

## **Problematic California Border Wall Settlement of March 25, 2022**

Damage within the Jacumba Wilderness Area caused by construction of the border wall has been documented several times. (Desert Report, xxxx). When he became President, Joseph Biden ordered an end to the construction subject to constraints of existing law. It has been difficult to evaluate the effectiveness of this order in part because public access in Wilderness is restricted to non-motorized means and in part because the definitions of “construction,” “remediation,” and “maintenance” are subjective and are even compromised by the mission of the Border Patrol to control entry into the country at its borders. The uncontested fact is that within the past year roads have been altered within the Jacumba Wildernes, trenches for (presumed) electrical equipment have been excavated, natural drainages have been altered, and archeological artifacts have been displaced.

In response to similar complaints all along the U.S./Mexican Border, the California Wilderness Coalition joined four other plaintiffs in a suit against the Department of Defense, the Department of Homeland Security, and the Treasury Department charging violations of several provision of the U.S. Constitution and several Federal laws. Before going to trial, a Settlement Agreement between the parties was filed on March 25, 2022.

Among the stipulations was an agreement that the defendants (U.S. Government departments) would provide access to cultural access data and to planned demobilization plans for named border barrier projects. In the El Centro sector of the border the defendants agreed 1) to terminate construction that was undertaken using particular funding sources, 2) to remove unused construction material and backfill open trenches, and 3) to consult with the Plaintiffs on remediation of damaged vegetation, on repairs on roads and berms, on remediation for blocked drainages, and on means for allowing wildlife free passage across the border.

It is significant that there are very few promises of definite action. Rather the Governmental departments promise only to consult with the Plaintiffs on future. The result of the consultation is left to the federal departments. The settlement also specifies that any remediation will be dependent upon the availability of sufficient funding. Perhaps the best that can be said of the agreement is that the federal government has acknowledged the nature and extent of damage done by construction of the wall.

Settlement Agreement in the matter of *Rio Grande Int'l Study Center, et al.*,  
v. Austin, et al., No. 19-CV-720 (D.D.C)