IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SOUTHWEST ENVIRONMENTAL CENTER and BORDER NETWORK FOR HUMAN RIGHTS *Plaintiffs*, v. JEFFERSON BEAUREGARD SESSIONS III, in his official capacity as Attorney General of the United States; KIRSTJEN NIELSEN, in her official capacity as Secretary of the U.S. Department of Homeland Security; JAMES N. MATTIS, in his official capacity as Secretary of the U.S. Department of Defense; and ALEX M. AZAR II, in his official capacity as Secretary of the U.S. Department of Health and Human Services. *Defendants*.	**AMENDED MOTION FOR PRELIMINARY INJUNCTION** 2:18-cv-00632-WJ-KRS Oral Argument Requested

TABLE OF CONTENTS

INTRODUCTION **1**

BACKGROUND **2**

STANDARD OF REVIEW **5**

ARGUMENT **5**

A. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS 5

B. PLAINTIFFS' MEMBERS WILL BE IRREPARABLY HARMED ABSENT AN INJUNCTION 8

C. THE PUBLIC INTEREST AND BALANCE OF EQUITIES OVERWHELMINGLY FAVOR AN INJUNCTION ... 10

D. THE INJUNCTION SHOULD APPLY NATIONWIDE 12

CONCLUSION **13**

CERTIFICATE OF SERVICE **13**

INTRODUCTION

Defendants recently adopted a policy of initiating misdemeanor criminal proceedings against any migrant detained along the U.S.-Mexico border, including many who have valid claims for asylum. Around the same time, Defendants adopted a policy or practice of indefinitely detaining any migrant charged with a misdemeanor immigration offense until resolution of that charge. These policies (collectively, the "Family Detention Policy") have resulted in a dramatic increase in the number of individuals detained in facilities across the southwestern United States.

The Family Detention Policy is causing grave and irreparable humanitarian harm—particularly, to families and children who are being detained for extended periods in prison-type environments. In addition, the Policy is causing, or will imminently cause, irreparable harm to the communities and environment of the Southwest, insofar as it will require Defendants to construct and operate dozens of new detention facilities in this region.

The Family Detention Policy is illegal. Although the Policy constitutes a radical departure from past practice and is being treated as binding authority, Defendants have not offered the public notice or the opportunity to comment on it. Accordingly, Defendants stand in violation of their obligations under the Administrative Procedure Act ("APA"). *See Jean v. Nelson*, 711 F.2d 1455, 1475 (11th Cir. 1983) (government violated APA by instituting "universal[] . . . detention policy" for Haitian migrants without undertaking notice-and-comment rulemaking).

Plaintiffs—community organization whose members are being directly and irreparably harmed by the Family Detention Policy—move to enjoin the Family Detention Policy until such time as Defendants comply with bedrock requirements of administrative law.

…

…

BACKGROUND

On April 6, 2018, Attorney General Jeff Sessions issued a memorandum entitled "Zero-Tolerance for Offenses under 8 U.S.C. § 1325(a)." The memorandum directed each U.S. Attorney's Office along the U.S.-Mexico border "to adopt immediately a zero-tolerance policy for all offenses referred for prosecution under section 1325(a)."[1] In public statements, the Attorney General explained that this policy was designed to ensure that "100 percent of illegal Southwest Border crossings" would be criminally prosecuted.[2]

Following issuance of this memorandum, Defendants began referring every migrant detained along the U.S.-Mexico border—including many who were lawfully seeking asylum—for prosecution. Defendants also adopted a policy or practice of detaining these individuals indefinitely until resolution of these charges. Defendants' actions resulted in an unprecedented number of children being forcibly separated from their parents. In the first two months of this policy, nearly 2,000 children were separated from their parents.[3]

The staggering increase in the number of children being held by U.S. immigration authorities soon overwhelmed the capacity of existing detention facilities. On June 14, 2018, a spokesperson for the U.S. Department of Health and Human Services confirmed that an encampment for children separated from their parents pursuant to the Family Detention Policy

---

[1] Memorandum from Jeff Sessions to Federal Prosecutors along the Southwest Border, *Zero-Tolerance for Offenses under 8 U.S.C. § 1325(a)* (Apr. 6, 2018).

[2] U.S. Dep't of Justice, *Attorney General Sessions Delivers Remarks Discussing the Immigration Enforcement Actions of the Trump Administration* (May 7, 2018).

[3] PBS, *How Trump Family Separation Policy Became What it is Today* (Jun. 14, 2018).

would be constructed at the Tornillo Land Port of Entry, near El Paso, Texas.[4] The spokesperson stated that the facility would "take in 360 children in the coming days and expand from there."[5] As of July 9, 2018, hundreds of children were still being held at the tent city in Tornillo.[6]

On June 20, 2018, President Trump signed an Executive Order entitled "Affording Congress an Opportunity to Address Family Separation."[7] The Family Separation Order codifies Defendants' policy of detaining migrants indefinitely pending the resolution of misdemeanor charges, with the modification that, "to the extent permitted by law and subject to the availability of appropriations," families will now be detained together. Order § 3(a). The Order also requires the Secretary of Defense to "to provide to the Secretary [of DHS], upon request, any existing facilities available for the housing and care of alien families," and to "*construct* such facilities if necessary and consistent with law." *Id.*, § 3(c) (emphasis added).

Although the Order states that it is "the policy of this Administration to maintain family unity," (*id.*, § 1), it does not actually end the practice of family separation. As a coalition of State Attorneys General recently explained, the relief offered by the Order is "illusory" because "almost every provision of the Order is subject to the availability of non-existent resources and legal authority for indefinite detention [of children] that is contrary to settled law." *Washington v. United States*, 2:18-cv-00939 (W.D. Wash., Jun. 26, 2018) (Doc. 1, ¶ 77). The order is silent on

---

[4] Claire Parker, *Trump Administration Makes Site Selection for Tent City Near El Paso To House Immigrant Children Separated from Parents*, TEX. TRIBUNE (Jun. 14, 2018).

[5] *Id.*

[6] Jessica Gonzales, *Tornillo Shelter to be Opened for Another 30 Days*, KFOX 14 (July 9, 2018).

[7] White House, *Affording Congress an Opportunity to Address Family Separation* (Jun. 20, 2018).

how DHS should proceed if it is unable to incarcerate families together, either because of resource constraints or because the government is unable to obtain modification of the *Flores* settlement, which prohibits DHS from detaining children for more than 20 days. Moreover, nothing in the Order required the government to reunite families it has already broken apart.

On June 26, 2018, Judge Dana M. Sabraw issued a preliminary injunction preventing the government from separating children from their parents, and requiring the government to begin reuniting families it had previously broken apart. *See Ms. L. v. U.S. Immigration & Customs Enf't*, No. 18-CV-0428-DMS (MDD), 2018 WL 3129486 (S.D. Cal. June 26, 2018). The court determined that plaintiffs were likely to prevail on their claim that the Family Detention Policy was "so egregious, so outrageous, that may fairly be said to shock the contemporary conscience." *Id.* at *8 (citation and quotation marks omitted). The government missed the most recent deadline for reuniting families it had separated, and has acknowledged deporting hundreds of parents without their children.[8]

Although Judge Sabraw's order prevents the government from separating families going forward, it does not prevent the government from continuing to enforce its zero-tolerance policy, from detaining families together, or from constructing new detention facilities. The government continues to move forward with plans to construct a massive network of new detention facilities for the purpose of continuing to implement its Family Detention Policy. On June 21, 2018, the Associated Press obtained a memorandum indicating that the U.S. Department of Defense ("DOD") was preparing to construct facilities to house up to 20,000 migrant children on four

[8] Elliot Spagat & Colleen Long, *700 Kids Still Separated from their Families After Government Misses Reunification Deadline*, TIME (July 26, 2018).

military bases, including Fort Bliss, an army base located in El Paso County, Texas and Doña Ana County, New Mexico.[9] On June 25, 2018, the El Paso Times reported that Fort Bliss had been selected as one of two sites to house these children.[10] On June 27, 2018, it was reported that DOD was prepared to house up to 12,000 individuals at Fort Bliss.[11] Plaintiffs bring this motion to address the significant, irreparable harm Defendants' policies continue to cause.

STANDARD OF REVIEW

"To obtain a preliminary injunction, a plaintiff must show (1) that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest." *Planned Parenthood of Kansas v. Andersen*, 882 F.3d 1205, 1223 (10th Cir. 2018) (quoting *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 20 (2008)).

ARGUMENT

A. Plaintiffs are Likely to Succeed on the Merits

The APA establishes certain procedures that federal agencies must comply with before undertaking rulemaking—i.e., before adopting a "statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy." 5 U.S.C. §§ 551

---

[9] Robert Burns, *Pentagon Agrees to Provide Space For 20,000 Migrant Children*, AP NEWS (Jun. 21, 2018). More recent reports indicate that DOD is preparing to detain up to 32,000 migrants across the Southwest. W.J. Hennigan & Philip Elliott, *The U.S. Military Is Preparing to Hold 32,000 Immigrants in Detention Centers*, TIME (Jun. 28, 2018).

[10] Kyle Jones & Michelle Gaitan, *Fort Bliss, Goodfellow Military Bases In Texas Will House Immigrants, Pentagon Confirms*, EL PASO TIMES (Jun. 25, 2018).

[11] Tom Vanden Brook, *Fort Bliss In Texas May House 12,000 Migrants Detained At The Border*, USA TODAY (Jun. 27, 2018).

(4), (5). In general, federal agencies must provide members of the public with "[g]eneral notice" of proposed rulemaking. *Id.*, § 553(b). After notice is given, the agency must "give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments . . . ." *Id.*, § 553(c). An agency must respond to any significant comments it receives before finalizing the rule. *See Perez v. Mortg. Bankers Ass'n*, 135 S. Ct. 1199, 1203 (2015).

In deciding whether a policy must undergo notice and comment, the critical question is whether the policy "'genuinely leaves the agency and its decisionmakers free to exercise discretion.'" *Texas v. United States*, 809 F.3d 134, 171 (2015) (quoting *Gen. Elec. Co. v. EPA*, 290 F.3d 377, 382 (D.C. Cir. 2002)). "'An agency pronouncement will be considered binding as a practical matter if it either appears on its face to be binding, or is applied by the agency in a way that indicates it is binding.'" *Id.* (quoting *Gen. Elec.*, 290 F.3d at 383).

Courts have repeatedly applied these principles to invalidate immigration policies adopted without notice and comment. The most relevant precedent is *Jean v. Nelson*, 711 F.2d 1455 (11th Cir. 1983). In May 1981, the Immigration and Naturalization Service ("INS") adopted a new policy of indefinitely detaining Haitian migrants arriving in Florida until it could determine whether they were eligible for admission. The district court held that this policy was invalid because it had been adopted without notice and comment, in violation of the APA. The Eleventh Circuit affirmed. The court explained that "an announcement that INS will universally enforce a detention policy while limiting parole is 'an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy,' in other words, a rule." *Id.* at 1475 (citing 5 U.S.C. § 551(4); ellipses omitted). Moreover, because the detention policy

established a "binding norm" that was being rigidly enforced, it was a *legislative* rule that could not be adopted without notice and comment. *Id. at* 1482–83.[12]

Other courts have invalidated immigration policies for failure to comply with the APA's notice-and-comment requirement. In *Texas v. United States*, the Fifth Circuit upheld a preliminary injunction against the Deferred Action for Parents of Americans program based on its finding that the policy did not "genuinely leave the [DHS] and its employees free to exercise discretion" in deciding whether to grant deferred action to certain undocumented immigrants. 809 F.3d at 170–176. And in *U.S. ex rel. Parco v. Morris*, the court held that INS's "precipitous rescission" of a policy allowing deportable aliens to obtain voluntary extended departure was void for lack of notice and comment, where the policy left agency decisionmakers with "no discretion" in responding to these applications. 426 F. Supp. 976, 984 (E.D. Pa. 1977).

Plaintiffs are likely to prevail on its claim that Defendants violated the APA by adopting the Family Detention Policy without first offering the public notice and the opportunity to comment on these policies. As in *Jean*, the government has committed to "universally enforce a detention policy." 711 F.2d at 1475. Defendants' Policy involves "referring 100 percent of illegal Southwest Border crossings" for prosecution, and detaining every migrant so referred. The stated purpose of this Policy is to eliminate the discretion of agency decisionmakers. It unquestionably creates a binding norm. Plaintiffs are likely to prevail on their APA claim.

---

[12] There were subsequent proceedings in *Jean*, including rehearing *en banc* and review by the Supreme Court. Because the government responded to the panel decision by undertaking notice-and-comment rulemaking, however, this issue was mooted and the panel's decision was left undisturbed. *See Jean v. Nelson*, 727 F.2d 957, 984 (11th Cir. 1984) (en banc) ("the government's promulgation of regulations under the notice and comment provisions of 5 U.S.C. § 553 to govern the new detention policy has mooted the issue of agency compliance with the APA").

B. Plaintiffs' Members Will Be Irreparably Harmed Absent an Injunction

It is well established that the denial of a plaintiff's procedural rights constitutes irreparable harm if the denial deprives the plaintiff of the opportunity to defend its concrete interests. *See California v. Health & Human Servs.*, 281 F. Supp. 3d 806, 829–30 (N.D. Cal. 2017) ("A procedural injury may serve as a basis for a finding of irreparable harm when a preliminary injunction is sought."); *N. Mariana Islands v. United States*, 686 F. Supp. 2d 7, 17 (D.D.C. 2009) (finding irreparable harm because "DHS should have complied with the APA's notice-and-comment provisions before promulgating the Rule, and its failure to do so impaired the [plaintiff's] ability to protect its interests"); *cf. Sierra Club v. Marsh*, 872 F.2d 497, 504 (1st Cir. 1989) (given "[t]he difficulty of stopping a bureaucratic steam roller, once started," the agency's failure to comply with procedures required under the National Environmental Policy Act at the appropriate stage in decisionmaking process was irreparable harm).

Each Plaintiff in this action has concrete interests that are adversely affected by the Family Detention Policy, which they have been unable to defend as a result of Defendants' refusal to comply with the APA. Plaintiff Southwest Environmental Center ("SWEC")'s members live, work, and recreate near Tornillo, Texas and Fort Bliss, where new detention facilities have been constructed, or will imminently be constructed, to house children and families detained under the Family Detention Policy. *See* Bixby Decl. at ¶¶ 6–9. SWEC's members have concrete health, aesthetic, and recreational interests that will be adversely affected by the construction and operation of these facilities. For example, many of SWEC's members hike, hunt, and work on or immediately adjacent to Fort Bliss. *See* Ferrary Decl. at ¶ 3; Guerrero Decl. at ¶ 3; Peña Decl. at ¶¶ 8–9; Scotten Decl. at ¶ 3; Vasquez Decl. at ¶ 3. Others enjoy recreating near the Tornillo Camp. *See* Bixby Decl. at ¶ 8. Still others live in the immediate vicinity of Fort Bliss. *See* Parra Decl. at

¶ 3. As these declarations show, SWEC's members are being harmed by the operation of the Tornillo Camp, and will be further harmed if new tent cities or permanent detention facilities are constructed at Fort Bliss. Among other things, their health, aesthetic, recreational, and economic interests will be harmed by the air pollution, noise pollution, traffic, garbage, land disturbance, and conversion of wildlife habitat that will result from the construction and operation of these facilities. *See* Bixby Decl. at ¶ 7; Guerrero Decl. at ¶ 4; Parra Decl. at ¶¶ 3–4; Scotten Decl. at ¶ 4; Peña Decl. at ¶ 10; Vasquez Decl. at ¶¶ 3–6.

Plaintiffs' members also have personal and dignitary interests that are being harmed by the Family Detention Policy. One SWEC member is a U.S. Army veteran who benefits from the "current congenial relationship between Fort Bliss" and the surrounding community. Ackerman Decl. at ¶ 3. If Fort Bliss were to house new detention facilities, it would "create distrust" in the community, harming veterans who would be stigmatized by the Army's association with Defendants' policy. *Id.* Many members of SWEC and Border Network for Human Rights ("BNHR") are immigrants or the children and grandchildren of immigrants. *See* Garcia Decl. at ¶ 5; Guida Decl. at ¶ 4; Peña Decl. at ¶ 12; Scotten Decl. at ¶ 6. Seeing migrant families and children detained in their own backyard causes these individuals to feel as though they have been stamped with a badge of inferiority by their own government, causing them to experience severe emotional distress. *See* Garcia Decl. at ¶ 5; Scotten Decl. at ¶ 6; Peña Decl. at ¶ 13.[13]

[13] Recent medical research lends credibility to this testimony. *See* Kathleen M. Roche, et al., *Impacts of Immigration Actions and News and the Psychological Distress of U.S. Latino Parents Raising Adolescents*, 62 J. ADOLESCENT HEALTH 525 (May 2018) (finding that anti-immigrant policies caused certain lawful permanent residents to experience statistically significant increases in depression, anxiety, and other types of psychological distress).

Plaintiffs' members have concrete health, aesthetic, recreational, personal, and dignitary interests that are, or will be, adversely affected by the construction of new detention facilities in the Las Cruces-El Paso region. If given the opportunity to do so, these individuals would share comments, views, and arguments related to the Family Detention Policy and the construction of these detention facilities. *See* Ackerman Decl. at ¶ 3; Bixby Decl. at ¶ 11; Ferrary Decl. at ¶ 5; Garcia Decl. at ¶ 8; Guerrero Decl. at ¶ 5; Guida Decl. at ¶ 4; Parra Decl. at ¶ 5; Scotten Decl. at ¶ 5; Vasquez Decl. at ¶ 6. But Defendants have deprived these individuals and other members of the public of the right to weigh in on Defendants' radical overhaul of national immigration policy and the massive construction program it will necessitate. These facts easily support a finding of irreparable harm.

C. The Public Interest and Balance of Equities Overwhelmingly Favor an Injunction

Defendants will suffer no harm if an injunction is granted. An injunction would return national immigration policy to where it was mere months ago, and where it had been for decades before that. The United States was not experiencing irreparable harm in March of this year, or at any other time during the preceding decades when it allowed immigration authorities to exercise discretion in deciding whether to charge individuals detained at the border with immigration offenses and whether to detain individuals once charged. The fact that Defendants waited more than a year after taking office to enact the Family Detention Policy undermines any argument that they would be significantly harmed if the Policy were to be put on hold. *Cf. Fish v. Kobach*, 840 F.3d 710, 753 (10th Cir. 2016) ("delay in seeking . . . relief cuts against finding irreparable injury") (citation omitted).

As to the public interest, it militates overwhelmingly in favor of an injunction. The public has a strong interest in making sure the government complies with notice-and-comment procedures before enacting major policy changes. As the court explained in *Jean*:

> This public participation assures that the agency will have before it the facts and information relevant to a particular administrative problem, as well as suggestions for alternative solutions. Public rulemaking procedures increase the likelihood of administrative responsiveness to the needs and concerns of those affected. And the procedure for public participation tends to promote acquiescence in the result even when objections remain as to substance.

711 at 1480–81 (citation and quotation marks omitted).

Defendants' departure from regular procedure has deprived Americans of the benefits these procedures were designed to confer. As Judge Sabraw recently lamented, the Family Detention Policy has not been an exercise in "measured and ordered governance," but has instead represented "reactive governance." *Ms. L.*, 2018 WL 3129486, at *11. Defendants were not prepared to deal with the consequences of their new policy. There was no system in place for tracking children separated from their parents, or for reuniting families once parents were released from detention. *See id.* at *7. Defendants did not adequately explain their policy to those charged with implementing it, which resulted in subordinates taking actions that were plainly illegal—like separating families who lawfully presented at ports of entry to petition for asylum. *See id.* at *1.

This chaos has been compounded by the fact that Defendants have kept the American people in the dark about the nature of the Family Detention Policy. Defendants have repeatedly denied that Policy exists, or sought to evade responsibility for it by falsely claiming that it is mandated by existing law.[14] Defendants frequently contradicted themselves in public statements

[14] *See* Salvador Rizzo, *The Facts about Trump's Policy of Separating Families at the Border*, WASH. POST (Jun. 19, 2018). Defendant Nielsen's statement that

about the Policy.[15] This lack of candor has made it virtually impossible for elected officials to respond to the damage the Policy has wrecked on their communities. *See* Garrett Decl. at ¶ 5.

In addition to restoring "measured and ordered governance," an injunction would serve critical humanitarian interests. Nothing in the Family Separation Order or Judge Sabraw's preliminary injunction prevents Defendants from enforcing their zero-tolerance policy or detaining children together with their parents. Absent a broader injunction, thousands of children will continue to suffer under Defendants' unlawful policy.

This is not a close call. Issuing an injunction would reinstate the immigration policies that were in effect on April 5, 2018—and that had been in effect for decades before that. Such an outcome would harm no one. By contrast, failure to issue an injunction would result in grave, irreparable harm to thousands of children and parents, and to the communities forced to contribute to their suffering by hosting new detention facilities.

D. The Injunction Should Apply Nationwide

"It is not beyond the power of a court, in appropriate circumstances, to issue a nationwide injunction." *Texas*, 809 F.3d at 188. In fact, because the Constitution and federal law require a uniform immigration policy, a nationwide injunction is the *preferred* remedy where the executive branch adopts an immigration policy that is contrary to law. *See, e.g.*, *NAACP v. Trump*, 298 F. Supp. 3d 209, 243 (D.D.C. 2018) ("the immigration context counsels strongly in favor of nationwide relief") (citing *Texas*, 809 F.3d at 187–88).

---

[15] JM Rieger, *The Trump Administration Changed its Story on Family Separation No Fewer than 14 Times Before Ending the Policy*, WASH. POST (Jun. 20, 2018).

A nationwide injunction is necessary here. Plaintiffs' procedural injury cannot be cured unless Defendants provide Plaintiffs and their members the opportunity to submit data, views, and arguments with respect to the Family Detention Policy. Such a notice-and-comment rulemaking could not reasonably be limited to individuals residing in this district. Moreover, Plaintiffs' members will continue to suffer personal and dignitary injuries as long as the Policy remains in effect anywhere in the United States.

CONCLUSION

Plaintiff respectfully requests that the Court enter a preliminary injunction preventing Defendants from taking any action to implement the Zero-Tolerance Memorandum, the Family Detention Policy, or the Family Separation Order, until resolution of this lawsuit.

DATED: July 27, 2018

Respectfully submitted,

/s/ David Baake

DAVID R. BAAKE
New Mexico Bar # 150522
275 Downtown Mall
Las Cruces, NM 88001
Telephone: (575) 343-2782
david.baake@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2018, the foregoing Amended Motion for Preliminary Injunction was served upon Defendants via certified mail.

DATED: July 27, 2018

/s/ David Baake

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SOUTHWEST ENVIRONMENTAL CENTER and BORDER NETWORK FOR HUMAN RIGHTS *Plaintiff*, v. JEFFERSON BEAUREGARD SESSIONS III, in his official capacity as Attorney General of the United States; KIRSTJEN NIELSEN, in her official capacity as Secretary of the U.S. Department of Homeland Security; JAMES N. MATTIS, in his official capacity as Secretary of the U.S. Department of Defense; and ALEX M. AZAR II, in his official capacity as Secretary of the U.S. Department of Health and Human Services. *Defendants.*	**APPENDIX TO AMENDED MOTION FOR PRELIMINARY INJUNCTION** 2:18-cv-00632-WJ-KRS

Plaintiffs Southwest Environmental Center and Border Network for Human Rights respectfully submits the following in support of Motion for Preliminary Injunction:

- Declaration of Judith P. Ackerman
- Declaration of Kevin Bixby
- Declaration of Joanne Ferrary
- Declaration of Fernando Garcia
- Declaration of Billy G. Garrett
- Declaration of Luis Guerrero
- Declaration of Marilyn Rose Guida

- Declaration of Rodolfo A. Parra, Jr.
- Declaration of Angel Peña
- Declaration of Ali G. Scotten
- Declaration of Gabriel Vasquez

DATED: July 27, 2018

Respectfully submitted,

/s/ David Baake

DECLARATION OF JUDITH P. ACKERMAN

I, Judith P. Ackerman, declare as follows:

1. I am a retired Sergeant Major with 26 years of service in the Pennsylvania Army National Guard. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters which reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I have been a member of the Southwest Environmental Center (SWEC) for at least ten years and actively support SWEC in many of their activities.

3. If given the opportunity to do so, I would share comments, views, and arguments related to the Family Detention Policy, the construction of new detention camps, and any environmental analysis done in conjunction with this Policy. However, it is my understanding that the government is not considering public comments on the Family Detention Policy. If the government continues to implement this divisive policy without undertaking notice-and-comment rulemaking, I fear that our community will be irreparably harmed. Fort Bliss is a worldwide premier military base. The relationship between Fort Bliss and the surrounding community of El Paso is exceptionally mutually beneficial. Elected officials of El Paso, individuals and organizations have resoundingly condemned the current Family Detention Policy. Construction of new detention camps on Fort Bliss will damage the current congenial relationship between Fort Bliss and the El Paso community and create distrust.

4. If given the opportunity to comment on the Family Detention Policy, I would say: the current Family Detention Policy is despicable and immoral and brings great shame to our United States of America. Bringing new detention camps to Fort Bliss brings shame on the US Army.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 26, 2018 in El Paso, TX.

Judith P. Ackerman, SGM (Ret)

DECLARATION OF KEVIN BIXBY

I, Kevin Bixby, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters which reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I am the founder and Executive Director of Southwest Environmental Center ("SWEC").

3. SWEC is a non- profit conservation organization dedicated to the protection and restoration of native wildlife and their habitats in the Southwest. SWEC has more than 10,000 members and online activists. SWEC is headquartered in Las Cruces, New Mexico.

4. SWEC's members and staff live in or regularly visit the U.S.-Mexico borderlands region in New Mexico and Texas. SWEC's members and staff regularly use the myriad federal, state, and local protected lands along the U.S.-Mexico border in New Mexico and Texas for hiking, camping, viewing and studying wildlife, photography, hunting, horseback riding and other scientific, vocational and recreational activities. SWEC's members and staff derive recreational, spiritual, professional, scientific, educational, and aesthetic benefit from their activities in these areas. SWEC has a long history of environmental advocacy within the borderlands region. SWEC's members and staff have specific intentions to continue to use and enjoy these areas frequently and on an ongoing basis in the future.

5. SWEC and its members are increasingly concerned about how the militarization of the U.S.-Mexico border is harming our communities and our environment. In particular, we are concerned about how the construction of a border wall will fragment wildlife habitat, threatening endangered species such as pronghorn, ocelots, mountain lions, javelina, coatimundis, deer, bears, wolves, and jaguar. Information about our efforts to resist the border wall and border militarization more generally can be found at http://www.wildmesquite.org/what-we-do/desert-lands-wildlife/border-wall.

6. SWEC's members and staff regularly engage in recreational activities on lands located on, or immediately adjacent to, Fort Bliss, including Castner Range, the Franklin Mountains State Park, Hueco Tanks State Park, the Organ Mountains, Otero Mesa, and White Sands. Other SWEC members live immediately adjacent to the base.

7. I am aware that Defendants previously held unaccompanied minors at the Doña Ana Range Complex, which abuts the Organ Mountains-Desert Peaks National Monument in southern New Mexico. I do not know for sure whether Defendants intends to use the same area for additional construction, because Defendants' decisionmaking process has been completely opaque. But SWEC would be extremely concerned about any new construction adjacent to the Organ Mountains-Desert Peaks National Monument. Our conservation community has worked for many years to protect this magnificent landscape. Any construction activity adjacent to this protected land could cause significant harm to SWEC users who recreate on the monument—for example, by causing dust and other air pollution, destruction of scenic vistas, destruction of wildlife and their habitat, increased traffic, and increased garbage.

8. Some of SWEC's members recreate near Tornillo, Texas. This area provides important riparian habitat for a number of migratory birds and other wildlife species. The University of Cornell's eBird database lists a "Birding Hotspots" in the immediate vicinity of the Tornillo Land Port of Entry. https://ebird.org/hotspot/L1322288. A review of this database indicates that at least one SWEC member regularly goes birdwatching at this location. Construction and operation of a "tent camp" in Tornillo is already negatively impacting the local environment, as a result of increased traffic, garbage, noise, and land-use disturbance. Some of these impacts are associated with Defendants' operation of the camp itself, and others are associated with the large protests that have been held there.

9. Some of SWEC's members live in the City of El Paso, including in the vicinity of Fort Bliss. These individuals are likely to be negatively affected by any construction that happens within the City limits—as a result of increased air pollution, noise, garbage, and traffic. According to the American Lung Association, El Paso has some of the worst air pollution in the United States. *See* http://www.kvia.com/news/report-el-paso-one-of-the-worst-cities-for-air-quality_20160921105658579/89137620. Any new construction would contribute to this problem, as the result of exhaust from construction vehicles and dust emissions resulting from land use changes. Operation of such a facility would also contribute to air pollution resulting from heavy-duty vehicle traffic carrying detained individuals to-and-from the base.

10. The Family Detention Policy is incredibly controversial in the Las Cruces-El Paso community. I personally have attended numerous protests, demonstrations, and meetings—including one with U.S. Senators Tom Udall and Martin Heinrich—where hundreds of individuals from our region have gathered to express their outrage about the humanitarian catastrophe that is happening in our backyard. Many SWEC members have also attended protests at the Tornillo

Camp, where they have witnessed the prison-like nature of this facility and its negative environmental impacts.

11. If Defendants were to undertake rulemaking with respect to the Family Separation Policy, SWEC and its members would participate in the rulemaking by submitting comments, data, and arguments. SWEC and its members would also submit comments, data, and arguments in response to any environmental analysis performed by Defendants in connection with this Policy.

12. SWEC and its members are being irreparably harmed by the Family Detention Policy and by the militarization of the U.S.-Mexico border more generally. At minimum, I believe Defendants have an obligation to listen to individuals in our community before moving forward with additional projects that will affect quality of life in our region.

I declare under penalty of perjury that the foregoing is true and correct. Executed July 26, 2018 in Las Cruces, New Mexico.

Declaration of Joanne Ferrary

I, Joanne Ferrary, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters which reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I am a member of the Southwest Environmental Center and I support our taking action against the construction of new detention facilities and the militarization of the border.

3. I hike, camp, and birdwatch on lands located on, or immediately adjacent to, Fort Bliss, including Castner Range, Culp Canyon Wilderness Study Area, the Franklin Mountains, Hueco Tanks, the Organ Mountains, Otero Mesa, and White Sands. I have enjoyed recreating on these lands since the early 1980s and have taken my children to these special places.

4. I am very concerned that the construction of a new detention facility or the operation of a "tent city" at Fort Bliss would negatively impact these recreational opportunities by creating air pollution, destroying wildlife habitat, and converting Chihuahuan Desert land into a built environment. I am also worried that my community will experience increased traffic due to construction and operation of the facility.

5. If given the opportunity to do so, I would share comments, views, and arguments related to the Family Detention Policy, the construction of new detention camps, and any environmental analysis done in conjunction with this Policy. However, it is my

understanding that the government is not considering public comments on the Family Detention Policy.

6. If the government continues to implement this divisive policy without undertaking notice-and-comment rulemaking, I fear that our community and Country will be irreparably harmed. The inhumane treatment of women, their children, and families who are seeking asylum in order to escape horrific life-threatening conditions in their homeland is traumatic to many in our community and creates a slippery slope that may lead to even worse human rights abuses in the future.

7. If given the opportunity to comment on the Family Separation Policy, I would say: Please reunite the children with their families immediately, as adverse childhood experiences, such as what they are going through, will harm their emotional, social, and educational development critical for their success in life. Expedite and expand the opportunities for asylum seekers as well as for those who seek to work and live in our Country. We were all immigrants at some point in our family history and there is still plenty of room for more!

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 28th, 2018 in Las Cruces, New Mexico.

DECLARATION OF FERNANDO GARCIA

EXECUTIVE DIRECTOR OF BORDER NETWORK FOR HUMAN RIGHTS

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters which reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I am the Founder and Executive Director of Border Network for Human Rights (BNHR). BNHR is a non-profit human rights organization that has worked for 20 years to organize marginalized border communities in the region around El Paso, Texas and Las Cruces, New Mexico. BNHR works to facilitate community education, organizing, and participation to defend and promote human and civil rights in the border region.

3. BNHR has hundreds of member families living in far west Texas and southern New Mexico. BNHR's members are being irreparably harmed by the Trump Administration's Zero-Tolerance and Family Detention Policies. Broadly, BNHR is concerned about the way that Zero-Tolerance and Family Detention in practice creates a de-facto criminalization of immigrant populations, uses this criminalization to justify mass detention and efforts to undercut protections of civil and constitutional rights such as the Flores Settlement, and uses the effects of mass detention—alleged 'overcrowding'—to justify denial of the legal asylum process as a means to further criminalize arriving immigrants.

4. Over the course of its two decades in existence, BNHR has worked, and continues to work, to document violations of civil and human rights by agencies such as ICE and CBP—and, moreover, to address the systemic causes of those violations through engagement in

productive dialogue with said agencies aimed at changing policy and practice. These violations have increased during the period that Zero-Tolerance, Family Separation, and Family Detention have been in effect in the El Paso region. This past spring alone, BNHR documented several cases where Border Patrol agents entered private property without permission, conducted searches without a warrant, repeatedly disturbed residents as the slept by shining bright lights into home windows, and other problematic practices—none of which we had documented in the five years prior. The secrecy and lack of public accountability in the implementation of Zero-Tolerance and Family Detention fuel a sense of impunity in these and other relevant agencies that further corrodes the rights of border residents and crossers alike, causing direct degradation in the quality of life of BNHR staff and members. Likewise, Zero-Tolerance and Family Detention supports a destructive de-facto criminalization of immigrant and Latino populations on the part of law enforcement agents that leads them to undertake actions that undermine the civil, constitutional, and human rights of persons residing in the U.S.

5. Many of BNHR's members are immigrants or the children and grandchildren of immigrants. Seeing migrant families and children detained in their own backyard causes these individuals to feel as though they have been stamped by their own government with a badge of inferiority, and/or feeling of criminality, just because of their shared heritage, language, or skin tone, causing them to experience severe emotional and psychological distress that affects performance at work or school, and deters participation in civic life such as attending community events.

6. Furthermore, many BNHR member families have experienced family separation of their own through the enforcement of U.S. immigration law. In the experience of our families, the detention and/or deportation of a family member puts immense psychological strain on those

remaining family members who describe barely knowing how they can survive without each other. Often performance at work or school suffers immensely, and the family withdraws from community life. It often also presents significant financial and quality of life burdens on these families as key providers of income or services such as child care are no longer there to help provide the day-to-day material sustenance of the family.

7. Finally, in addressing these harms BNHR has had to divert resources away from opportunities to proactively improve the living conditions of border residents to instead respond to the crisis that Defendants have created by adopting the Zero-Tolerance and Family Detention Policies.

8. If Defendants were to undertake rulemaking with respect to the Zero Tolerance and Family Detention Policies, BNHR and its members would participate in the rulemaking by submitting comments, data, and arguments showing that these policies are immensely harmful to individuals who live in border communities.

I declare under penalty of perjury that the foregoing is true and correct. Executed July 27, 2018 in El Paso, Texas.

Fernando Garcia

DECLARATION OF BILLY G. GARRETT

I, Billy G. Garrett, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters that reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I am a member of the Southwest Environmental Center.

3. I am serving my second term as a County Commissioner on the Doña Ana County Board of Commissioners. The Commission has jurisdiction over a wide variety of matters affecting Doña Ana County. Principal among these is the health and welfare of county residents. We have a special obligation to look out for the wellbeing of children and families. We also have a duty to protect the environment for the benefit of everyone who lives in our region.

4. I am appalled with the Family Detention Policy. Use of governmental powers to separate children from their parents and to incarcerate immigrant children is unjust and morally repugnant. As an elected official, I believe that County government should respond to the humanitarian crisis created by the Trump Administration. At a minimum we must stand up for fair treatment, respect, and dignity for all. All families in Doña Ana County, including those that include undocumented residents, must be able to go about their lives knowing their civil and human rights will be respected and protected.

5. Even the suspicion that civil and human rights are being compromised undermines trust between people and their government. Yet the Federal Government has kept our community and its leaders in the dark about the Family Detention Policy and plans to implement it. Most of what we have learned has come from media reports, some of which rely on leaks and other unofficial sources of information. Members of the Trump Administration have repeatedly contradicted themselves in public statements about the Policy. This lack of candor has made it virtually impossible for elected officials like myself to respond to the damage the Policy has caused—or could cause—in our communities, the social order, and the environment.

I declare under penalty of perjury that the foregoing is true and correct. Executed June 30, 2018 in Las Cruces, New Mexico.

Billy G. Garrett
6805 Cottontail Lane
Las Cruces, NM 88005

Declaration of Luis Guerrero

I, Luis Guerrero, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters which reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I recently became a member of Southwest Environmental Center because I heard they were taking action against the construction of new detention facilities and the militarization of the border, and I wanted to support this work.

3. I live in Las Cruces, New Mexico. I enjoy hiking on lands located on, or immediately adjacent to, Fort Bliss, including the Organ Mountains, Otero Mesa and White Sands.

4. I am very concerned that the construction of a new detention facility or the operation of a "tent city" at Fort Bliss would negatively impact our local environment by causing increased traffic, garbage, and disturbance of public land. I am worried that these impacts could harm me and my family by reducing our ability to enjoy public lands, and by increasing air pollution, as trucks and buses bring migrants to and from the detention facility. I think construction of a new

detention facility or a tent city would lead to an overall reduction of the quality of life for New Mexican families.

5. If given the opportunity to do so, I would share comments, views, and arguments related to the Family Detention Policy, the construction of new detention camps, and any environmental analysis done in conjunction with this Policy. However, it is my understanding that the government is not considering public comments on the Family Detention Policy. If the government continues to implement this divisive policy without undertaking notice-and-comment rulemaking, I fear that our community will be irreparably harmed. Our Government should be open to listening to what the public has to say, especially the people that live along the border, who will be most affected by these facilities. The current administration has been painting a false picture of what the border and our immigrant communities are about. We live in an area of rich diversity, both in its people and in its lands, and these facilities would completely change our way of life. Sadly, our views are not being listened to.

6. If given the opportunity to comment on the Family Detention Policy, I would say that it is wrong and it is not what this country should be about. Immigrants who come to this country are seeking a better life for their loved ones and for future generations, in many cases running away from dangerous situations.

We should be a nation that welcomes them and welcomes diversity. Jeff Sessions and the Trump administration have made it their mission to persecute our immigrant family based on racist and xenophobic ideologies that are not true and that do not represent our values, especially here at the border. Separating families is cruel and inhumane. Locking children of all ages in cages is inhumane and morally wrong. We need to fix our broken immigration system that makes it difficult for people to go through the right channels to gain citizenship.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 27, 2018, in Las Cruces, New Mexico.

Luis A. Cano

I, Marilyn Rose Guida, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters which reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I am a member of the Southwest Environmental Center and have been for several years.

3. If given the opportunity to do so, I would share comments, views, and arguments related to the Family Detention Policy, the construction of new detention camps, and any environmental analysis done in conjunction with this Policy. However, it is my understanding that the government is not considering public comments on the Family Detention Policy. If the government continues to implement this divisive policy without undertaking notice-and-comment rulemaking, I fear that our community will be irreparably harmed. In El Paso Texas we are a bilingual, English/Spanish community. Many, possibly the majority of our individuals and families, have family ties to the countries of Mexico and Central America which are the origin points for people asking for asylum in the United States and people seeking to rejoin family in the United States. El Paso families are either recent immigrants or descended from immigrants to the United States over a period of over 400 years. Family detention is personal here. It is not remote, it is not happening to someone else, it is happening to our families, our friends, our neighbors who are US citizens.

4. If given the opportunity to comment on the Family Detention Policy, I would say that it is unclear how this policy is going to be implemented. How long will families be held? Will families have access to support services? Will social service groups not connected with the government be able to provide support to families in detention? How will families with medical issues be taken care of? If held for any length of time in detention family life will be affected in many ways that a psychologist could explain. Just as anyone denied freedom of movement, freedom to work, freedom to make their own way in the world, families would become depressed, would lose hope, would start to fall apart. As a US citizen I do not want my country to warehouse people over some minor infractions of law or policy. Such an action will harm the United States, bring shame on the United States. We will lose our status in the world as a country that welcomes immigrants. A status we have had for almost 400 years. We are a strong country because of our immigrant history. My grandparents were immigrants. Family detention will reverse our proud history and lead the United States into a decline.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 24, 2018 in El Paso Texas.

Marilyn Rose Guida

Declaration of Rodolfo A. Parra, Jr

I, Rodolfo A. Parra, Jr., declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters which reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I recently became a member of Southwest Environmental Center because I heard they were taking action against the construction of new detention facilities and the militarization of the border, and I wanted to support this work.

3. I live directly south of Fort Bliss in El Paso, Texas, in the 79905 Zip Code. This Zip Code is already known for its high levels of air pollutants. I am very concerned that the construction of a new detention facility or the operation of a "tent city" at Fort Bliss would negatively impact the environment. Among other things, I am worried that construction and operation of these facilities would result in increased air pollution, land-use changes, destruction of wildlife habitat, and destruction of scenic areas.

4. I am also worried that my community—which already experiences heavy traffic associated with the international bridge—will experience even more traffic if thousands or tens-of-thousands of migrants are transported to a new

detention facility on Fort Bliss. I am also worried about increased garbage and disturbance of the land.

5. If given the opportunity to do so, I would share comments, views, and arguments related to the Family Detention Policy, the construction of new detention facility, and any environmental analysis done in conjunction with this Policy. However, it is my understanding that the government is not accepting comments and is not performing an environmental analysis.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 1, 2018 in Santa Teresa, New Mexico.

Rodolfo Parra Jr.

Declaration of Angel Peña

I, Angel Peña, declare as follows:

1. My name is Angel Peña and I currently reside in Las Cruces, New Mexico. I was born and raised in El Paso, TX. The following facts are personally known to me through my personal and professional experiences and my research. If called as a witness I would and could truthfully testify thereto.

2. I submit this declaration as a member of Southwest Environmental Center (SWEC). I have partnered personally and professionally with SWEC, I have aligned values with the mission to protect and restore native wildlife and their habitats in the Southwest.

3. I have resided in this borderland region my entire life—from 1988 until now. I hike, hunt, birdwatch, camp, educate, work and learn on lands located on, or immediately adjacent to, Fort Bliss, including Castner Range, the Franklin Mountains, Hueco Tanks, the Organ Mountains, Otero Mesa, and White Sands.

4. I am currently employed as the Rio Bravo Regional Director for a national conservation organization, Conservation Lands Foundation (CLF). In this role, I oversee, for my organization, work in Southern Colorado, New Mexico, Arizona, and Texas, and my work emphasizes engaging youth and minority communities in experiencing and protecting public lands and cultural heritage. Some constituencies include faith-based groups, youth groups, scientists, professional and avocational groups, and families looking for affordable ways to recreate and enjoy their public lands. Prior to my current position, I worked with as a National Monument Campaign Associate engaging underprivileged and underserved communities in Nevada, Colorado, Utah, Texas and New Mexico.

5. Prior to joining CLF in 2014, I worked as the Cultural Resource Specialist for the New Mexico Wilderness Alliance, where I also advocated for the permanent protection of the nearly half-million acres that comprise the Organ Mountains-Desert Peaks National Monument.

6. Prior to that position, I worked for the City of Las Cruces as Community Liaison intern for a City Councilor and served as a Bureau of Land Management ("BLM") Archaeologist intern. In those positions, I worked on outreach, communications, and research.

7. I have spent the better part of the last decade working in or immediately adjacent to lands of Fort Bliss, including Castner Range, the Franklin Mountains, Hueco Tanks, the Organ Mountains, Otero Mesa, and White Sands. I have worked to highlight the wildlife, recreational, and cultural benefits of these places, including for youth, minority, and underserved communities. I have personally led scores of communities and community members on site visits and recreational trips through this region.

8. Professionally, personally, and as a member of SWEC, I work to further our shared commitment to preserving the history, culture, and spirit of the American West for future generations. I connect local youth and minority communities to environmental and cultural heritage studies. Lands of and adjacent to Fort Bliss, including Castner Range, the Franklin Mountains, Hueco Tanks, the Organ Mountains, Otero Mesa, and White Sands all play a critical role in my work.

9. I have invested significant personal time and made it my professional career to advocate for protected lands across the country and in the borderland regions, including Hueco Tanks, Organ Mountains–Desert Peaks National Monument, the Castner Range, the Franklin Mountain State Park, and White Sands National Monument.

10. I am very concerned that the construction of a new detention facility or the operation of a "tent city" at Fort Bliss would negatively impact these recreational opportunities and potentially hinder

the economic benefit that outdoor recreation brings to our region. The construction and operation of these facilities will adversely affect the air quality, water quality, wildlife habitat of our region, and contribute to the destruction of scenic areas that facilitate affordable outdoor recreational opportunities for families.

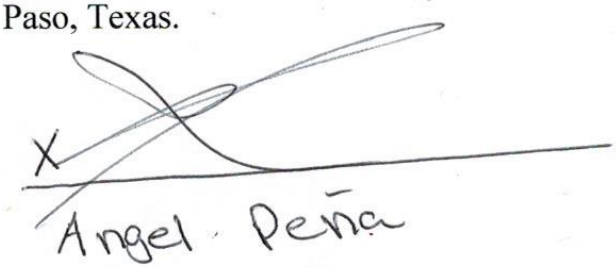
11. I have always enjoyed volunteering and working with SWEC because of my deep passion for public lands, wide-open spaces, and wildlife, especially those along my borderland hometown where my family and I live, work and recreate. I am always humbled to work with SWEC on wildlife education, cultural resources conservation, and education. my educational background in anthropology and archaeology makes these issues very important to me personally and professionally. I continue to volunteer proudly in these roles because I support the mission of SWEC and want to protect and restore the native wildlife and their habitats in the Southwest for the benefit of local communities and my family.

12. I have a strong personal and professional commitment to preserving the history, culture, wildlife and spirit of the American West for future generations and communities around the nation. I developed my love of, and unwavering commitment to, our nation's special public places when I became a father at twenty-years old. At this time, I discovered federal public lands offer inspiring, affordable, and family-friendly activities. I grew up in El Paso, Texas as a first-generation American and the son of a single, immigrant mother; my mother and I did not have the luxury of hiking, camping, and being outside because we could not easily access public lands. I now gain deep satisfaction and excitement when I visit, explore, and discover public lands with my daughters because these visits benefit my family's health, happiness, and wellbeing. I work to protect public lands in my personal and professional capacities because I want to ensure that my family and all parents have such opportunities. With the construction and operation of tent cities or detention facilities on or near Fort Bliss, my life's work would be directly damaged and affected.

13. As a child of an immigrant who grew up, and currently lives, in a community of immigrants, the Family Separation Policy, the Family Separation Policy directly affects me personally. Seeing immigrants demonized causes me to feel as though our community is not respected by the government. The government's policies are traumatizing to me and my community.

14. If given the opportunity to do so, I would share comments, views, and arguments related to the Family Separation Policy, the construction of new detention camps, and any environmental analysis done in conjunction with this Policy. However, it is my understanding that the government is not accepting comments and is not performing an environmental analysis.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 2, 2018, in El Paso, Texas.



Declaration of Ali G. Scotten

I, Ali G. Scotten, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters which reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I recently became a member of Southwest Environmental Center because I heard they were taking action against the construction of new detention facilities and the militarization of the border.

3. I hike on lands located on, or immediately adjacent to, Fort Bliss, including the Organ Mountains and White Sands.

4. I am very concerned that the construction of a new detention facility or the operation of a "tent city" at Fort Bliss would negatively impact these recreational opportunities. Among other things, I am worried that construction and operation of these facilities would result in air pollution, water pollution, land-use changes, increased flooding risk, destruction of wildlife habitat, destruction of wetlands, and/or destruction of scenic areas. I am also worried that my community will experience increased traffic, garbage, and disturbance of public and private land. The environmental impact of such a facility would harm me and my family by

decreasing property values. As a property owner, I was anticipating the rapid development of Las Cruces due to an influx in tourism revolving around our public lands. However, tent camps for children would be such an ugly stain on the landscape that tourists will choose to avoid the area.

5. If given the opportunity to do so, I would share comments, views, and arguments related to the Family Separation Policy, the construction of new detention camps, and any environmental analysis done in conjunction with this Policy. However, it is my understanding that the government is not considering public comments on the Family Separation Policy. If the government continues to implement this divisive policy without undertaking notice-and-comment rulemaking, I fear that our community will be irreparably harmed. In addition to the blow to tourism revenue, the divisiveness of the policy will trickle down into our community, emboldening anti-immigrant sentiment at the local level and destroying the fabric of our society.

6. If given the opportunity to comment on the Family Separation Policy, I would say: As the child of an Iranian immigrant, I am deeply disturbed by the administration's assault on immigration, both legal and illegal. If the administration's current policies had been in place several decades ago, my mother would not have been allowed to enter the country and I would never have been born.

Throughout its history, our nation has been blessed by the contributions of immigrants. Without immigrants, our country's economy and society will stagnate. Moreover, the administration's abuse of undocumented children has caused me great mental anguish and has interfered in my ability to perform my obligations as a small business owner.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 29, 2018 in Las Cruces, NM.

Printed Name: Ali G. Scotten

Signature:

Declaration of Gabriel Vasquez

I, Gabriel Vasquez, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I have personal knowledge of the following facts, and if called as a witness could and would testify competently to them. As to those matters which reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I am a member of the Southwest Environmental Center and have followed their work closely over the last decade because of my interest in recreating and conserving public lands for the benefit of our local youth, families, wildlife, and economy.

3. I hike, hunt, camp, birdwatch, and scout on lands located on, or immediately adjacent to, Fort Bliss, including Castner Range, the Franklin Mountains, Hueco Tanks, the Organ Mountains, Otero Mesa, and White Sands. I have recreated on these lands since I was a young child and continue to enjoy the public lands of our Chihuahuan Desert with friends and family. My identity and culture are inextricably tied to these special places, as is the identity of the surrounding communities of El Paso, Las Cruces, Chaparral, Alamogordo, Tornillo, Fabens, and surrounding colonias in both Texas and New Mexico.

4. I am highly concerned that the construction of a new detention facility or the operation of a "tent city" at Fort Bliss would negatively impact these

recreational opportunities for me and for future generations. Among other things, I am worried that construction and operation of these facilities would result in increased and unmanageable air pollution, potential water pollution, incompatible land-use changes. increased flooding risk, destruction of wildlife habitat, destruction of wetlands, and further the decline of the pristine Chihuahuan Desert landscape that we enjoy. I am also worried that my community will experience increased traffic due to transportation and construction, many more tons of garbage, and the disturbance of public and private land.

5. The lands around Fort Bliss provide some of the most pristine backcountry hunting opportunities for species such as oryx, barbary sheep, scaled and gambel's quail, various species of dove, mule deer, mountain lion, and javelina. Building a new detention facility here would reduce the footprint of the already limited opportunities for hunting in this area.

6. The environmental impact of such a facility would harm me and my family by having limited and uncertain opportunities to recreate on public land, which we as taxpayers, are heir to and pay to maintain. If given the opportunity to do so, I would share comments, views, and arguments related to the Family Detention Policy, the construction of new detention camps or permanent detention centers, and any environmental analysis done in conjunction with this Policy.

However, it is my understanding that the government is not accepting comments and is not performing an environmental analysis.

7. Many members of our community vigorously oppose the Family Detention Policy and the construction of new detention facilities. I feel strongly that the government should not proceed with this Policy without offering our community the chance to voice its concerns.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 27, 2018, in Las Cruces, New Mexico.

6-27-18