

**LAWS WAIVED TO EXPEDITE CONSTRUCTION
OF A BORDER WALL**

FRIENDS OF THE SONORAN DESERT

MAY, 2018

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THE WAIVER OF LAWS THAT PROTECT NATURAL RESOURCES, PUBLIC LANDS, CULTURAL TRADITIONS, HISTORICAL RECORDS, AND HUMAN HEALTH

After the terrorist attack on the United States on 9/11/2001, the U.S. Government enacted new legislation to protect our country against future terrorist attacks. The REAL ID Act, passed by Congress on May 17, 2005, modified federal law concerning security, authentication, and issuance procedures for driver's licenses, identity documents, and other issues pertaining to immigrants.

One provision of the REAL ID Act, however, allows for the waiver of "any and all laws necessary to ensure expeditious construction of roads and barriers" near U.S. borders. To date, 48 federal laws (and countless state and local laws) have been waived by the Secretary of the Department of Homeland Security (DHS), who has sole discretion in deciding which laws will be waived.

Laws enacted as early as 1890 and as late as 2010 have been waived. Laws protecting our water, air, and public lands have been waived. Laws protecting endangered species, wilderness areas, and wildlife refuges have been waived. Laws protecting public lands from contamination by toxic waste have been waived. And laws protecting the right to practice religion, engage in important cultural traditions, and preserve antiquities have been waived. Even our right to undisturbed burial grounds has been waived.

With hindsight, it is clear that such draconian measures are not necessary to secure our border. There is no justification for waiving laws that protect our health, water, air, endangered species, historical record, and religious freedoms.

The mission of FRIENDS OF THE SONORAN DESERT is to conserve the Sonoran Desert through science, advocacy, and stewardship. As advocates for the conservation and protection of the Sonoran Desert, we have compiled a list of the 48 federal laws waived to expedite construction of a border wall. In the pages that follow, you will find a description of each law that has been waived, the year it was enacted, what prompted its original passage, and the likely consequences of the waiver.

FEDERAL LAW WAIVED**YEAR ENACTED**

1. The Rivers and Harbors Act (RHA)	1890
2. The Antiquities Act (AA)	1906
3. The National Park Service Organic Act. (NPSOC)	1916
4. The Migratory Bird Treaty Act (MBTA)	1918
5. The Migratory Bird Conservation Act (MBCA)	1929
6. The Historic Sites Act (HSA)	1935
7. The Fish and Wildlife Coordination Act (FWCA)	1936
8. The Reclamation Project Act (RPA) Section 10	1939
9. The Bald Eagle Protection Act (BEPA)	1940
10. The Administrative Procedure Act (APA)	1946
11. The National Fish and Wildlife Act (NFWA)	1956
12. The Multiple Use and Sustained Yield Act (MUSYA)	1960
13. The Sikes Act (SA)	1960
14. The Clean Air Act (CAA)	1963
15. The Wilderness Act (WA)	1964
16. The Solid Waste Disposal Act (SWDA)	1965
17. The National Historic Preservation Act (NHPA)	1966
18. The National Wildlife Refuge System Administration Act (NWRSA)	1966
19. The Wild and Scenic Rivers Act (RSRA)	1968
20. The National Trails System Act	1968
21. The National Environmental Policy Act (NEPA)	1970
22. The National Park Service General Authorities Act (NPSGA)	1970
23. The Wild Horse and Burro Act (WHBA)	1971
24. The Clean Water Act (CWA)	1972
25. The Noise Control Act (NCA)	1972
26. The Coastal Zone Management Act (CZMA)	1972
27. The Endangered Species Act (ESA)	1973
28. The Safe Drinking Water Act (SDWA)	1974
29. The Archaeological and Historic Preservation Act (AHPA)	1974
30. The Resource Conservation and Recovery Act (RCRA)	1976
31. The Federal Land, Policy, and Management Act (FLPMA)	1976
32. The National Forest Management Act (NFMA)	1976
33. The Federal Grants Cooperative Agreements Act (FGCAA)	1977
34. The National Parks and Recreation Act (NPRA)	1978
35. The American Indian Religious Freedom Act (AIRFA)	1978
36. The Archaeological Resources Protection Act (ARPA)	1979
37. The Comp. Environmental Resp., Compensation, & Liability Act (CERCLA)	1980
38. The Farmland Protection Policy Act (FPPA)	1981
39. The Arizona-Idaho Conservation Act (AICA)	1988
40. The Federal Cave Resources Protection Act (FCRPA)	1988
41. The Native American Graves Protection and Repatriation Act (NAGPRA).	1990
42. The Arizona Desert Wilderness Act (ADWA)	1990
43. The Religious Freedom Restoration Act (RFRA)	1993
44. The Otay Mountain Wilderness Act (OMWA)	1999
45. The Military Lands Withdrawal Act (MLWA)	1999
46. The National Defense Authorization Act (NDAA)	2000
47. The Paleontological Resources Protection Act (PRPA)	2009
48. The California Desert Protection Act (CDPA)	2010

Waiver of the Rivers and Harbors Act (RHA), enacted in 1890

In the days of the wild west, there were essentially no rules for managing navigable waterways in the United States. One problem that was obvious by the mid 1800's was that there were no regulations about what structures could be built on or over rivers, like bridges, dams, dikes, or causeways. Another problem was the lack of regulation of the amount and kind of refuse that could be dumped into U.S. waterways.

The Rivers and Harbors Act (RHA) was passed in 1890, and it began to put into place regulations that protected our waterways. In 1899, the RHA was significantly amended. First, it became illegal to dam or erect any other structure on a navigable waterway without approval of Congress and a license or permit from the U.S. Army Corps of Engineers. Second, excavation of, filling, or dumping of refuse into U.S. waterways now required the approval of the U.S. Army Corps of Engineers. Concerns that contaminated sediments were being dumped into our waterways spurred the amendments of 1899. The Rivers and Harbors Act is considered to be the oldest federal environmental law in the U.S.

What are the consequences of waiving the RHA to expedite the building of a border wall? There are three navigable waterways in the U.S. that either cross or are on the border with Mexico—The Colorado River in Yuma, AZ, the San Pedro River near Hereford, AZ, and The Rio Grande River in Texas. Waiving the RHA would mean that wall construction near any of these rivers could produce contaminants that could be dumped into the river without acquiring a permit or license to do so. It means that a barrier could be constructed next to or right through a waterway with neither congressional approval nor the permission of the U.S. Army Corp of Engineers. Flooding and contamination would be two likely negative outcomes of skipping the review and permitting process. Two of these rivers, the Colorado and the San Pedro, flow through the Sonoran Desert. Polluting these rivers or precipitating flooding would be catastrophic for both the human populations and wildlife which rely on them for sources of clean, fresh water.

Waiver of the Antiquities Act (AA), enacted in 1906

Chaco Canyon in New Mexico contains relics of human history from 900 B.C., through habitation by the Puebloan people of Arizona and New Mexico, and finally, by the Navajo Tribe. In the late 1800's, signs of extensive looting in Chaco Canyon and other historical sites raised concerns that the historical record of America's human history could be permanently lost. The Antiquities Act passed in 1906 had two purposes: 1) to protect historic objects on all public lands—the first legislation to do so. The initial purpose of the law was to prevent the looting of archeological sites, Native American structures, and artifacts; and 2) to establish a way for U.S. Presidents to protect federal lands of great cultural, historic or scientific interest by creating a national monument.

The Organ Pipe Cactus National Monument (OPCNM) is located in the Sonoran Desert, in close proximity to the Mexican border. Although the OPCNM was designated as a national monument primarily to protect the only examples of organ pipe cactus found in the U.S., it also harbors a treasure trove of Native American artifacts, many not yet excavated. The Antiquities Act in the OPCNM prohibits injuring, destroying or removing historical artifacts of human history and the organ pipe cactus.

The Department of Homeland Security has waived the Antiquities Act to expedite the building of a border wall. What are the consequences of waiving this act for the as yet unearthed cultural artifacts buried near the proposed wall and the unique plants of the OPCNM? The Border Patrol may ignore with impunity the management plan created for the Monument. This means that the wall can be built with no concern for historic objects or organ pipe cactus in the vicinity of the construction—these relics and plants can literally be kicked aside to make room for the wall. Waiving the Antiquities Act means that we may permanently lose part of our historical record and a unique form of Arizona's biodiversity.

Waiver of the National Park Service Organic Act (NPSOA), enacted in 1916

The National Park Service was created in 1916 by the National Park Service Organic Act (NPSOA), and was placed under the supervision of the Department of Interior. Its mission was to manage our national parks (and some national monuments) by conserving their scenery, natural and historic objects, and wildlife, for the enjoyment of future generations. A key provision of the NPSOA is that national parks must be managed so that they remain unimpaired—that is, visitors may not disturb or remove objects from national parks. We can't collect rocks or fossils, shoot deer, or catch fish within our national parks, so that generations to come can experience these unique resources, just as we have.

The NPSOA has been amended twice. First, the Department of Interior was tasked with submitting a yearly list to Congress of all new areas it recommended for inclusion in the National Park System. Second, the Department of Interior was asked to submit two lists per year to Congress, one recommending areas with significant historical resources, and the other recommending areas with significant natural resources, for inclusion in the National Park System. The visionaries who created the original law and those that subsequently amended it had the foresight to understand that the more of our unique resources protected for the enjoyment of future generations, the better.

Waiving the NPSOA means that resources may be disturbed, damaged, or even destroyed, without consequence. The Coronado National Memorial in southern Arizona is an example of a place whose very essence would be transformed by a border wall. Not only would a wall put this park's natural resources at risk, it would obstruct the magnificent view from the mountains into Mexico. According to the NPSOC, scenery must be conserved for future generations as well.

Waiver of the Migratory Bird Treaty Act (MBTA), enacted in 1918

During the 19th century many birds were slaughtered for their feathers or for other commercial purposes. Following extinction of the passenger pigeon, birds with long, elegant plumes, like the snowy egret, were regularly killed for their feathers, used to adorn ladies' hats. A massive outcry from women who saw value in birds beyond hats led Congress to pass the Migratory Bird Treaty Act (MBTA) in 1918. The MBTA implemented a treaty between the U.S. and Great Britain (the latter acting on behalf of Canada) to prevent the pursuit, hunting, capture, or killing of birds migrating between the U.S. and Canada. A similar treaty was signed with Mexico in 1936, and additional treaties with Japan and Russia followed. There are now 1007 bird species on the list of protected migratory birds.

Many birds that reside in Mexico migrate to the southwestern U.S. to breed. Each spring, birdwatchers travel from all over the world to Arizona's sky islands, near the Mexican border, to catch a glimpse of the elegant trogon, sulphur-bellied flycatcher, or violet-crowned hummingbird. Seeing such glorious birds reminds us that to preserve these species for the future, we must safeguard their nesting sites and feathers, and protect them from hunting and capture today.

Waving the MBTA means that bird species migrating to the Sonoran Desert and its sky islands are no longer protected if they breed in the vicinity of the proposed border wall. Breeding habitat may be damaged, nests disturbed or destroyed, and ground nesting birds may simply be run over. There were sound justifications for the enactment of the MBTA, and it is heartbreaking to see those justifications being cavalierly disregarded.

Waiver of the Migratory Bird Conservation Act (MBCA), enacted in 1929

Legislators decided in 1929 that conservation planning was needed to protect migratory birds. The Migratory Bird Conservation Act (MBCA) created the U.S. Migratory Bird Conservation Commission, whose purpose was to consider and approve the purchase or rental of areas of land or water particularly suitable for the conservation of migratory birds. The Commission is required to meet twice yearly to decide on new purchases of land, and is made up of three members of the U.S. Cabinet, two members each from the U.S. Senate and House of Representatives, and an ex-officio member from the state in which the land acquisition is being considered. The Commission is tasked with cooperating with local wildlife conservation experts, maintaining and developing conservation refuges, and cooperating with states to enforce these conservation efforts. In 1989, the Commission was given the additional responsibility of authorizing funding to protect, restore, and manage wetlands and other habitats preferred by migrating birds.

Since the MBCA was enacted, over 5 million acres have been purchased with over one billion dollars set aside by the Migratory Bird Conservation Fund. This money pays for conservation projects which prioritize the purchase, protection, and conservation of wetland habitats and ecosystems. The money comes from four primary sources: the sale of "duck" stamps (with hunting licenses, at wildlife refuges, or online), funds authorized by the Wetlands Loan Act of 1961, import duties on arms and ammunition, and receipts from the sale of refuge admission permits.

Waiving the MBCA law is not good news for riparian and wetland areas in the Sonoran Desert, which have already been severely impacted by the high temperatures and reduced rainfall associated with climate change. Commission members no longer have to look for or acquire essential habitat for migrating birds, or cooperate with local authorities to enforce conservation plans in the vicinity of the border wall. In southern Arizona, the Buenos Aires and the San Bernardino National Wildlife Refuges, and in Texas, the Santa Ana National Wildlife Refuge—all very attractive to migrating birds—are too close to the proposed wall to be protected any longer by the MBCA.

Waiver of the Historic Sites Act (HSA), enacted in 1935

By the early 1930's, there were so many federally owned national parks, national monuments, and historic sites that Congress felt it necessary to organize them all under the jurisdiction of the Secretary of the Interior, to be managed by the National Park Service. The Historic Sites Act of 1935 declared a national policy for the very first time to preserve for future generations historic sites, buildings, and other objects significant to our nation's history.

Expanding beyond the Antiquities Act of 1906, the HSA asserted that it was the duty of the federal government to safeguard important historic sites. It required surveys of promising historic sites, examination of objects for their significance, purchase of property as needed to protect artifacts, restoration and rehabilitation of historically important structures, installation of educational markers, and appropriate management of all historic sites.

What are the consequences of waiving the HSA in our borderlands? There are 46 National Historic Landmarks in Arizona, and several are located near the Mexican border. The Slaughter Ranch, for example, associated with the beginning of cattle ranching in the southwestern U.S., sits right on the U.S. border with Mexico. In fact, the home used by its original owner, John Horton Slaughter, had two rooms, one on either side of the border! The historic buildings are now part of the Johnson Historical Museum, and the land is part of the San Bernardino National Wildlife Refuge. But if a border wall is ever planned for this area, the law safeguarding the Slaughter Ranch has been waived, leaving the site unprotected.

Waiver of the Fish and Wildlife Coordination Act (FWCA), enacted in 1936

Water. The lifeblood of the Sonoran Desert. Because the Sonoran Desert is teeming with life (unlike many of the world's deserts), sources of clean, fresh water are crucial to all of its plant and animal inhabitants. Sonoran Desert creatures don't need a lot of water, but they do need some, and they need to know where to find it. There are no backups if the desert's few sources of fresh water are polluted, filled in, or diverted.

Congress passed the Fish and Wildlife Coordination Act (FWCA) in 1934 to protect sources of fresh water on federal lands. The FWCA requires that before sources of fresh water on federal land are "impounded, channeled, or otherwise altered," federal agencies must be consulted to ascertain that the proposed project will not negatively impact fish and wildlife. The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and various state wildlife agencies all must weigh in before undertaking any project that might alter sources of fresh water. Both the potential impact on the body of water itself (domestic sewage or other pollutants) and the potential effect on wildlife (diversion or pollution of drinking water, for example), have to be taken into consideration. This is the first time a law required that wildlife conservation and rehabilitation issues be built into resource development programs.

How will the waiver of the FWCA impact the inhabitants of the Sonoran Desert? The San Pedro River is the last permanently flowing river in the Sonoran Desert. Because the FWCA has been waived, no one needs to assess or even pay attention to the effect of barriers placed in the river on the fish and wildlife that depend on the San Pedro. If the Department of Homeland Security decides to erect more structures in or across the river, or dumps waste materials from wall construction into it, the effect on wildlife no longer matters.

Waiver of Section 10 of the Reclamation Project Act (RPA), enacted in 1939

The Bureau of Reclamation was created in 1902 to manage water and power in the arid western U.S. In the beginning, the Bureau's primary purpose was to get water for irrigation to western farms. Today, the Bureau of Reclamation supplies water to 1 of 5 western farmers (delivering 10 trillion gallons of water every year), manages almost 300 recreational sites, and is the second largest producer of hydropower in the U.S. It oversees dams, power plants, and canals, and regulates the irrigation of western farmland.

The Reclamation Project Act (RPA) of 1939 detailed how users were to pay for the water they received. Section 10 of the Reclamation Act specifically addressed the use of construction materials to improve public roads, for example, in connection with ongoing water projects. The catch was that the proposed construction projects had to be in line with the established purpose of the land. For example, building a road might be permitted if it would provide better access to recreational areas.

The waiver of section 10 of the RPA allows the government to use construction materials for any purpose it wants—like siting or construction of a wall—on land established for the regulation of water usage. Such actions neither benefit water users nor the general public.

Waiver of the Bald and Golden Eagle Protection Act (BEPA), enacted in 1940

In 1961, John F. Kennedy penned this about the bald eagle: “The fierce beauty and proud independence of this great bird aptly symbolizes the strength and freedom of America.”

The bald eagle was chosen as the emblem of the United States in 1782. By the late 1930's, there was already some concern about the status of our magnificent national symbol. Congress passed the Bald Eagle Protection Act (BEPA) in 1940, to regulate the “taking” of bald eagles for any purpose (to hunt, sell, trade, export, import, etc.). The BEPA afforded the first legal protection for eagles in the U.S., and in 1962, golden eagles were added to the list of eagles to be protected.

The word, “taking,” covers a lot of territory. BEPA prohibits taking any part of a bald eagle (dead or alive), its nest, eggs, or even its broken eggshells. The law also prohibits the molestation or disturbance of eagles, which includes interfering with their nests, reproduction, lifestyle or shelter, or somehow causing them to abandon their nests. There are some exceptions to BEPA for religious purposes, as many Native American tribes revere eagles and use them in their religious ceremonies, but these cases are limited in number and require a permit.

Despite the passage of BEPA in 1940, the bald eagle was placed on the Endangered Species list in 1967. The pesticide, DDT, had weakened the eagles' eggshells, and threats to and disturbance of their habitat also had contributed to their decreasing numbers. Banning DDT in 1972 and increasing protections for eagle habitat brought bald eagles back in healthy enough numbers that they could be removed from the endangered species list in 2007.

Waiving BEPA to expedite building a border wall is bad news for bald or golden eagles that live or reproduce in proximity to the proposed wall. These eagles are no longer protected from taking; that is, they can now be hunted or captured, their feathers or eggs taken, and their nests destroyed without legal consequence. After almost 80 years of successfully protecting eagles, it is a travesty to abandon them now.

Waiver of the Administrative Procedures Act (APA), enacted in 1946

During the first half of the 20th century, President Franklin Roosevelt allocated 3.3 billion dollars to create a series of agencies (the Federal Housing Administration, the Securities and Exchange Commission and the Social Security Administration are just a few examples) that would help Americans recover from the Great Depression. Because these agencies had great power over the lives of ordinary citizens, Congress decided that citizens needed protection from federal agencies that might go rogue. The Administrative Procedure Act (APA) of 1946 is like a bill of rights for the hundreds of thousands of Americans who rely on the services of federal government agencies.

Why is the APA so important? Because it requires agencies to explain to the public how their organizations work. It tells agencies how they have to go about issuing their rules. It provides mechanisms for citizens to enforce laws and regulations if agencies fail to comply with them. The APA is the bedrock law that sets forth how federal agencies must work with the citizens they serve.

So how does waiving the APA affect the Sonoran Desert? A wall along the length of our southern border is one of the largest public works projects ever contemplated in the U.S. Waiving the APA frees the Department of Homeland Security (DHS) from having to inform citizens about how it intends to build this wall, leaving many border residents with unanswered questions and concerns. Waiving the APA allows the fox to guard the henhouse, in that citizens no longer have the right to go to court to demand the enforcement of laws enacted to protect public lands, workers, wildlife, and communities.

Waiver of the National Fish and Wildlife Act (NFWA), enacted in 1956

The mid-1950's was a time when the U.S. government began to seriously consider how to protect and conserve our natural resources. The Fish and Wildlife Act (FWA) was passed in 1956, with four purposes: 1) to maximize sustainable fish production; 2) to insure the stability of domestic fisheries; 3) to stimulate the consumption of fisheries products, and 4) to develop, advance, conserve, and protect wildlife resources. The NFWA was one of the first pieces of environmental legislation enacted in the U.S., and its fourth goal paved the way for other environmental laws that increased protections for our nation's irreplaceable fish and wildlife resources.

When Congress passed this legislation by voice vote, it declared that "fish and wildlife resources materially contribute to our national economy and food supply, as well as contribute to the health, recreation, and well being of our citizens." Two important agencies protecting and conserving wildlife have been tasked to implement this law: The U.S. Fish and Wildlife Service (USFWS), and the National Oceanic and Atmospheric Administration (NOAA).

Amendments to the original act over the years have strengthened it and expanded its reach. For example, the USFWS has programs that monitor populations of both game (animals targeted for hunting) and non-game (like endangered species) wildlife populations. The amendments also created funding to promote volunteer programs and community partnerships in support of the National Refuge System. Educating children about the National Refuge System was also funded, preparing our kids to be future stewards of our country's fish and wildlife.

What will waiving the NFWA mean for the wildlife inhabitants of the Sonoran Desert? In the vicinity of the border wall, native fish and wildlife populations will no longer be monitored or protected. The purpose of the FWA, to increase protections for our nation's fish and wildlife resources, is now null and void in our borderlands.

Waiver of the Multiple Use and Sustained Yield Act (MUSYA), enacted in 1960

Forests are more than just a bunch of trees. That was the idea behind the Multiple Use and Sustained Yield Act (MUSYA) of 1960.

A period of rapid growth and economic development after WWII led to an increase in demand for timber products in the U.S. By the 1950s, it was clear that the nation's forests did not have enough resources to meet the demands of a growing population and expanding economy. Rather than obliterate our forests by over-harvesting timber or mismanaging water resources, MUSYA was passed. For the first time, we recognized the need to manage the OTHER resources found in our national forests—water, wildlife, recreation, and range. MUSY stipulated that, in the best interests of the American people, the use of all five resources must be balanced. MUSYA requires that the nation's forests be managed according to the principle of "multiple use," in order to produce a sustained yield of all our forest's resources.

Waiving MUSYA means that national forests in the vicinity of proposed wall construction need no longer be managed according to the principle of multiple use. Too many or too few trees may be cut, water resources may be managed poorly (if at all), wildlife, range, and recreational needs may not be met. The Nogales district of the Coronado National Forest in Arizona is on the Mexican border and is the only national forest in proximity to the proposed wall—why waive this law unless plans are in the works to take action that would be prohibited by MUSYA?

Waiver of the Sikes Act (SA), enacted in 1960

The U.S. Military uses remote areas for training exercises and other activities that are best executed at a distance from the general population. Because military installations are both remote and protected from development, they are often located in areas that contain diverse habitat types like old-growth forests, tall grass prairies, and vernal pool wetlands, havens for a stunning array of plants and animals.

Congress wanted to ensure that these special habitats and their wild plants and animals were protected from damage, disturbance, or destruction. The Sikes Act was passed in 1960 to do just that—it required the Defense Department to develop and implement Integrated Natural Resources Management Plans (INRMPs) for 380 military installations in the U.S. These management plans have successfully balanced protecting ecosystems with meeting the needs of the military. Each plan is unique and details how endangered and invasive species will be handled, as well as fish, migrating birds, wetlands and possible environmental contaminants.

In Arizona, the waiver of the Sikes Act was used to insure that a border wall could be built across the Barry M. Goldwater Range (BMGR), a military installation close to the border with Mexico. The management plan carefully crafted for the BMGR by the U.S. Air Force and state and local wildlife agencies is now moot in the vicinity of the border wall, and parts of the ecosystem have been irrevocably damaged.

Waiver of the Clean Air Act (CAA), enacted in 1963

Factory smokestacks belching black air that turned blue skies gray were a normal part of American life until the 1950's. In 1955, the first legislation to regulate air pollution (The Air Pollution Control Act) was passed; it has since been repeatedly amended, and is now entitled The Clean Air Act. Higher standards, more areas to regulate, and better enforcement procedures have resulted from the amendments of 1963, 1967, 1970, and 1990, all of which passed with huge majorities in both the U.S. Senate and House of Representatives. The Clean Air Act was the first federal law designed to control air pollution in the United States.

The Clean Air Act establishes federal air quality standards that have to be met, regulates the acceptable level of emissions of stationary (factories, etc.) and mobile (motor vehicles) sources, prevents the significant deterioration of air quality in areas that had previously met the standards, and increases the level of authority and responsibility of the federal government to monitor and enforce these standards. The Clean Air Act has provisions for protecting stratospheric ozone levels, controlling hazardous air pollutants, and expanding research programs designed to monitor and control air pollution.

The success of the Clean Air Act in cleaning up our skies has been nothing short of inspirational. Acid rain, a big problem arising from the unregulated burning of coal and fossil fuels in the 1970's, is nearly nonexistent. Levels of six common pollutants (particles, ozone, lead, carbon monoxide, nitrogen dioxide, and sulphur dioxide) have been reduced by 70 per cent, which has produced a dramatic improvement in air quality. And better air quality has decreased the risk of premature death and other serious health issues in the U.S.

What are the consequences of waiving The Clean Air Act in the vicinity of the border? Toxic emissions produced during wall construction will not be measured, monitored, or regulated. This means that individuals who reside close to proposed wall construction are at higher risk of inhaling hazardous air pollutants. We cannot not rule out the possibility that health risks will increase for those individuals residing in the vicinity of the border.

Waiver of the Wilderness Act (WA), enacted in 1964

As adventurers in the 1800's traveled west to start a new life, there was more land available than they could have ever imagined. At first, land was grabbed for farms or to exploit the bounty of natural resources like timber and minerals. By the end of the 19th century, however, people like John Muir, father of our National Park System and designated "wilderness prophet," began to express concern about the impact of humans on wild places. During the 1900's, a group of individuals formed the Wilderness Society, and one of their members, Howard Zahniser, took it upon himself to lobby indefatigably for the protection of wilderness. After eight years of lobbying by "Zahnie," Congress passed The Wilderness Act (WA) in 1964. This was the first time that federal land was set aside for the purpose of protecting it from mankind. Zahniser's motto was "wilderness forever."

The WA created the legal definition of wilderness in the U.S. A wilderness is a place "untrammeled by man" where the works of man take second fiddle to nature. In true wilderness, "man is a visitor but does not remain." There are no roads in wilderness areas and all vehicular traffic is prohibited, even mountain bikes, except under special permit. The WA initially set aside

9.1 million acres of federal land to be protected as wilderness. Now, 109 million acres are protected in 44 states and Puerto Rico.

Four major criteria are used to designate wilderness areas: 1) there must be minimal human imprint on the land; 2) there must be opportunities for unconfined recreation; 3) the area must contain at least 5000 roadless acres; and 4) the land must be of educational, scientific, or historical value. Once a wilderness area is added to the system of protected wildernesses, its protection and boundaries can be altered only by Congress.

How will waiving the WA affect designated wilderness areas in the Sonoran Desert? We find the answer in the Cabeza Prieta Wilderness area, located in the Sonoran Desert right on the Mexican border. Border Patrol roads now crisscross the desert floor, destroying plants, cutting off wildlife corridors, and damaging soil. Wilderness is apparently not forever, as man's imprint is all over this "protected" place.

Waiver of the Solid Waste Disposal Act (SWDA), enacted in 1965.

Before we had laws that regulated how we dispose of solid waste materials (household, municipal, commercial, or industrial), the most common method was to simply burn the waste or find somewhere to dump it. But as the U.S. became an industrialized economy, business boomed, the demand for products grew, and the amount of solid waste increased. At the same time, we were increasingly focused on public health—using unsanitary or unsafe methods for waste disposal was becoming unacceptable.

1965 marked the passage of the first federal law that attempted to dictate sound methods for disposing of solid waste. The Solid Waste Disposal Act (SWDA) was our country's first attempt to improve the process of waste disposal in the United States, and it required proper disposal of all municipal and industrial wastes. But the SWDA was not specific enough about exactly how to protect the environment and the public from improper waste disposal. An amendment to the SWDA was passed in 1976 (called the Resource Conservation and Recovery Act) was much more specific about how solid waste should be handled. It required the government to properly regulate solid waste disposal, and stated that whoever generated the waste was responsible for its management from "cradle to grave." The SWDA and its subsequent amendments protect all of us from the improper disposal of hazardous waste materials.

Waiving the SWDA means that this law is no longer enforced in the vicinity of the proposed border wall. The result—communities of humans and populations of wildlife that reside in proximity to the proposed wall are no longer protected from the unsafe disposal of solid waste materials. When our lawmakers passed the SWDA to protect the public from hazardous waste, it is doubtful that they thought that the law would ever be waived.

Waiver of the National Historic Preservation Act (NHPA), enacted in 1966

An interest in preserving sites of great historical importance in the U.S. perhaps began with the frantic efforts to protect Mt. Vernon, George Washington's home, in Alexandria, Virginia. By the mid 1850s, Mt. Vernon was crumbling. Rather than allow it to be torn down, preservationists bought the land and restored it to its original splendor. Today, Mt. Vernon is one of the most popular tourist attractions for visitors to Washington, D.C.

The National Historic Preservation Act (NHPA) was passed by Congress in 1966 to preserve historical and archeological sites in the United States. It is the most far reaching historic preservation legislation ever enacted in this country. The NHPA created The National Register of Historic Places, which is a list of important historic buildings and archeological sites. The NHPA requires an assessment of the impact of any proposed federally funded project on historic sites (either on or eligible for the National Register) before the project can be approved. The "106 review process" requires that every effort be made to minimize or mitigate potential damage to historic properties.

Four Arizona counties in the Sonoran Desert (Yuma, Pima, Santa Cruz, and Cochise) share a border with Mexico. There are 384 properties in these counties that have been designated as historic sites and are under the protection of NHPA. Waiving NHPA removes all legal protections for historic sites near the border wall; in other words, neither analysis of the impact of wall construction, nor mitigation of potential damage to historic properties will be required before construction commences.

Waiver of the National Wildlife Refuge System Administration Act (NWRSA), enacted in 1966

In the mid 1800's explorers and journalists began to notice and write about the rampant slaughter of wildlife in the United States. Wading birds, like egrets, were killed for the decorative value of their showy plumes. Other species were killed in great numbers for food, fashion or commerce. By 1901, the American bison was nearly extinct and the last passenger pigeon, a once abundant species, had been shot.

President Teddy Roosevelt was a great lover of the outdoors and wildlife, so he began setting aside parcels of land, by executive order, to protect wildlife. By 1909, Roosevelt had protected 51 units of land in 17 states. But something more was needed to protect the wildlife refuges once they were established.

In 1966, The National Wildlife Refuge System Act (NWRSA) was passed by Congress and signed into law by President Carter. The purpose of the NWRSA was to provide direction for administering and managing all parts of national wildlife refuge systems, including areas specified for the protection and conservation of threatened or endangered species, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas.

The Sonoran Desert is home to three National Wildlife Refuges right on the U.S.-Mexico Border. The Buenos Aires refuge was established in 1985 to aid in the recovery of the endangered masked bobwhite quail. The San Bernardino National Wildlife Refuge in the far southeast corner of Arizona was established in 1982, in part to protect rare wetlands and the native fish and frogs that live in them. And the Cabeza Prieta refuge, the third largest National Wildlife Refuge in the lower 48 states, was created in 1939, after extensive lobbying by the Boy Scouts of America, to protect desert bighorn sheep. Fifty-six miles of the Cabeza Prieta National Wildlife Refuge are adjacent to the Mexican border.

What are the consequences of waiving the NWRSA to expedite the building of a border wall? The management plans developed to protect populations of native wildlife no longer apply. Land on the refuge may be dug up, contaminated, or otherwise disturbed. Water sources may be

similarly destroyed. And the plants on which the animals depend for food may be damaged or killed without consideration of the needs of wildlife.

Waiver of the Wild and Scenic Rivers Act (WSRA), enacted in 1968

The late 1960's and early 1970's were times of burgeoning awareness that our nation's lands, waters, and wild inhabitants were national treasures. Many laws were passed during those years to protect our irreplaceable resources, like the Clean Air Act, the Clean Water Act, and the National Environmental Policy Act.

When Lyndon Johnson signed the Wild and Scenic Rivers Act (WSRA) into law in 1968, he noted that many of our nation's rivers had been harnessed by dams, turned into sewers, or polluted with industrial wastes. Johnson said, "It makes us all very fearful that all rivers will go this way unless somebody acts now to try to balance our river development." The goal of the WSRA was to protect free-flowing rivers of outstanding natural, cultural, or recreational value for the enjoyment of present and future generations. Written into the law was a requirement that the public be involved in developing goals for the protection of these unique waterways.

Rivers protected by WSRA are either wild (free of impoundments and generally inaccessible, except by trails), scenic (free of impoundments and largely undeveloped), or recreational (readily accessible by road or rail, and may have had some impoundment or diversion in the past). Although segments of 208 rivers in 40 states and Puerto Rico are designated as wild or scenic, the total amounts to less than one quarter of one percent of our nation's rivers—a minuscule bit of wild water preserved for future generations to enjoy.

Waiving the WSRA means that the rules created to protect this tiny fraction of our nation's rivers no longer work to protect them—from impoundment, diversion, or pollution—when the river flows near the Mexican border. The Rio Grande, for example, which crosses the Mexican border in New Mexico and hugs the border in Texas, is a prime example of a river that has lost its protection.

In 1968, an unspoiled river was a rarity. Thanks to the WSRA, that began to change in 1968, and for 50 years, we have successfully protected our wild and scenic rivers. Waiving the WSRA is a step backwards in the protection of our natural resources for future generations.

Waiver of the National Trails Systems Act (NTSA), enacted in 1968

2018 marks the 50th Anniversary of the National Trails System Act (NTSA), enacted to preserve and promote public access by foot, bicycle, or horseback to our nation's scenic, historic, and recreational areas not accessible by road. Today 30 scenic and historic trails and over 1000 recreational trails are protected by this legislation.

The NTSA protects three types of national trails. National Scenic trails must be over 100 miles long, land-based, and provide access to nationally significant areas. The Appalachian Trail is an example of a National Scenic trail. National Historic trails must be long (but they can be shorter than 100 miles), may be water-based, and must follow routes of historical significance to our country, like the Captain John Smith Chesapeake National Historic Trail in Maryland. No length

is required for designation as a National Recreational trail, and these trails are typically found in and around urban areas.

What are the consequences to the Sonoran Desert of waiving the NTSA to expedite the construction of a border wall? Several National Scenic or Historic trails crisscross the Sonoran Desert. The Juan Bautista de Anza National Historic Trail runs 1,210 miles from Nogales, Arizona through the California desert to coastal southern California. The Arivaca Cienega and Arivaca Creek trails in the Buenos Aires Wildlife Refuge lie in proximity to the proposed border wall. And the Arizona National Scenic Trail begins at the Coronado National Monument on the Mexican border. Waiving the NTSA means that trails we have protected for 50 years, that provide public access to areas of great scenic, historic, or recreational significance, are no longer protected from damage, disturbance, or destruction when they lie in the vicinity of the proposed border wall.

Waiver of NEPA (The National Environmental Policy Act), enacted in 1970

Many of us can remember a time when federally-funded projects on public lands were undertaken without much thought about how those projects would affect the environment or local residents. In 1960, people protested the bulldozing of many communities and destruction of entire ecosystems that occurred when the Interstate Highway System was built. In 1962, Rachel Carlson published her groundbreaking book, *Silent Spring*, warning us of the devastating effects of the indiscriminate use of pesticides on humans and wildlife. And in 1968, the Pacific Ocean off the coast of Santa Barbara experienced the third worst oil spill in history, due to insufficient regulation of the oil and gas industry.

A groundswell of public opinion supporting environmental regulation arose from these environmental disasters. On January 1, 1970, The National Environmental Policy Act (NEPA) was signed into law by Richard Nixon. NEPA was passed unanimously in the U.S. Senate, and by a vote of 372-15 in the U.S. House of Representatives. Protecting our environment was something that both Republicans and Democrats once agreed about.

Often characterized as America's environmental magna carta, the NEPA process has two goals: 1) to inform decision makers about the impacts of all reasonable alternatives to their project, and 2) to involve all interested parties in the analysis of that decision. Proposed federal actions that will significantly affect the environment—like a border wall—normally require preparation of an environmental impact statement (EIS) that provides multiple opportunities for citizen involvement—citizens may even develop their own alternatives that agencies must then analyze and consider. State, tribal and local governments also have a say before decisions are made. At its heart, the NEPA process ensures that federal decision makers "look before they leap" and that the looking includes everyone who cares about the impacts of the proposed action.

How does the waiver of NEPA affect all of us? No analysis of the environmental, social, and economic effects of proposed projects must be done and shared with the public before a decision is made and construction begins. This means that 1) a wildlife corridor can be blocked arbitrarily, without regard to its importance to the survival of the species which use it; 2) fragile desert plants can be removed and entire areas bulldozed on the whim of DHS personnel; 3) waste materials can be disposed of without any concern for the safety of ourselves, our water, or our air; 4) any number of roads can be built during construction that could destroy desert plants and fragment wildlife habitats; 5) the location of antiquities or places sacred to native

Americans can be destroyed during construction or actually covered by the wall; and 6) you and I have lost our opportunity to review and comment on major projects that will affect us before decisions are made.

Waiver of the National Park Service General Authorities Act (NPSGAA), enacted in 1970

In 1872, Yellowstone National Park, the first National Park in the U.S. was created. Today there are 58 National Parks and 23 National Monuments in the U.S. The purpose of National Parks and Monuments is to conserve scenery, natural and historical objects, and wildlife, "unimpaired," for the enjoyment of future generations.

All of the National Parks and Monuments used to be governed and regulated separately. That changed in 1970, with the passage of the National Park Service General Authorities Act (NPSGAA) amendment to the National Park Service Organic Act of 1916. Now all National Parks and Monuments are united into our National Park System and managed by its Director. What hasn't changed is the purpose of National Parks and Monuments—to conserve and protect these special scenic, historic, and recreational areas, unimpaired, for the enjoyment of generations to come.

Right now the waiver of the NPSGAA applies only in the vicinity of the proposed border wall. But a number of bills have been introduced by Congress to extend the geographic scope of the waiver from the northern and southern borders to all four borders (east and west coasts included), and from the immediate border area to 100-300 miles in every direction from the border.

How could these border extensions affect the Sonoran Desert? The Sonoran Desert National Monument (home to many Sonoran Desert species including some threatened or endangered ones) is located within that extended range from the Mexican border. If the extensions are passed by Congress, the Sonoran Desert National Monument will no longer be protected by the NPSGAA, allowing the natural resources and wildlife in this monument to be damaged, disturbed or even destroyed, without legal consequence.

Waiver of the Wild Free Roaming Horses and Burros Act (WFRHBA), enacted in 1971

In the early 1900's, there were no laws protecting free-roaming wild horses and burros. On her way to work one morning in 1950, rancher Velma Bronn Johnson (later called "Wild horse Annie,") observed a truck filled with bleeding horses, headed for the slaughterhouse. Johnson's subsequent activism on behalf of America's wild horses and burros produced legislation that eventually became the Wild Free-Roaming Horses and Burros Act (WFRHBA) of 1971. The purpose of the WFRHBA is to protect, manage, and control wild free-roaming horses and burros on public lands. When passing this legislation, Congress declared that horses and burros are "living symbols of the historic and pioneer spirit of the west."

The WFRHBA protects wild horses and burros from capture, branding, harassment or death, and considers them to be an integral part of public lands. Because feral horses and burros undisturbed by humans breed well, and because they often damage parts of the fragile riparian habitats which they prefer, a program was developed to regularly cull wild herds and allow private individuals to "adopt" excess animals.

Waiving the WFRHBA means that the wild horses and burros that inhabit areas in close proximity to the proposed border wall are no longer protected by this law—they can be captured, branded, harassed or killed without legal consequence. Wild Horse Annie would not be pleased to know that her hard-fought battle to protect wild horses has been undone.

Waiver of the Clean Water Act (CWA), enacted in 1972

In the 1940's, residents of Cleveland, Ohio had a saying: "Anyone who falls into the Cuyahoga River does not drown. He decays."

The Federal Water Pollution Control Act of 1948 was the first major U.S. law that addressed water pollution, but it didn't go far enough. In the 1960's, pollutants, raw sewage, and other materials were regularly dumped into our waterways, producing outcomes that captured the nation's attention. In 1969, over 41 million fish died in polluted waters, and in Florida alone, 26 million fish died in Lake Thontosassa as a result of discharges from four food processing plants. In 1970, the Bureau of Water Hygiene found that thirty per cent of drinking water samples contained chemicals in excess of recommended safety limits. And the fishing industry accrued three million-dollar-losses every year, due to pollution in the Chesapeake Bay.

Lawmakers recognized the need to tighten up the legislation protecting our nation's waters, and in 1972, The Clean Water Act replaced the Federal Water Pollution Control Act. This legislation was overwhelmingly passed by both the U.S Senate and House of Representatives, even overriding a veto by President Nixon. The purpose of The Clean Water Act is to maintain the chemical, physical, and biological integrity of our nation's waters, by 1) regulating the discharge of materials into U.S. waterways, and 2) implementing pollution control programs, such as wastewater standards for industry.

So what are the consequences of waiving The Clean Water Act to expedite construction of a border wall? Pollutants from construction sites could be discharged into the Sonoran Desert's fragile riparian areas and streams, and water sources could even be buried by construction materials or the wall itself. As sources of fresh water are scarce in the desert, fouling or diverting them could be catastrophic, both for the human communities and wildlife that rely on them.

The San Pedro River is the last free flowing river in southern Arizona and is one of the most biologically diverse areas in North America. A border barrier has been placed within the San Pedro River at the border with Mexico, but because the Clean Water Act was waived, no data were gathered before or after the barrier's installation that measured the effect of the barrier on the river and all the organisms that depend on it. Local inhabitants have reported a decrease in wildlife near the barrier, but without a systematic analysis, we can only wonder about the health of the river and the wildlife that has been lost.

Waiver of the Noise Control Act (NCA), enacted in 1972

While most of the federal laws waived for the border wall affect people, wildlife, and the environment, the Noise Control Act (NCA) of 1972 was enacted primarily to protect people from hearing loss due to excessive noise. The NCA was Congress's attempt to reduce noise pollution, primarily in urban areas, from trucks, buses, trains, jackhammers, autos, motorcycles, and yes,

even snowmobiles. The law was expected to promote “an environment for all Americans free of noise that jeopardizes human health or welfare.”

The NCA essentially did three things: 1) it coordinated federal research and other activities concerning noise emissions; 2) it required the establishment of noise emission standards; and 3) it required that the public be informed about noise emissions (and/or the reduction of emissions) associated with various commercial products or activities. Initially, the Environmental Protection Agency was responsible for enforcing noise emission standards, but by 1981, enforcement of the standards was transferred to states or local communities.

Waiving the NCA means that in the vicinity of wall construction, whether or not the area is urban or rural, noise emission standards no longer apply (and neither do the associated state or local laws that now regulate noise emissions). Dispensing with noise emission standards allows for literally deafening sounds to occur, without warning, that could permanently damage the hearing of local inhabitants, including of course, children and babies.

Waiver of the Coastal Zone Management Act (CZMA), enacted in 1972

No one would disagree that our coastlines are national treasures. Not only do people vie for homes with ocean views, regardless of expense, but they appreciate the natural resources associated with our coastlines: shells on the beach, tide pools teeming with life, clean white sand for beach walkers, and the comforting sound and smell of waves breaking on shore.

Our coastlines, however, are under stress from a variety of sources—hurricanes, overdevelopment, and industrial waste disposal, to name just a few. So in 1972, The Coastal Zone Management ACT (CZMA) was enacted into law to preserve, protect, develop, and when possible, restore or enhance our nation’s coastal resources, including the shores of the Great Lakes. The CZMA created three important programs in order to meet these goals. The National Coastal Management Program requires every state with a coastline to develop and enforce a management plan to protect it. The National Estuarine Research Reserve System was set up to function as a field laboratory, to help us better understand estuaries (tidal mouths of rivers where they meet the ocean) and how humans impact them. The Coastal Estuarine Land Conservation Program provides funds to help purchase threatened coastal or estuarine lands or to obtain conservation easements for those areas. Due to the passage of CZMA, 99% of our nation’s coastlines are now protected by management plans designed specifically for them.

As a result of the waiving the CMZA, carefully crafted management plans are no longer in effect in areas close to proposed wall construction. For example, in the Tijuana River National Estuarine Reserve near San Diego, triple fencing has now been placed throughout the Reserve, fragmenting the landscape and damaging fragile habitat. How can this reserve teach us how to preserve estuarine ecosystems when barriers disrupt the ecosystems under study? CMZA was passed by Congress to protect our natural coastal resources, an action of apparently little import to our Department of Homeland Security.

Waiver of the Endangered Species Act (ESA), enacted in 1973

Extinction is forever. The extinction of a species obliterates a form of life that represents millions of years of evolution. And Earth is no Jurassic Park—there is no technology capable of bringing back a species eliminated because of the selfishness and short-sightedness of human beings.

The U.S. Endangered Species Act (ESA) of 1973 is one of our most powerful environmental laws because it identifies and seeks to reverse the trajectory of extinction. When Richard Nixon was president, he felt that species conservation efforts were so inadequate that he asked the 93rd U. S. Congress to pass comprehensive endangered species legislation. The ESA passed with widespread bipartisan support (the U.S. Senate voted 92 – 0 and The House of Representatives voted 355 – 4). Congress clearly felt that preserving our esthetic, ecological, educational, recreational, and scientific natural heritage was of utmost importance.

The ESA has been effective in its mission to save endangered species from extinction. Of the approximately 1,600 species on the endangered species list, only 11 species have become extinct, while 51 species have recovered enough to be removed from the list. The bald eagle, our nation's symbol since 1782, is one of the ESA's most poignant success stories. A population of about 100,000 eagles in the lower 48 states in 1782 had dwindled to 400 breeding pairs in 1960. Habitat destruction, poisoning, and shooting had killed many eagles, but the final blow was delivered by the pesticide DDT, which thinned the eagle's eggshells to the point that they broke prematurely during incubation. Due to the banning of DDT and ESA's protection of bald eagle habitat, we celebrated the removal of the bald eagle from the endangered species list in 2007.

Without the protection provided by the ESA in our borderlands, critical habitat for species can be destroyed or fragmented, essential migratory routes disrupted, and access to crucial water resources blocked. Any of these outcomes would increase the risk of extinction of vulnerable migratory Sonoran Desert species such as the desert pronghorn.

Waiver of the Safe Drinking Water Act (SDWA), enacted in 1974

Before 1974, there were no federal standards protecting public drinking water, including groundwater. In the early 1970's, the EPA documented that over 700 contaminants had been found in our public water supplies, and that drinking water was periodically contaminated by synthetic chemicals. The Safe Drinking Water Act (SDWA), signed into law by Gerald Ford in 1974, set federal standards for the quality of drinking water, and placed the Environmental Protection Agency in charge of implementing technology that would insure the safety of the water we drink. These federal standards were to include limits for contaminants that had been found in public water supplies.

The Safe Water Drinking Act has been amended several times, perhaps most significantly in 1986. The scope of the law was significantly expanded at that time and the EPA was given the authority to strictly enforce the new standards. By 1986, regulations for only 22 of the 700 contaminants had been issued by the EPA; the 1986 amendment required that 83 specific contaminants be regulated by 1989, with new contaminants added to the list to be regulated every year. The 1986 amendment strengthened the enforcement authority of the EPA—if a state or locality did not comply with the standards, the EPA now had the authority to enforce them.

Waiving the SWDA means that DHS does not have to comply with the federal standards that prevent the contamination of our drinking water. Residents who live in the vicinity of the proposed construction can no longer be confident that the water they drink is safe.

Waiver of the Archaeological and Historic Preservation Act (AHPA), enacted in 1974

Widespread destruction of archaeological sites, a common result of federally funded projects during the 20th century, was the impetus for passing the Archaeological and Historic Preservation Act (AHPA) of 1974. Archaeologists felt that an amendment was needed to the Reservoir Salvage Act (RSA) of 1960 that required all federal agencies to be alert to archeological data or sites that their projects might inadvertently damage or destroy. This amendment became the AHPA; it directs government agencies to either recover lost data or pay the National Park Service to do so. The AHPA requires that significant scientific, prehistoric, historic, and archaeological materials be preserved, rather than lost or destroyed due to flooding, road building, or any other federally funded activity.

After the AHPA was passed, federal agencies like the United States Forest Service, Bureau of Land Management, and Bureau of Reclamation hired archaeologists to help them locate and protect archaeological sites and associated data. These agencies were also authorized by the AHPA to fund archaeological investigations or activities that would mitigate the impacts of their projects on the relics of our ancient past.

Waiving the AHPA means that any archaeological sites, materials, or data located in the vicinity of the border wall will no longer be protected. Archaeologists will not need to be consulted about where it is safe to excavate or how to protect valuable artifacts that might be unearthed, damaged, or destroyed during wall construction. The result—the archaeological history of our borderlands may be irretrievably damaged.

Waiver of the Resource Conservation and Recovery Act (RCRA), enacted in 1976

The Agricultural Street landfill in New Orleans, LA, was used as a dump for residential and industrial wastes from 1909 to 1960. “Dante’s Inferno” was a name locals used for this landfill because of how often it caught fire. In 1978, the landfill was covered by a relatively thin layer of sand and soil to prepare it for residential development. Inexpensive housing was constructed atop this landfill as an opportunity for low-income African Americans to buy affordable housing. But new homeowners kept noticing trash rising to the surface when they tried to plant gardens or modify their yards in any way. Health problems for residents ensued, including higher rates of cancer than found in surrounding areas.

Incidents like these were the impetus for the enactment of The Resource Conservation and Recovery Act (RCRA) of 1976. Passed by a vote of 88-3 in the U.S. Senate and 367-8 in the House of Representatives, the purpose of the RCRA was to protect human health by properly disposing of both hazardous and non-hazardous solid waste, to make sure that solid waste materials were managed in environmentally sound ways, and to conserve energy and natural resources so that that less waste was generated. Solid waste includes things like garbage, refuse, sludge from waste treatment plants, industrial wastes, and other discarded materials. The RCRA was meant to manage solid waste from its creation to its disposal.

What are the consequences of waiving the RCRA? Workers constructing the wall do not have to comply with federal regulations concerning the generation, use, and disposal of solid waste. This means that the land and water in the vicinity of the wall is at a higher risk of contamination from waste materials, increasing the risk to adjacent human communities and local wildlife.

Waiver of the Federal Land Policy and Management Act (FLPMA), enacted in 1976

After thousands of homesteaders laid claim to land in the American West in the 1800's, vast parcels of land that no one wanted remained. Ultimately these lands were placed under the jurisdiction of the Department of Interior's Bureau of Land Management (BLM), which was expected to manage the land for multiple use. Initially these lands were used primarily for mining and grazing, and most BLM administrators were miners or ranchers. But as more Americans headed west, federally owned lands became important to a wider variety of stakeholders than ranchers and miners. The U.S. Congress created a Public Land Law Review Commission in 1970 to make recommendations for the management of federal lands. This commission recommended new legislation that would insure that federal lands were managed to meet a variety of needs, such as recreation, grazing, timber and mineral production, fish and wildlife protection, and oil and gas production.

To support the multiple use mandate of the BLM, Congress easily passed the Federal Land Policy and Management Act (FLPMA) in 1976. This act gave multiple stakeholders (miners, ranchers, biologists seeking to protect threatened and endangered species, communications companies installing microwave towers, Native American tribes seeking to preserve cultural antiquities, land managers controlling the spread of wild horses and burros, environmentalists seeking to establish wilderness areas, and people interested in off-road adventuring) a place at the table when land-use decisions were being made.

FLPMA is a complex and comprehensive law that ensures the effective, sustainable management and multiple use of federally owned lands. The BLM administers 6.9 million acres of public land in California, Arizona, and New Mexico within 62 miles of the US-Mexico border. FLPMA requires the BLM to develop, with ample public involvement, resource management plans that ensure the protection and appropriate use of these lands.

What are the consequences to these borderlands of the Department of Homeland Security's waiver of FLPMA? The construction of a border wall overrides the decisions made in those carefully developed management plans. Management of the diverse stakeholders and their activities is neutralized. Our borderlands are now unprotected, leaving them vulnerable to misuse, neglect, and damage.

Waiver of the National Forest Management Act (NFMA), enacted in 1976

A lawsuit is probably responsible for the enactment of the National Forest Management Act (NFMA) of 1976. Herbert Zieske sued Earl Butz, then the U.S. Secretary of Agriculture, for enforcing the environmental impact assessment of the U.S. Forest Service, in its decision to halt logging on part of the Prince of Wales Island in Alaska. The NFMA requires the management of renewable resources on National Forest lands, so that this valuable natural resource will not be destroyed by practices such as clear cutting, excessive grazing, or other intensive uses of natural resources.

The NFMA requires the National Forest Service to develop specific plans for the management of each national forest, set standards for timber sales, and develop policies to regulate the harvesting of timber. Congress requires the National Forest Service to assess, research, and plan for the use of the nation's renewable resources in their management areas. Current and anticipated demands for lumber extraction must be balanced with the potential impact of extractions on the forest's fish, wildlife and plant inhabitants, as well as on other activities, such as recreation, which is a significantly expanding use of many national forests, especially those near urban areas.

Waiving the NFMA means that all the careful planning for the sustainable management of resources on, for example, the Coronado National Forest here in Arizona, is moot in the vicinity of proposed border wall construction and associated roads. Roads, as well as walls, fragment habitat and pose threats to wildlife.

Waiver of the Federal Grant and Cooperative Agreement Act (FGCAA), enacted in 1977

The Federal Grant and Cooperative Agreement Act (FGCAA), passed by Congress in 1977, governs how the federal government handles funding that benefits states and local governments. The law was passed, in part, to address concerns about bypassing competitive processes and to provide a uniform way of handling grants. The mechanism for providing funding to a state or local government is a cooperative agreement or grant that **MUST BENEFIT** the recipient, not the federal government.

Concrete levee walls built atop dirt levees along the border in the Rio Grande Valley were funded by federal grants made to local governments. But the local governments hadn't asked for these levee walls; they had only requested certain flood improvements required by the Federal Emergency Management Agency (FEMA). The only funding that was available, however was for a border wall, despite the fact that many residents of the Rio Grande Valley opposed a border wall.

The flooding problem was thus "addressed" by building a border wall atop the dirt levee. This was bad news for the animals that used to escape floodwaters by clambering over the dirt levees. Today, animals trying to escape floods are trapped between the river and the levee wall. After one such flood, hundreds of Texas tortoise shells were found floating in the floodwaters along a portion of the Lower Rio Grande National Wildlife Refuge where a levee wall had been built. By the end of 2018, construction may begin on 65 more miles of this type of levee wall in Texas. Who is benefitting from this "grant?" Certainly not the recipients.

Waiving the FGCAA means that tax dollars are spent in ways that are not beneficial to the local communities that have requested help. The big losers are wildlife, refuges, state parks, butterfly sanctuaries, private homes, and farms that have been trapped in flood waters behind levee walls.

Waiver of the National Parks and Recreation Act (NPRA), enacted in 1978

In the 20th century, awareness grew that we needed a system of national parks so that all Americans could learn about and enjoy our country's bountiful resources. Several laws were passed to conserve and protect these special places, designated as national parks, for future

generations. One of these laws was the National Parks and Recreation Act (NPRA) passed in 1978, which reaffirmed our country's commitment to preserving the relics of our past while conserving our natural and historical resources. President Carter signed this legislation into law, describing it as "the most significant conservation legislation to pass the 95th Congress."

The NPRA provides funds to expand National Parks through land acquisition, makes significant improvements to existing parks, and identifies segments of several rivers for protection under the Wild and Scenic Rivers Act. It also designated 1,974,005 acres in eight National Parks as wildernesses.

Will waiving the NPRA affect our borderlands? The answer is yes. The NPRA established 312,600 acres of wilderness in Organ Pipe Cactus National Monument and set the stage for the additions that now comprise 95% of the Monument. By waiving the NPRA, the Department of Homeland Security no longer recognizes Organ Pipe as wilderness at the border, nullifying the protections afforded to wildernesses. The NPRA also designated a segment of the Rio Grande River, part of which serves as the boundary between the U.S. and Mexico, as a wild and scenic river. The waiver of the NPRA "undoes" that designation—that segment of the river no longer has the special protections of wild and scenic rivers.

Waiver of the American Indian Religious Freedom Act (AIRFA), enacted in 1978

Before 1978, our first amendment right to the free exercise of religion applied to everyone except Native Americans. The American Indian Religious Freedom Act (AIRFA) was an attempt to remedy this problem and acknowledge the prior infringement by the U.S. Government on the religious rights of Native Americans. AIRFA required that all U.S. Government agencies eliminate interference with the religious practices of native peoples, as much as possible.

AIRFA attempted to address three areas of conflict between the U.S. Government and the practice of religion by Native Americans. The first issue was access to sacred places. Many ceremonial rites can only be held on sacred lands; before AIRFA was enacted, government projects on federal lands were initiated without consideration of this issue or any attempt to locate suitable alternatives. The second issue was possession of items restricted by U.S. law, such as peyote or eagle feathers, which are integral to certain religious ceremonies. The third issue was interference with sacred ceremonies by curious government officials or onlookers.

Waiving AIRFA means that wall construction and associated roads can be built on lands sacred to Native Americans, without any attempt to search for equivalent alternatives. The 1978 attempt to remedy our previous disrespect of the religious rites and practices of Native Americans is now moot in the vicinity of the proposed border wall.

Waiver of the Archaeological Resources Protection Act (ARPA), enacted in 1979

The Antiquities Act was enacted in 1906 to protect our nation's archaeological resources, an irreplaceable part of our heritage, from looting and destruction. But one section of the Antiquities Act wasn't specific enough—it was actually deemed "unconstitutionally vague" by judges hearing cases against individuals accused of violating the law. So in 1979, a new law was passed to finish the job of protecting our country's archaeological history and resources—The Archaeological Resources Protection Act (ARPA).

ARPA governs the excavation, removal, and disposition of archaeological resources collected on federal or Native American lands. ARPA defines archaeological resources as “any material remains of human life or activities, which are at least 100 years of age and are of archaeological interest.” It requires that anyone excavating or removing archaeological resources have a permit to do so from a land management agency. And it forbids the sale, purchase, exchange, transport, and receipt of archaeological resources.

ARPA made it very clear exactly what activities are prohibited by law. And it significantly increased penalties for violating the law. A first offense draws a fine of up to \$20,000 and a year in jail; for a second offense, the perpetrator may be fined up to \$100,000 and be sent to prison for as long as five years. This time, there was nothing vague about the law protecting our historical record.

Waiving ARPA means that, on public and Native American lands near proposed wall construction, there are no longer any laws protecting our archaeological history and resources. Important sites can be looted, dug up, or even destroyed, with no one the wiser. No one will even be watching.

Waiver of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), enacted in 1980

In 1976, improperly buried toxic waste seeped into homes in the Love Canal neighborhood of Niagara Falls, New York. As the years passed, it became clear that newborns of Love Canal residents had a significantly higher rate of birth defects than infants in nearby neighborhoods. Love Canal residents also had a higher rate of cancer than other residents of Niagara Falls. The families of Love Canal demanded that federal legislation be enacted to prevent such contamination in the future.

The U.S. Surgeon General remarked that toxic chemicals were the most serious threat, in the upcoming decade of the 1980's, to the health of the population of the United States. He emphasized the urgent need for federal regulation of toxic chemicals and their waste products. Eighty percent of Americans agreed with him.

The Comprehensive Environmental Response Compensation and Liability Act (CERCLA) was passed by Congress in 1980. CERCLA was the first major law that regulated the management and clean up of toxic waste in the United States. CERCLA gave the Environmental Protection Agency the power to clean up polluted sites and to collect fines from those responsible for the contamination. It also created the Superfund—a program administered by the Environmental Protection Agency—to clean up uncontrolled or abandoned hazardous waste sites, accidental spills, and other contaminants released into the environment.

How will local communities and wildlife living in our borderlands be impacted by the waiver of CERCLA? There are already nine Superfund sites and 4011 hazardous waste sites in Arizona. Waiving CERCLA means that hazardous wastes created during the construction of the wall can be deposited on the ground or into the water, with no monitoring and no consequences. The same goes for accidental spills or the discharge of other contaminants. The outcome is that new Superfund or hazardous waste sites could easily be created in our borderlands.

Waiver of the Farmland Protection Policy Act (FPPA), enacted in 1981

A study of land use in the U.S. done in 1980 revealed that millions of acres of farmland were being converted to nonagricultural uses—mostly to facilitate urban sprawl. Congress decided to enact legislation that would protect farmland and combat urban sprawl at the same time. In 1981, Congress passed the Farmland Protection Policy Act (FPPA) to protect farmland and restrict its conversion to nonagricultural uses.

Land protected by FPPA includes farmland, prime farmland, unique farmland, and land of statewide and local importance. FPPA also protects land not currently used for cropland, such as forest or pasture lands. A few examples of the types of activities that FPPA restricts on farmland are the construction of highways, airport systems, railroads, reservoirs, hydroelectric facilities, and telephone lines.

What are the consequences of waiving FPPA to expedite the building of a border wall? Yuma County, which abuts the border with Mexico, produces about 90 per cent of all leafy vegetables grown in the U.S. from November to March. The gross economic return of agriculture in Yuma County is about \$3.2 billion dollars a year. This amounts to about one third of Arizona's total economy of \$9.2 billion per year. Waiving FPPA means that farms in our borderlands will neither be protected nor safeguarded against the arbitrary conversion of their lands to the activities listed above. Grabbing farmland to construct a border wall could put the number one industry in Yuma County at risk.

Waiver of the Arizona-Idaho Conservation Act (AICA), enacted in 1988

All of Arizona's mightiest rivers have been dammed, except one—The San Pedro. The riparian habitat associated with the San Pedro is so important that a special law was enacted in 1988 to protect the San Pedro River and its environs. Congress passed the Arizona-Idaho Conservation Act (AICA) in large part to protect lands of high conservation value in Idaho and Arizona.

In Arizona, the 56,431 acre San Pedro National Riparian Conservation Area (SPNRCA) was established to protect and manage "the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources in the public lands surrounding the San Pedro River." The SPNRCA is home to 84 species of mammals, 14 species of fish, 41 species of reptiles and amphibians, 100 species of breeding birds, and 250 species of migrating or wintering birds.

Legislators wrote this law with the intent of protecting the SPNRCA from disturbance by humans. On the use of roads, for example, the law directs that, except in emergencies, the use of motorized vehicles is only allowed on roads specifically designated for such use by the management plan created for SPNRCA. Another provision states that sufficient water must remain in the SPNRCA to fulfill its conservation purposes. And included in the legislation are serious punishments for breaking the rules—a fine of \$10,000 and up to one year in prison, or both.

Waiving AICA allows the Border Patrol to build roads on the preserve near the border, damaging the soil and plants of this fragile habitat. A border wall has already been installed on both sides of the river and border barriers are placed into the river during certain seasons, which can foul, obstruct, or even change the river's course. Unique riparian habitat crucial to the survival of some

threatened or endangered species may now be trampled on or even destroyed, without plan or consequence.

Waiver of the Federal Cave Resources Protection Act (FCRPA), enacted in 1988

Spelunkers are people who love to explore caves. They used to fear that newly discovered caves with significant resources could be looted or vandalized with no one the wiser. So they pushed for a law that would regulate whether or not a cave location could be publicly disclosed, and what resources could be legally removed from caves.

Congress agreed that a law was needed, and in 1988 passed the Federal Cave Resources Protection Act (FCRPA). The goal of FCRPA was to secure, protect, and preserve “significant” caves on federal lands for the use and enjoyment of the public. To be designated as significant, a cave must be nominated and approved for protection.

FCRPA directed that government authorities must cooperate with those individuals who use caves on federal lands for scientific, educational or recreational purposes. The law specifically prohibits disclosing the locations of significant caves and the removal of cave resources without a permit. Vandalizing or disturbing these special caves is also prohibited, and criminal penalties are included for breaking the law.

Waiving the FCRPA means that any cave in the vicinity of proposed wall construction is no longer protected—the locations of significant caves can now be publicly disclosed, and the cave’s resources can be taken or destroyed without penalty.

Waiver of the Native American Graves Protection and Repatriation Act (NAGPRA), enacted in 1990

It wasn’t very long ago that Native American burial sites were frequently dug up (inadvertently or on purpose), and their burial objects and human remains taken from the sites and sold. Native Americans pushed for a law that would protect their dead and the funerary and sacred objects buried with them. In 1990, at long last, the Native American Graves Protection and Repatriation Act (NAGPRA) was passed by Congress, to protect the graves of Native Americans on federal lands.

NAGPRA had three specific purposes. The first required that federal agencies and institutions (like museums) receiving federal funding return excavated burial items (funerary objects, human remains, etc.) to the lineal descendants of the dead. Second, tribes had to be notified when any excavation on federal land encountered (or might encounter) Native American remains. If so, the excavation was directed to follow the proper procedures for such excavations, designated by the Archaeological Resources Protection Act (another federal law that has been waived). The tribe then made the final decision about the disposition of the items unearthed. And third, NAGPRA prohibited trafficking in human remains and set stiff penalties for doing so.

Since the waiver of NAGPRA was authorized, fragments of human remains have been observed in the tire tracks of equipment used for border barrier construction on the Tohono O’odham Nation. If archaeological clearance had been performed in advance, as required by NAGPRA, the human remains would have been retrieved and properly handled before the construction

equipment arrived. Since the waiver, however, there is no penalty for digging up, destroying, or stealing funerary objects or human remains in the vicinity of wall construction. The dead of Native Americans are no longer guaranteed to rest undisturbed and in peace.

Waiver of the Arizona Desert Wilderness Act (ADWA), enacted in 1990

In 1990, President George H.W. Bush signed the Arizona Desert Wilderness Act (ADWA) into law, after it passed 356-45 in the U.S. House of Representatives and by a voice vote in the U.S. Senate. The efforts of prominent Arizonans like Stewart and Morris Udall, Barry Goldwater, John McCain, and Dennis DeConcini contributed to the passage of this legislation, which designated more than 1.1 million acres of wilderness in Arizona on public lands. Morris Udall's comments about the importance of the ADWA on the floor of the Senate were memorable: "The challenge of our generation is different. We must show ourselves capable of not only conquering nature, but also caring for it." Wise words.

The Arizona Desert Wilderness Act designated 39 wilderness areas in Arizona, on lands managed by the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the National Park Service. Two of the three largest wilderness areas—The Cabeza Prieta Wilderness (803,418 acres) and the Organ Pipe Cactus Wilderness (312,600 acres) lie smack dab in the middle of the Sonoran Desert, very close to the border with Mexico. These two wilderness areas are home to a wide variety of desert species. Cabeza Prieta is one of the only two places in Arizona where the endangered Sonoran pronghorn are known to breed. The Organ Pipe Cactus Wilderness is another species-rich environment, which has recorded a resurgence of desert bighorn sheep since the passage of the ADWA.

What are the consequences of waiving the ADWA? Two of the three largest wilderness areas in Arizona will be seriously impacted by the disturbance produced by building a wall, not to mention the effect of the wall itself. It would be impossible, for example, for groups of unrelated Sonoran pronghorn in the U.S. and Mexico to locate each other to reproduce. The result for pronghorn would be two small, genetically less diverse populations permanently separated by the border wall, which would increase the likelihood of inbreeding in this endangered species. New roads and other supportive infrastructure for the wall could also be built with no consideration of their impact on movement corridors used by pronghorn and other migratory species. To put it bluntly, the Cabeza Prieta and Organ Pipe wilderness areas would no longer meet the definition of wilderness.

Waiver of the Religious Freedom Restoration Act (RFRA), enacted in 1993

The first amendment of the U.S. Constitution reads:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." One of the most important reasons that Europeans emigrated to the shores of North America was to pursue religious freedom, the most prominent issue addressed in our constitution's first amendment.

There were two legal cases in the 1960's, decided in favor of the government, that precipitated new concerns about religious freedom in the U.S. In one of these cases, *Lying vs. the Northwest*

Indian Cemetery Protective Association, members of four Native American tribes sued to prevent a road from being built through their sacred lands. They lost in court, but this case provided some of the impetus for the enactment of the Religious Freedom Restoration Act (RFRA) in 1993. Unanimously passed by the U.S. House of Representatives and by a vote of 97-3 in the Senate, this act insures that our religious freedoms are protected, and holds the government responsible for doing so. Although Native American religions were a particular focus, the law applies to all religions.

How will waiving the RFRA impact local communities in proximity to the proposed border wall? Take a look at the La Lomita Chapel in Mission, Texas, which sits south of the proposed wall. Construction of the wall will permanently prevent access to this chapel. Father Ray Snipes, Pastor of Our Lady of Guadalupe Church in Mission, Texas, says that the La Lomita Chapel is "our mother church," and he and his congregation are distraught that the free exercise of their religious beliefs may soon be undercut. The same thing could happen in other border towns, such as Douglas, Nogales, Lukeville, and Yuma. Waiving the RFRA allows religious practitioners to be permanently separated from their places of worship, and government projects to be constructed on lands sacred to Native Americans, without review or consideration of the people's right to the free exercise of their religious beliefs.

Waiver of the Otay Mountain Wilderness Act (OMWA), enacted in 1999

In 1999, the U.S. Congress passed the Mt. Otay Wilderness Act (MOWA), which designated 18,500 acres around Mt. Otay in Southern California as a wilderness area. This rugged wilderness in the San Ysidro Mountains near the Mexican border emerged from ancient volcanoes, and its geology, soils, and wildlife comprise a unique ecosystem in the California desert. Mt. Otay and environs gained rigorous legal protections against disturbance or damage when added to the 109 million-acre National Wilderness Preservation System.

What makes the ecosystem so unique? The Mt. Otay Wilderness area is home to many species of flora and fauna which are candidates for threatened or endangered status designation on the IUCN Red List of Threatened or Endangered species. The last known stand of Tecate cypress survives there, as do the endangered quino checkerspot butterfly, Mexican flannel bush, and 15 other species of vulnerable plants.

This time, we don't have to speculate about the results of waiving MOWA. A draft environmental impact statement (EIS) prepared prior to wall construction stated that constructing a wall in this area would have long-term impacts on its flora, fauna, and water resources. The EIS warned that grading and road construction associated with the wall (prohibited in wilderness areas) would remove layers of topsoil and destroy the fragile, intertwined plant roots that protect chaparral habitats from erosion. Unfortunately, the Department of Homeland Security refused to publish a final EIS and instead, waived both the National Environmental Policy Act and the MOWA, so that neither final analysis nor protection of the resources was necessary.

Waiver of the Military Lands Withdrawal Act (MLWA), enacted in 1999

Sometimes, in order to defend our country, the U.S. military "withdraws and reserves" certain public lands for military training and other uses. The Military Lands Withdrawal Act (MLWA) of 1999 put forth standards for protecting that land while being used by the military. It requires that

the Secretaries of the Air Force, Marines, and Department of the Interior jointly prepare and implement management plans to protect public lands withdrawn for military use. These three secretaries are responsible for all environmental requirements for such lands, and when the period of military use is over, they are also responsible for environmental repair and amelioration. The MLWA states that a program of decontamination must be implemented when public land has been contaminated as a result of military use. Further, the law states that if the military service in charge permits another federal agency to operate on withdrawn and reserved lands falling under this law, that third agency must assume all responsibility and liability for their activities in relationship to the land.

What are the consequences to the Sonoran Desert of waiving the MLWA? A large portion of the Sonoran desert in western Arizona is in the Barry M. Goldwater Range (BMGR), consisting of about 1.7 million acres of public land withdrawn for use by the U.S. Air Force and U.S. Marines. About 37 miles of the BMRG is on the U.S.-Mexican border.

Waiving the MLWA means that lands withdrawn for military use in the BMGR may be damaged or destroyed by the Border Patrol without consequence. Management plans may be overridden and it is no longer necessary to decontaminate land or do any environmental repair as the result of construction of the border wall.

As children we learn to clean up after ourselves when we make a mess. At the site of wall construction, associated roads, sensors, and other border infrastructure, this rule no longer applies.

Waiver of the National Defense Authorization Act (NDAA), enacted in 2000

Every year, federal laws are passed that authorize the annual budget of federal agencies. The annual National Defense Authorization Act (NDAA) authorizes expenditures for the Department of Defense. Within authorization bills such as the NDAA, there may be provisions with important protections for the environment or wildlife.

The NDAA for the year 2000, for example, had a provision that authorized the Secretary of the Navy to transfer 250 acres of property important for the conservation of fish and wildlife from the Marine Corps Air Station in Miramar, California to the Vernal Pool Unit of the San Diego National Wildlife Refuge. Vernal pools are home to large numbers of endemic species of plants and animals, and this provision was written to protect vernal pool habitats, which are rapidly disappearing in California.

The result of this waiver of the transfer of authority for 250 acres of vernal pool habitat from an air base to a wildlife refuge is that the Border Patrol no longer needs to consult with nor abide by the management directions prepared by the U.S. and Fish and Wildlife Service for this fragile habitat. This is one more egregious example of how legal protections for special places have been waived—this law's jurisdiction is in California, but there is nothing to prevent the same thing happening for important bodies of water in Arizona and other border states in the future.

Waiver of the Paleontological Resources Preservation Act (PRPA), enacted in 2009

When the movie, Jurassic Park, came out in 1993, dinosaur pandemonium ensued and people flocked to the Utah hills, looking for dinosaur fossils. In fact, Michael Crichton, the author of Jurassic Park, was entreated to make a series of public service announcements asking people not to go hunting for dinosaur bones, so that they would not inadvertently damage or destroy important, as yet unearthed fossils.

The Paleontological Resources Preservation Act (PRPA) was passed in 2009 to regulate the collection of fossilized resources on federal lands, so that information pertaining to the history of the earth could be preserved. Paleontological resources include fossilized remains, traces, or imprints of organisms preserved in or on the earth's crust. The new law directed two government departments—Agriculture and Interior—to implement comprehensive management programs for paleontological resources “as soon as is practical.” The Department of Agriculture published its plan in 2015, and the Department of Interior’s plan was published in 2016. Both plans specify the rules for managing, collecting, and curating paleontological remains found on federal lands. PRPA made it illegal to collect, damage, deface, or sell such items, and instituted civil and criminal penalties for doing so.

Waiving the PRPA means that there are no longer any rules about collecting, damaging, or selling paleontological specimens found near the border wall. Workers constructing the wall need not concern themselves with fossils they unearth in the process of construction; in fact, such fossils can be destroyed without penalty or consequence, which means that parts of our historical record, as yet unearthed, may never be discovered.

Waiver of part of the California Desert Protection Act (CDPA), enacted in 2010

In 1994, Congress passed a bill that protected a slice of the American West—the iconic deserts of California. The California Desert Protection Act (CDPA) established the Death Valley and Joshua Tree National Parks, the Mojave National Preserve, and 69 wilderness additions to the National Wilderness Preservation System—all told, about 1.6 million acres.

Congress felt these public lands needed to be protected by federal law because of the difficulty of managing and protecting their unique desert resources, like rock formations and iconic desert plants (Joshua trees and saguaro cacti). The law directs that these protected lands must be managed to preserve their ecosystems, geologic resources, and cultural history for the benefit of future generations. Most importantly, the law directs that these lands be left “undisturbed,” so that scientific research can be carried out in these living laboratories.

Waiving the CDPA means that previously protected lands lying along California’s border with Mexico are no longer protected by federal law. The unique desert resources they contain can now be harmed or destroyed, without consequence.