UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DENISE GILMAN, Plaintiff, v. U.S. DEPARTMENT OF HOMELAND SECURITY, et al. Defendants.	)))))))))))	Civil Action No.: 09-468 (BAH)

PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT REGARDING EMAIL RECORDS

U.S. Customs and Border Protection (CBP) continues to withhold information from emails related to the Texas-Mexico border wall, a large government project that garnered significant public attention and controversy. In particular, CBP still withholds and Professor Gilman still challenges:

1) the names and addresses of landowners who would potentially be affected by the border wall, which CBP claims are exempt under Exemption 6;

2) records containing an assessment of the need for fencing in certain areas, which CBP claims are exempt under Exemption 7(E); and

3) email attachments.

In light of CBP's release of records 28, 66, 90, and 93 with redactions removed, and in light of CBP's further explanation of the other redactions for which it invoked Exemption 5, Professor Gilman is no longer challenging CBP's redaction of emails under Exemption 5. In addition, because CBP released a new copy of record 24 with the Exemption 7(E) redactions removed, the Exemption 7(E) redactions on that record are no longer at issue.

I. Exemption 6 Does Not Apply to Landowner Names and Addresses.

CBP is still withholding the names and addresses of people who own property near the border and border wall. Because the public interest in this information outweighs any privacy interest involved, the names and addresses should be released.

CBP posits two potential types of privacy interest in the information, neither of which is significant when compared to the public interest at stake. First, CBP argues that the property owners have "an interest in the unlimited disclosure of their names and addresses and the potential unwanted contact that might ensue from such disclosure." Docket No. 39 at 3. However, "the disclosure of names and addresses is not inherently and always a significant threat to the privacy of those listed." *Nat'l Ass'n of Retired Fed. Employees v. Horner*, 879 F.2d 873, 877 (D.C. Cir. 1989). Instead, "whether it is a significant or a *de minimis* threat depends upon the characteristic(s) revealed by virtue of being on the particular list, and the consequences likely to ensue."*Id.*; *see also U.S. Dep't of State v. Ray*, 502 U.S. 164, 176 n.12 (1991) (quoting *Horner*, 879 F.2d at 877). Thus, in *National Ass'n of Home Builders v. Norton*, 309 F.3d 26, 32 (D.C. Cir. 2002), the Court found that the privacy interest in site-specific information about where pygmy owls had been seen was "relatively weak" because it did "not disclose any information about [the individual property owner], other than that the individual owns property where an owl has been sighted." *Id.* That the government is interested in building a wall on or near a person's property is no more personal than that an owl has been sighted on the person's property and raises no greater privacy interest than that in *Norton*.

CBP asserts that instead of being like *Norton*, this case is like *Horner*, in which the Court allowed the withholding of names and addresses of federal annuitants. Docket No. 39 at 7. However, as *Norton* explained, the disclosure in *Horne*r "would have revealed not only names and

addresses but also the additional fact that the individuals on the list were retired or disabled and received assistance from the federal government." *Norton*, 309 F.3d at 36. The *Horner* court was concerned that "businesses, charities, and individuals could, and undoubtedly would, subject the listed annuitants to an unwanted barrage of mailings and personal solicitations." *Horner*, 879 F.2d at 876 (internal quotation marks and citation omitted). CBP argues that "[t]here is no less 'reason to doubt' here than there was in *Horner*'" that there would be a "barrage of solicitations" if the names and addresses are disclosed. Docket No. 39 at 7. That argument, however, ignores the critical difference between the information at issue in *Horner* and the information at issue here: Here, the names and addresses would not be combined with financial information that would make the property owners a "target for those who would like to secure a share of that sum by means scrupulous or otherwise." *Id.* at 876 (citation omitted); *see Lepelletier v. FDIC*, 164 F.3d 37, 47 (D.C. Cir. 1999) (noting a particular privacy concern when records "may be used for solicitation purposes"). Unlike in *Horner*, the released information would not consist of "a list of prime sales prospects to solicit." *Horner*, 879 F.2d at 876.

CBP contends that releasing the property owners' names and addresses would nonetheless invade privacy because it "could subject the individuals to harassment or unwanted contact from the media or other members of the public who have a different view on these issues, took a different position with CBP as to land access, or who are interested in obtaining additional, personal information from these landowners." Docket No. 39 at 3. But CBP has failed to provide evidence that such harassment and unwarranted contact "is likely to occur." *Norton*, 309 F.3d at 35. Instead, CBP asserts that, in showing a widespread public interest in issues surrounding the border wall, Professor Gilman "implicitly concede[d] . . . that the identifying information would be used as a

starting point to undertake potentially unwelcome inquiries of individual landowners[.]" Docket No. 39 at 11; *see also id.* at 7. CBP's suggestion that the public interest in the information is a reason to withhold it subverts Exemption 6's public interest balancing test, in which public interest in information weighs in favor of disclosure. Moreover, CBP is wrong that members of the public would need to contact the landowners for release of the records to be in the public interest. *See* Supplemental Gilman Decl. ¶¶ 3-5. In any event, not every potential contact is unwanted or impinges on a significant privacy interest. *See ACLU v. U.S. Dep't of Justice*, 655 F.3d 1, 11 (D.C. Cir. 2011) (finding not much more than a *de minimis* privacy interest, even though plaintiffs suggested they might contact individuals whose names they learned, and explaining that although "courts have held that the risk of unwanted contact following a FOIA disclosure is a privacy interest that must be weighed in the privacy interest/public interest balance . . . in all of those cases, the intrusive contact likely to follow from disclosure was enormously greater than the relatively minimal potential contact at issue in this case"). In short, CBP has failed to show that releasing "the identity of individuals whose property was impacted by the border fence," Docket No. 39 at 7, implicates more than a minimal privacy interest.

Second, CBP claims that releasing the records would invade landowners' privacy because some of the records reveal information in addition to the fact that the landowner was affected by the border wall. For example, CBP claims that record 190—which was attached to Professor Gilman's declaration as Exhibit 11 and which contains a list of pending condemnations for rights of entry—would invade personal privacy by revealing that the "property owners . . . were unwilling or unable to reach agreement with CBP over terms of access for construction of the border fence." Docket No. 39 at 8. CBP does not explain why it is a significant invasion of a person's personal

privacy to know that the person has been the subject of the government's attempt to take his or her property on terms to which the person did not agree. CBP speculates that this information "could be interpreted . . . as indicating the landowner's political views or personal beliefs as to the border fence and related issues," but quickly notes that any such interpretation may be wrong, thereby conceding that the information does not, in fact, reveal the person's political or personal beliefs. *Id*.

CBP also notes that some of the records discuss landowners' views on the border wall or "reflect a landowner's willingness to negotiate with CBP over access to, or purchase of, the landowners' land." Docket No. 39 at 3. To the extent that some of the records make clear that landowners were in touch with CBP and expressed their concerns about the border wall and its impact on their properties, or repeat landowners' positions about whether they would be willing to sell their land or about the border wall in general, that information does not raise a significant privacy interest. It would not be unexpected or embarrassing for a landowner to have opinions about—even to oppose—having a wall bisect her property or having to sell part of her property to the government. And landowners should have expected that their communications with the government would be available under public records laws. *Cf. Norton*, 309 F.3d at 35 (noting that landowners who had sighted pygmy owls on their property had provided information about the sightings to the state agency with the understanding that the information might be subject to release under disclosure laws and thus had a reduced expectation of privacy). Moreover, various letters discuss landowner letter-writing campaigns, indicating that some landowners were engaged in public, concerted action, or make clear that landowners reported their plight to the press, indicating that the landowners did not consider release of the information an invasion of personal privacy. *See, e.g.*, Supplemental Gilman Decl. Exh. A (noting rancher "writing campaign"); *id*. Exh. B (repeating

landowner quote in article). In any event, as the party with the burden of showing that all the information it is withholding is exempt from disclosure under FOIA, CBP cannot withhold all landowner names and addresses from the challenged emails based on information that appears only in a portion of them.[1]

In contrast to the minimal privacy interest at stake, the public has a significant interest in understanding which properties were affected by the placement of the wall, and how those property owners were affected. *See, e.g.*, Gilman Decl. Exh. 6 (listing properties); Supplemental Gilman Decl. Exh. C (discussing houses south of proposed fence); Supplemental Gilman Decl. Exh. D (suggesting that land belonging to siblings identified in Washington Post article would be bisected by fence).[2] CBP contends that the impact of the wall on any particular property owner is just "a personal issue unique to the particular landowner" and not a "matter of public concern." Docket No. 39 at 9. But knowing who was affected by the government's actions in building the border wall—a massive, expensive infrastructure project—goes to the heart of the public interest side of the

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[1]CBP asserts that "[t]o the extent Plaintiff challenges the applicability of Exemption (b)(6), she must demonstrate for each email challenged—or at least by groups of similar types of emails—that the balance as between private and the asserted public interest weighs in favor of disclosure." Docket No. 39 at 11. CBP's position is contrary to bedrock FOIA law, which places the burden on the government to demonstrate that each record it is withholding is exempt from disclosure, not on the requester to demonstrate that each record is not. *See*, *e.g.*, 5 U.S.C. § 552(a)(4)(B) ("[T]he burden is on the agency to sustain its action."); *see also Multi Ag Media LLC v. Dep't of Agric.*, 515 F.3d 1224, 1227 (D.C. Cir. 2008) ("There is nothing about invoking Exemption 6 that lightens the agency's burden."). CBP supplies no support for the proposition that, when a requester demonstrates that an agency's exemption claim is overly broad and does not justify withholding all of the records, the burden shifts to the requester to demonstrate which records are *not* exempt rather than remaining on the agency to demonstrate which records *are* exempt.

[2]CBP notes that it has provided "GPS coordinates and maps to Professor Gilman," Docket No. 39 at 11, but the GPS coordinates are only of start and stop points of segments of the fence, not of all points along the fence, and it is unclear from the maps which specific properties are affected by the fence. Supplemental Gilman Decl. ¶ 6.

Exemption 6 balancing test. CBP's decisions about where to place the wall, its use of its powers to acquire property, and its negotiations with landowners are all agency action. Disclosure of information showing which properties CBP considered affecting and with whom CBP conducted its negotiations opens that "agency action to the light of public scrutiny." *ACLU*, 655 F.3d at 6 (citations omitted).

Furthermore, additional information about which properties and property owners were affected by the plan to build the wall will help the public analyze whether certain landowners received preferential treatment in the placement of the wall. *See, e.g.*, Supplemental Gilman Decl. Exh. E at 4 (discussing omission of proposed fencing on a landowner's property). And knowing the identities of the individuals to whom CBP refers in the emails will allow the public to examine how CBP responded to concerns by different landowners. *See, e.g.*, Supplemental Gilman Decl. Exh. F (discussing outreach efforts to a particular family). CBP argues that the records themselves do not reveal the size of the land involved or demographic information about the property owner and that they therefore do not allow the public to tell whether CBP afforded special attention to certain landowners. Docket No. 39 at 10. But by, for example, comparing the names to property records, the public could determine whether the property owners involved tended to own large or small amounts of land and how long they had owned the property at issue. And the public could see whether any of the redacted names were particularly well-known or influential individuals. Supplemental Gilman Decl. ¶ 5. The public interest in the redacted names and addresses of owners of property affected by the border wall outweighs any privacy interest involved and the withheld information should be released.

II. Exemption 7(E) Does Not Apply to Records Containing an Assessment of the Need for Fencing.

Exemption 7(E) applies to "records compiled for law enforcement purposes" the release of which "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." 5 U.S.C. § 552(b)(7)(E). As Professor Gilman explained in her opening memorandum (at page 19), because the records containing "assessments of the operational need for fencing" would not disclose techniques, procedures, or guidelines for law enforcement investigations or prosecutions, they are not exempt under Exemption 7(E).[3]

CBP responds that Professor Gilman is being "overly rigid" in her interpretation of Exemption 7(E). Docket No. 39 at 16, 17. According to CBP, the D.C. Circuit rejected "Plaintiff's narrow interpretation of Exemption 7(E)" in *Morley v. CIA*, 508 F.3d 1108, 1129 (D.C. Cir. 2007), in which the D.C. Circuit held that Exemption 7(E) applied to records that would reveal techniques used by the CIA in conducting background investigations of its employees. CBP is correct that *Morley* demonstrates that material that was not "compiled in the course of a specific investigation" can be exempt under Exemption 7(E), Docket No. 39 at 18 (quoting *Morley*, 508 F.3d at 1129), as can records regarding an investigation of subjects who are not suspected of criminal activity. *See* Docket No. 39 at 18. But *Morley* does not stand for the proposition that records can be exempt if

[3]CBP never identified by record number which records contain "assessments of the operational need for fencing." Wade Decl. ¶ 15. However, Professor Gilman understands these records to be coextensive with the records CBP claims set forth the justification behind needed fencing in certain areas or that CBP otherwise claims would provide a "roadmap" to those seeking to cross the border, *see* Vaughn Index at 37-38, and is challenging the withholding of all such records under Exemption 7(E).

they would not disclose techniques, procedures, or guidelines for law enforcement investigations or prosecutions. In *Morley*, the records would have revealed "techniques" for "investigations." *Morley*, 508 F.2d at 1129. Here, in contrast, the records are assessments, not procedures, techniques, or guidelines; and they relate to the decision of where to build fencing, not to investigations or prosecutions.

CBP contends that the records here are "no less investigatory" than the records at issue in *Morley* because, like those records, they "seek to evaluate areas of potential vulnerability" and are "preventative or anticipatory in nature." Docket No. 39 at 18-19. But even if the records share those qualities with the records in *Morley*, those qualities do not make the records techniques, procedures, or guidelines for law enforcement investigations or prosecutions. Whatever similarities there are between the records here and the records in *Morley*, they do not share the relevant similarity: While the records at issue in *Morley* were "techniques" for "investigations," the records at issue here are not.

CBP also relies heavily on *U.S. News & World Report v. Department of Treasury*, 1986 U.S. Dist. LEXIS 27634 (D.D.C. Mar. 26, 1986), an unpublished opinion interpreting a prior version of Exemption 7(E). At the time of *U.S. News*, Exemption 7(E) applied to investigatory records compiled for law enforcement purposes, the release of which would "disclose investigative techniques and procedures." *Id*. at *2 (citing then current version of 5 U.S.C. § 552(b)(7)(E)). The court held that records that would reveal Secret Service preventative techniques and procedures were exempt under that language, because many of the Secret Service's "most important techniques and procedures are preventative rather than investigative," and the court found it difficult "to imagine agency procedures or techniques more deserving of protection." *Id*. at *6-*7. The plaintiffs in *U.S.*

News appear to have conceded that the records would reveal techniques and procedures. *Id*. at *6. And later that year, Congress amended the exemption, replacing "investigative techniques and procedures" with the current language. *See Freedom of Information Act Reform Act*, P.L. No. 99-570, § 1802, 100 Stat. 3207 (1986). Thus, *U.S. News* did not address either of the issues here: 1) whether the records reveal techniques, procedures, or guidelines; or 2) whether any techniques, procedures, or guidelines revealed by the records are "for law enforcement investigations or prosecutions." § 552(b)(7)(E).

In any event, to the extent the decision in *U.S. News* was based on the court's belief that the withheld records were "worthy of no less protection" than the investigative records covered by the language of the statute, 1986 U.S. Dist. LEXIS 27634 at *7, rather than on its belief that the withheld records were *themselves* investigative records within the meaning of the statute, the decision was wrong. As the Supreme Court reiterated recently in rejecting a "text-light approach" to FOIA, *Milner v. Dep't of Navy*, 131 S. Ct. 1259, 1267 (2011), "[s]tatutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." *Id*. at 1264 (citation omitted). "[N]othing in FOIA either explicitly or implicitly grants courts discretion to expand (or contract) an exemption on" the grounds that it would be good agency practice. *Id.* at 1266 n.5; *see also id.* at 1268 ("[W]e have no warrant to ignore clear statutory language on the ground that other courts have done so.").

In short, despite CBP's insistence that "its use of the phrase 'assessments of the operational need for fencing' to describe the information satisfies the exemption," Docket No. 39 at 19, that language does not show that release of the records would disclose techniques, procedures, or guidelines for law enforcement investigations or prosecutions, as is necessary for Exemption 7(E)

to apply. The issue here is not that CBP failed to "parrot the statutory language." Docket No. 39 at 19. The issue is that the records it is withholding are not covered by the statutory language.[4]

Further, CBP still has not logically shown that release of the withheld records could reasonably be expected to risk circumvention of the law. To begin with, CBP has provided insufficient detail about the redacted information to determine whether the records contain information that is specific and non-obvious enough to be of use to someone seeking to cross the border. Moreover, the building of the wall in the years since these records were created has presumably altered the ease of crossing the border at different points and changed how Border Patrol allocates its agents. Thus, even if the records would have provided information about where was best to cross the border four years ago, they do not provide a roadmap of where it would *currently* be best to cross the border. At the very least, if the Court determines that the other requirements of Exemption 7(E) are met, it should conduct an *in camera* review to assess whether these records—which go to the core of the controversial issue of how the government decided where to place the border wall—contain information the release of which could reasonably be expected to risk circumvention of the law.

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[4]For similar reasons, as explained in Professor Gilman's opening memorandum (at pages 20-21), the requested records fail Exemption 7's threshold test of being "compiled for law enforcement purposes." 5 U.S.C. § 552(b)(7). Although records do not need to have "been compiled in the course of a specific investigation" to meet this test, *Tax Analysts v. IRS*, 294 F.3d 71, 79 (D.C. Cir. 2002), in determining whether records are compiled for law enforcement purposes, the "focus is on how and under what circumstances the requested files were compiled, and whether the files sought relate to anything that can fairly be characterized as an enforcement proceeding." *Jefferson v. Dep't of Justice*, 284 F.3d 172, 176–77 (D.C. Cir. 2002) (internal quotation marks and citations omitted). Here, the withheld records are unrelated to enforcement proceedings.

III. CBP Cannot Withhold Email Attachments Without Citing Any Exemptions.

CBP is withholding attachments from the emails at issue, claiming that Professor Gilman is not entitled to the attachments because she agreed that "CBP may satisfy Plaintiff's FOIA request with respect to the processing of e-mails by providing to Plaintiff the emails as released in *CREW v. DHS* pursuant to the search described in the Joint Status Report and Proposed Disclosure Schedule" in that case. Docket No. 39 at 21 (quoting Docket No. 6 at 3). As Professor Gilman explained in her opening memorandum (at pages 21-23), however, the agreement to limit the request to the emails as released in *CREW v. DHS* pertained to *which* records would be provided to her, not to whether CBP could withhold portions of those emails. Because of this agreement, in responding to her request, CBP did not have to search for and process any emails beyond those already at issue in *CREW v. DHS*. Professor Gilman gave up the right to challenge in this litigation the failure to find, process, or release other emails, even though many of those emails might have been responsive to her request.

Accordingly, Professor Gilman is not challenging CBP's failure to find, process, or release emails that were not released in *CREW v. DHS*. Professor Gilman is not seeking to "impose on CBP the added obligation of retrieving and processing *additional* records," Docket No. 39 at 22 (emphasis added), or the release of any emails that "the parties in *CREW* did not consider . . . responsive." *Id.* at 23. Rather, she is seeking withheld portions of the emails that *were* deemed responsive in *CREW v. DHS*. At the same time that they agreed that CBP could satisfy the request for records by providing Professor Gilman with the same records that were released in *CREW v. DHS*, the parties provided that Professor Gilman would be able to challenge CBP's withholding or redaction of portions of those records. *See* Docket No. 6-1 at 2. Professor Gilman is now doing exactly that:

challenging the withholding of portions of the emails released in *CREW v. DHS*, specifically, their attachments.

CBP argues that Professor Gilman's understanding of the agreement is contrary to the agreement's language because, under her understanding, "CBP would not 'satisfy Plaintiff's FOIA request with respect to the processing of emails' by forwarding to Plaintiff the email records 'as released' in *CREW*." Docket No. 39 at 2. But CBP *could* satisfy the request by forwarding to Professor Gilman full copies of the emails that were released in *CREW*; it simply could not satisfy the request by forwarding to Professor Gilman copies of those emails with portions withheld just because it withheld those portions in *CREW*. CBP is correct that "the scope of Plaintiff's request was addressed by the parties' agreement," *id.*, but errs in stating that the scope was defined "to consist of the material actually released in CREW and nothing else." *Id*. The scope was defined to consist of the *emails* that were released in that case; Professor Gilman is seeking withheld portions of those emails. And CBP's claim that Professor Gilman's understanding of the agreement "would materially change the terms agreed to" begs the question. *Id*. at 22. Professor Gilman's understanding only "materially change[s] the terms" if CBP's interpretation is correct, which it is not.

CBP contends that Professor Gilman only reserved the right to challenge redactions on the face of the email records under claimed FOIA exemptions. *Id*. at 23. But contrary to CBP's claim that the parties' status reports "repeatedly and specifically tied any subsequent challenge by Plaintiff to withholdings on the face of the e-mail records," *id*., the status reports and proposed orders repeatedly refer to the "withholding of any documents" without limiting the withholding to redactions on the face of the released pages of the records. For example, in the proposed scheduling

order filed on July 23, 2009, the parties provided that they would file a proposed briefing schedule to govern the filing of challenges to "withholding of any documents under a claimed exemption from disclosure." Docket No. 6-1 at 2. The proposed briefing schedule was to be filed within 30 days after CBP notified Professor Gilman that it had completed processing "all responsive records and released what it contends to be the non-exempt portions thereof." *Id.*; *see also* Docket No. 7 (signed scheduling order). Similarly, the parties' joint statement filed on March 25, 2011, explained that Professor Gilman expected there would be a need for dispositive motions "to determine whether portions of the records that CBP has withheld fall within any of FOIA's exemptions." Docket No. 26 at 3. It noted that the July 2009 order anticipated and provided for "such motions" or "some other challenge by Ms. Gilman to the withholding of documents under a claimed exemption from disclosure." *Id*. at 3-4. The lines CBP points to later in the joint statement explaining that Professor Gilman would need time to determine whether and to what extent she was interested in challenging "the withholdings made on the e-mail records" and proposing that Professor Gilman provide CBP with a list of the "pages of documents and corresponding claimed exemptions from the e-mail production that are in dispute," *id.* at 4—neither of which limit challenges to redactions on the face of the released pages of the emails rather than to completely withheld pages of the emails—do not change the year-and-a-half long understanding between the parties that Professor Gilman would be able to challenge the withholding of any documents or portions thereof.

To be sure, in the status reports, the parties discussed Professor Gilman's right to bring challenges to the withholding of documents "under a claimed exemption from disclosure." Docket No. 6-1 at 2; Docket No. 26 at 2, 4. But the discussion of exemptions does not reflect an understanding that CBP could withhold portions of the emails as long as it did not claim an

exemption applied. Rather, it reflects an assumption on Professor Gilman's part that CBP would not withhold portions of the emails unless it believed an exemption applied. Gilman Decl. ¶ 11. Under CBP's interpretation of the agreement, Professor Gilman would have been precluded from challenging any redactions on the email records, no matter how extensive, as long as the government failed to cite an exemption to support the redactions. CBP cannot reasonably have understood Professor Gilman to have agreed to those terms.

Finally, CBP contends that it was "incumbent" upon Professor Gilman to raise the withholding of email attachments "promptly after receiving the first installment of the email productions in *CREW*." Docket No. 39 at 25. Professor Gilman could not be certain until production was complete, however, that CBP would not be releasing the attachments to her later in the production. Moreover, the July 2009 scheduling order provided that the parties would wait until after CBP had finished its production of the responsive records to address any disputes over withheld portions of the records. Docket No. 7 at 2. The timing of Professor Gilman's raising of the issue reflects the agreement that the parties would address all disputes over the emails at once, not an agreement that Professor Gilman would not challenge the withholding of attachments. On the date the parties chose for raising challenges to the withholding of portions of the emails, Professor Gilman informed CBP that she was challenging the withhold of the email attachments. Docket No. 32-2. CBP has withheld those attachments without citing any applicable exemptions, and the Court should order CBP to release the non-exempt portions.

CONCLUSION

The Court should deny CBP's motion for summary judgment; grant plaintiff's motion for summary judgment; order CBP to release property owner names and addresses; order CBP to release

records redacted under Exemption 7(E) that set forth the justification behind needed fencing in certain areas or that CBP otherwise claims would provide a "roadmap" to those seeking to cross the border; and order CBP to release the non-exempt portions of any attachments to the 289 emails at issue.

Respectfully submitted,

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