

**Audubon \* Arizona Wilderness Coalition \* Center for Biological Diversity \* Coalition for Sonoran Desert Protection \* Coalitions of Mutual Endeavor \* Columban Center for Advocacy and Outreach \* Defenders of Wildlife \* Earthjustice \* Endangered Species Coalition \* Friends of the Earth \* International League of Conservation Photographers \* League of Conservation Voters \* National Parks Conservation Association \* Natural Resources Defense Council \* Northcoast Environmental Center \* Oregon Wild \* Public Employees for Environmental Responsibility \* Rocky Mountain Wild \* San Juan Citizens Alliance \* Sierra Club \* Sisters of Mercy of the Americas \* Sky Island Alliance \* The United Church of Christ, Justice and Witness Ministries \* The Wilderness Society \* The Wildlife Society \* Tucson Audubon Society \* Western Nebraska Resources Council \* WildEarth Guardians \* Wilderness Watch \* Wilderness Workshop**

**PLEASE SUPPORT WYDEN AMENDMENT NO. 1318  
TO S. 744, THE SENATE IMMIGRATION BILL**

On behalf of the millions of Americans represented by our organizations, we urge you to support amendment No. 1318 filed by Senator Wyden and cosponsored by Senators Boxer, Cardin, Schatz, Whitehouse, Murray, Heinrich, and Tom Udall to S. 744, “The Border Security, Economic Opportunity, and Immigration Modernization Act.” The Wyden amendment would remove provisions that eliminate the rule of law, elevate fencing over other security measures, waste taxpayer money, and are unnecessary.

Waiver of Laws

The Wyden amendment would remove a provision that restates and broadens sweeping authority originally included in the REAL ID Act of 2005 allowing the Secretary of the Department of Homeland Security (DHS) to waive any federal state, and local laws for construction of roads, barriers and other physical tactical infrastructure. The Congressional Research Service characterized this provision as providing for the largest waiver of law in American history. Secretary Michael Chertoff used the authority five times to waive more than three dozen federal laws as well as related state and local laws for construction of hundreds of miles of border fencing and roads. Rather than repealing or narrowing the authority granted in 2005, this legislation actually broadens it to encompass “other physical tactical infrastructure.” Among other things, this would include the forward operating bases authorized in the bill. Forward operating bases have already been successfully constructed at or near the southern border without invoking the waiver.

Because of the current waivers, the construction of the existing fences and roads did not go through typical interagency and public review. As a result, real physical damage has been done to towns, public lands, private property, and roads used for law enforcement purposes from flooding caused in part by walls that were constructed hastily without adequate regard for human safety and in contradiction with readily available hydrological and meteorological data. The waiver has also resulted in damage to public lands and to America’s wildlife. The waiver is a hindrance, not a help, to the enforcement of the nation’s laws and to the security of the U.S. citizens who rely on those laws for protection. This elimination of law will bring significant harm to the people, wildlife, water and lands of the Southwest, and its economy.

### Southern Border Fencing Strategy

The Wyden amendment would remove a requirement for an unnecessary, separate and damaging “Southern Border Fencing Strategy” to identify where additional fencing, infrastructure, and technology should be deployed along the Southern border. The bill already includes a requirement for a Southern Border Security Strategy under which the Secretary of Homeland Security could include additional fencing should it be deemed necessary by security experts.

Our organizations oppose the construction of additional walls at the border. The walls constructed to date have resulted in serious environmental and economic impacts due to massive flooding, debris, and associated changes in hydrology. Indeed, in some places, the wall – built at an average cost of \$6.5 million dollars per mile – has fallen down because of such problems. Private property, commercial businesses, border communities, roads and public lands have been damaged, and critical wildlife migration pathways have been severed. Further, there has been no evidence shown in reports by the General Accountability Office or other organizations that the wall has made a significant contribution to border security.

### Access to Public Lands

The Wyden amendment would remove Section 1105 that directs the Secretaries of the Departments Agriculture and Interior to provide to U.S. Customs and Border Patrol immediate access to Federal lands within 100 miles of the border in Arizona for routine motorized patrols and the deployment of communications, surveillance and detection equipment. This is an unnecessary provision. There are already several forward operating bases and numerous surveillance, communication, and emergency assistance towers on public lands within 100 miles of the border. The 2006 interagency agreement between the Departments of Homeland Security, Agriculture and the Interior clearly anticipates the needs of Border Patrol to enter into all areas, including wilderness areas and wilderness study areas.

### Waiver from the National Environmental Policy Act

Finally, the Wyden amendment removes Section 2110(c) of Title II, an unnecessary exemption from the National Environmental Policy Act. The types of activities covered under Title II generally do not have environmental impacts and would be covered by categorical exclusions under the Department of Homeland Security’s Directive 023-01.

Again, the Wyden amendment would remove provisions that are unnecessary, ineffective, undermine the rule of law, waste taxpayer money and inflict severe damage on the fragile borderland environment and its communities. Please support the Wyden amendment. Thank you for your consideration.