

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

State of Arizona,
Plaintiff,

v.

Alejandro Mayorkas in his official capacity as Secretary of Homeland Security; United States Department of Homeland Security; Troy Miller in his official capacity as serves as Senior Official Performing the Duties of the Commissioner of U.S. Customs and Border Protection; Tae Johnson in his official capacity as Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement; United States Department of Defense; Lloyd Austin in his official capacity as Secretary of Defense,

Defendants.

Case No: 2:21-cv-00617-DWL

**DECLARATION OF
JAMES K. CHILTON, JR.**

I, James K. Chilton, Jr., declare as follows:

1. I am competent to testify as to the matters contained herein and make this declaration based on my own personal knowledge and experience.
2. I am a fifth-generation Arizona rancher from Arivaca, Arizona, and my family operates a cattle ranch located between Sasabe, Arizona, to our west and Nogales, Arizona, to our east. The southernmost boundary of our ranch constitutes roughly five and a half miles (5.5 mi) of the international border between the United States and Mexico.
3. The portion of the incomplete border wall leading east from Sasabe toward Nogales ends on my family's ranch.
4. The border wall was constructed along the international border across my neighbors' land to our west and began continuing east across a portion of my ranch, but the federal government's progress on it ceased on or about January 20, 2021, leaving

roughly half a mile of the southeasternmost boundary of my U.S. Forest Service Grazing Allotment land along the U.S.-Mexico border unprotected but for a four-strand barbed wire fence designed to discourage cattle from crossing.

5. Portions of the border wall where a physical barrier is present on my land are still unfinished as they do not contain operating lights, electronic sensors, or other technology that may aid enforcement at the border.

6. I maintain motion-activated cameras on my grazing land, and many of these are in areas through which individuals crossing the border frequently pass.

7. These cameras show there has been a dramatic increase in the volume of individuals coming across the border and through my ranch since construction on the border wall ceased.

8. It appears that the presence of the wall to the west has redirected human traffic around its end, focusing it onto my ranch, leading to an increased severity in the human impact through the additional volume of traffic.

9. Individuals crossing the border and traversing my ranch affect the local environmental conditions in many ways:

- a. They leave trash and other waste and debris behind them.
- b. They cut unauthorized trails and otherwise trample or damage plants and habitats through wilderness areas that contain Endangered Species Act protected species, including one trail through a part of California Gulch which federal authorities have expressly excluded from my cattle grazing use in order to protect its ecosystem.
- c. They cut fences and other barriers intended to prevent animal traffic, including those intended to keep cattle from entering unauthorized grazing areas.
- d. They participate in violent acts including shooting firearms, leaving spent casings and making the area dangerous for citizens.

10. On September 24, 2021, three men with long guns fired at Border Patrol personnel on part of my ranch's grazing land in Holden Canyon.

11. The danger of physical violence from individuals crossing the border has led my employees to refuse to gather cattle in our southernmost grazing lands or pastures because they are close to the international border.

12. Our federal grazing permits from the U.S. Forest Service require that the cattle be moved seasonally to other pastures in order to responsibly manage the environmental impact of grazing on those lands, but the risk to human life caused by the passage of illegal individuals around and past the end of the unfinished border wall is currently seriously impacting our ability to round up our cattle to move the cattle to winter pastures.

13. U.S. Forest Service personnel have informed me that they have been ordered by their superiors not to go to my border pastures where they would typically monitor environmental and ecological conditions.

14. The U.S. Forest Service's monitoring of grass conditions on grazing lands is used by us and by the Forest Service in the management of the ecology of those lands to maintain the science-based appropriate balance of grazing use to promote a healthy environment. We have received environmental awards for our range management and have cooperated for decades to reduce illegal impacts which are now rampant and uncontrolled.

15. This monitoring also impacts the capacity limits on my ranch's grazing permits as part of the U.S. Forest Service's management programs.

16. I have attempted to make appointments for the U.S. Forest Service to send personnel out to conduct such monitoring, but these appointments have been canceled due to their reaction to the violent danger near the border where the wall is not complete.

17. The abandoned border wall construction project left gulches and other waterways that traverse the international border with floodgates unfinished or uninstalled.

18. The absence of floodgates at the border wall creates gaps in the physical barrier that allow human traffic through these ephemeral waterways, which are seasonally used by protected species such as the sonoran chub.

19. The people who cross the border through these waterways where floodgates are not installed leave trash and other waste and potential contaminants behind.

20. Gulches can experience significant flooding during rains, as California Gulch did during the summer of 2021, for instance.

21. The state in which the wall construction site has been left after construction ceased, including the lack of floodgates, contributes to the environmental impact of such flooding.

22. For the reasons above, the cessation of work on the border wall has led to serious, negative environmental impact on my ranch's lands affecting my ability to use the resource for which I am paying. Cessation of construction of the border wall has put me and my employees in danger and has reduced the U.S. Forest Service's ability to manage its rangeland monitoring responsibilities.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, and that this declaration was issued on October 13, 2021, in Pima County, Arizona.

James Chilton

James Chilton (Oct 13, 2021 14:40 PDT)

James K. Chilton, Jr.

Chilton Ranch