mexico, rather than on it.

5. With due respect to Mr. Enriquez, I have not “overstated” the consequences of the massive infrastructure project the government wishes to conduct in my community. As I stated in my previous declaration, I understand that portions of these projects are *replacement* wall. I have lived in or near these lands for five decades, before they had any wall, then during and after the original border-wall construction projects. I also understand that new border wall will not be on Mount Christo Rey, and said that in my previous declaration. I forcefully maintain that what the government here proposes will be menacing. The government will invite construction crews to build dismantle 18-foot walls and replace them with a 30-foot wall. What remains will be a scar visible from miles away.

6. As I stated in my previous declaration, these projects will alter the landscape of my daily life. And they will harm the fragile ecosystems I have dedicated my life to protecting. I have devoted myself to efforts to save endangered animals like Mexican wolves and Mexican black bears. To be sure, existing structures do violence to these lands and necessary migrations. But additional construction, widening roads, adding lighting, and heightening the structures will exacerbate the problems. The government says it is conducting environmental review, and therefore that I should trust that lands and animals will not be harmed. But we fought for these environmental laws, for strong review. The government wants to ignore them and put in place a process of its choosing. Under what authority is the environmental review being conducted? NEPA exists for a reason. If they intended to be as rigorous as NEPA requires, they would not have waived it.

7. I am moved to quote from Carl Sagan, who wrote in 1994 that we have a responsibility to deal more kindly with one another, “to preserve and cherish the pale blue dot, the only home we’ve ever known.” The wall will be visible from space, a scar on the pale blue dot. Daily experiencing heightened thirty-foot walls will injure me spiritually, aesthetically, and



recreationally. It is a menacing symbol that is contrary to the spirit of my community; it will alter my feelings of safety and security in my own home; It is violence to the natural lands I have devoted my life to protecting.

8. For these reasons, the El Paso A and D projects will injure me aesthetically, recreationally, morally and professionally. An order stopping these construction projects would prevent this harm.

I hereby declare under the penalty of perjury pursuant to the laws of the United States that the above is true and correct to the best of my knowledge.

EXECUTED this 8<sup>th</sup> day of May 2020.

Rick Lobello