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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Tohono O'odham Nation,

Plaintiff,

v.

SLS Federal Services, LLC,

Defendant.

Case No.

COMPLAINT

INTRODUCTION

1. The Tohono O'odham Nation ("Nation"), a federally recognized Indian tribe, brings this suit to enjoin Defendant SLS Federal Services, LLC ("Defendant SLS") from trespassing on the Nation's Reservation to build a border wall along sixty-two miles of the Nation's southern boundary with Mexico. The Nation asks this Court to preliminarily and permanently enjoin Defendant SLS from entering the Nation's Reservation to carry out border-wall construction activities along the Nation's southern boundary. It further requests that this Court order Defendant SLS to disgorge all profits it derives from unlawfully trespassing on the Nation's lands for these purposes.

2. The Nation and its members have occupied their traditional homeland, located in the Sonoran Desert and extending from present-day southern Arizona into Sonora, Mexico, since time immemorial. In the early twentieth century, the federal government created the Nation's Reservation, granting the Nation beneficial ownership of virtually all 2.8 million acres of land therein. The Nation has exercised full ownership rights over that land base ever since, including the ability to exclude non-members of the Nation from entering and to regulate and control their activities within the Reservation.

3. Due to its proximity to the international border, the Nation understands the need for robust border security and is firmly committed to protecting its members and the general public from harm. To this end, it has long partnered with the Department of Homeland Security ("DHS"), including the United States Customs and Border Protection ("CBP") and United States Border Patrol ("Border Patrol"), as well as other federal agencies, to minimize unlawful activity along its southern border. As a result of these joint efforts, and with the Nation's consent, the Nation's southern boundary is presently heavily fortified with a vehicle barrier, two law enforcement operating bases, a CBP checkpoint, roving CBP and Nation patrol units, and ten high-tech surveillance towers, among other technological advances. These security measures are so effective that unlawful entries through the Reservation are at an all-time low.

4. However, the Nation has a long history of opposing any border wall within

its territory and brought suit against DHS and CBP officials in the District of Columbia, seeking to enjoin them from issuing a contract for or otherwise pursuing such construction. Nevertheless, just ten days after the Nation filed suit, Defendant SLS entered into a contract with the federal government to erect a permanent, thirty-foot wall across the Nation's southern boundary and has since swiftly mobilized to conduct destructive pre-construction activities in furtherance of those efforts in spite of the pendency of the Nation's claims.

5. The Contract expressly prohibits Defendant SLS from traversing interior Reservation lands and roads in order to access the Reservation's border. The Nation has also informed Defendant SLS that the Nation does not and will not consent to its use of Nation roads and lands for construction purposes and that no applicable public or private right-of-way permits such use. Contractors have nevertheless repeatedly swarmed the Nation's Reservation since August, utilizing those interior Reservation roads to reach the border to take geotechnical borings, tag plants for relocation, and conduct other pre-construction activities.

6. Absent relief from this Court, Defendant SLS and its army of subcontractors will continue this course of accelerating trespasses with the end goal of indelibly altering the Nation's Reservation landscape and traditional homeland. In short order, contractors will uproot, maim, and destroy thousands of culturally significant plants, including saguaro cacti, whom the O'odham regard as relatives and upon whom they have bestowed legal personhood. They will blast through mountain peaks and ranges sacred to the O'odham to clear a pathway for the wall. The desecration of the Nation's lands and natural and cultural resources, and the erection of a permanent, looming structure that will forever divide the Nation's traditional lands and members in the United States and Mexico, will unlawfully deprive the Nation of its sovereignty and full ownership rights over its Reservation. The Nation accordingly asks this Court to grant its requested relief to prevent Defendant SLS from trespassing on its lands in pursuit of this destructive and ongoing agenda.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because the Nation asserts claims under the Constitution, laws, or treaties of the United States. It also has subject matter jurisdiction pursuant to 28 U.S.C. § 1362 because the Nation maintains a government-to-government relationship with the United States and its governing body is duly recognized by the Secretary of the Interior.

8. The Court has authority to enter a declaratory judgment and to provide preliminary and permanent injunctive relief pursuant to Federal Rules of Civil Procedure 57 and 65; 28 U.S.C. §§ 1651, 2201, and 2202; and the Court's inherent equitable powers.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the events giving rise to the Nation's claims will occur in this District.

PARTIES

Plaintiff

10. The Nation is a federally recognized Indian tribe with a government-to-government relationship with the United States and whose governing body is duly recognized by the Secretary of the Interior. *See* Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs, 91 Fed. Reg. 4102-01, 4105 (Jan. 30, 2026).

11. The Nation exercises sovereignty and jurisdiction over its approximately 37,000 members and its 2.8-million-acre Reservation located in southern Arizona. The Reservation was established by Executive Orders issued by President Wilson on January 14, 1916, and February 1, 1917, and its boundaries were thereafter statutorily ratified and enlarged by Congress.

Defendant

12. Defendant SLS is a general contracting firm with headquarters at 6702 Broadway Street, Galveston, Texas, 77554-8906. It has entered into a contract with CBP to construct sixty-two miles of vertical barrier along the southern border of the Tohono

O'odham Reservation.

FACTUAL AND LEGAL BACKGROUND

The Nation's Reservation

13. The Nation is located in the Sonoran Desert in Arizona. The southern boundary of its Reservation is coextensive with approximately sixty-two miles of the U.S.-Mexico international border:

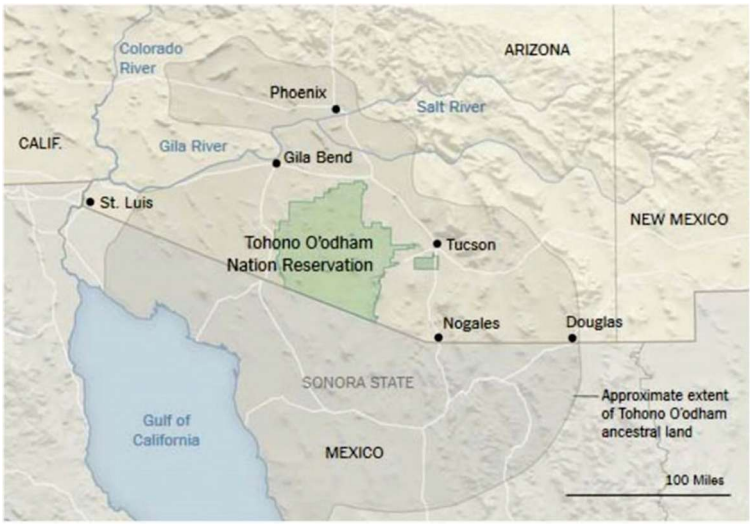

Figure 1

14. President Wilson initially established the Nation's main Reservation by Executive Order on January 14, 1916, setting apart approximately 2.8 million acres for the exclusive use and occupancy of the Nation (then referred to by the United States as the "Papago Indians"). *See* S. Doc. No. 70-53, at 1008–11 (1929) ("1916 Executive Order").[1] President Wilson issued an Executive Order on February 1, 1917, which modified Reservation lands north of the border. *Id.* at 1005–08 ("1917 Executive Order"). Both the 1916 and 1917 Executive Orders described the Reservation lands as contiguous with the international border.

15. On May 25, 1918, Congress expressly ratified the Reservation, and its southern boundary as being co-extensive with the international border, when it

[1] https://bit.ly/4oBmpno.

appropriated funds "[f]or the construction of a fence along the international boundary line between Mexico and the Papago Indian Reservation, in Arizona[.]" Act of May 25, 1918, ch. 86, § 2, 40 Stat. 561, 569.

16. The Nation's Reservation was established in recognition of and within the boundaries of its broader aboriginal territory, which (as shown in the shaded portion of Figure 1 above) extended throughout much of present-day southern Arizona and into Mexico.

17. The Nation remains the beneficial owner of virtually the entirety of its Reservation land base, with the fee being held in trust for the Nation by the United States.

The Nation's Longstanding Commitment to Border Security

18. The Nation has demonstrated a longstanding commitment to border security and to cooperating with the United States, including CBP, in implementing strong and effective border security measures. As the Nation's Chairman testified to Congress in 2024:

> The Nation has long been at the forefront on border issues. Over the years we have developed a long-standing cooperative relationship with U.S. Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE) and other federal law enforcement agencies. Working in concert with CBP, our own Tohono O'odham law enforcement officers are regularly involved in drug interdiction and immigrant apprehension actions …. We have supported CBP efforts on our Reservation by providing lands for a checkpoint, forward operating bases, and integrated fixed towers to facilitate critical electronic surveillance efforts.

19. The Nation's history of cooperation with CBP includes the Nation's 2006 approval of the construction of vehicle barriers and a patrol road along the vast majority of the border, except for those areas where vehicle access is impossible due to mountainous terrain. The vehicle barriers have eliminated unauthorized vehicle transit across the border.

20. Additionally, in 2019, the Nation entered into agreements with CBP to

approve ten 160-foot-tall Integrated Fixed Towers along the Nation's southern boundary. Each tower is equipped with long-range and wide-angle surveillance cameras, night vision, thermal sensors, and ground sweeping radar, which feed real-time data to Border Patrol agents at CBP's facilities within the Reservation.

Lack of Access Rights to and Across the Nation's Reservation and Roads

21. The Nation's Reservation is a "closed" Reservation, meaning that individuals who are not members of the Nation are generally restricted from entering Reservation lands without the consent of the Nation.

22. The Tohono O'odham Code, Title 4, Chapter 2, titled "Civil Trespass; Removal and Exclusion of Nonmembers," provides that "[a]ny nonmember of the Tohono O'odham Nation may be removed and excluded from all or any parts of the lands of the Tohono O'odham Nation," *id.* § 2.1(A), and that "[a]ny person who enters or otherwise occupies lands or structures within the exterior boundaries of the Nation or other lands of the Nation without the requisite consent, permission, or authorization of the landowner will be subject to the penalties and enforcement actions set forth in this section," *id.* § 1.5.

23. Public roads within the Reservation are generally open to public use, and their use by non-members is accordingly not considered a trespass. However, there are no public roads within the Reservation that provide access to the border. The three main north-south roads, BIA Routes 1, 19, and 21, run south from Arizona State Route 86, the Reservation's main east-west arterial route. All three terminate well north of the border and, from there, the roads that extend to or run parallel to the border are private, and non-members (including federal officials and their contractors) as well as the general public have not been granted unrestricted permission to use them.

24. In conjunction with a 2019 Agreement for CBP to construct ten Integrated Fixed Towers (IFTs) for surveillance near the Nation's southern boundary, the Nation approved the issuance of several rights-of-way for CBP and its contractors to access and maintain the towers. Pertinent here, the Nation consented to grant a right-of-way over

two private roads connecting the north-south BIA Routes 1 and 19 to the Traditional Northern Road—an otherwise private Nation road running north of and parallel to much of the Nation's border. The granting instrument for this right-of-way states that the easement grants CBP and its contractors limited access rights of "construction, maintenance, operation and repair of portions of the Traditional Northern Road, including necessary and related improvements to that road[.]" This right-of-way is "related to the IFT project" and is valid for a period of twenty-five years "so long as the right of way is used for the purpose above specified." It may be cancelled or terminated for violations of the right-of-way grant, including "accidental, willful, and/or incidental trespass, unauthorized new construction, [or] changes in use not permitted in the grant[.]"

25. The 2019 IFT Agreement provides that the right-of-way was granted to CBP and its contractors as an access road "to proposed IFT roads and sites." Neither the granting instrument nor the 2019 IFT Agreement convey to CBP or its contractors a right to traverse the Nation's private roads to access the Reservation's border to the south of the Traditional Northern Road for wall construction purposes. And although the Nation has not limited and does not seek to limit CBP's ability to utilize these Reservation roads to patrol the border, monitor and investigate migrant activity, or apprehend individuals engaged in unlawful cross-border activities, the Nation does not grant and has not granted approval for CBP or its contractors to utilize these or other private, interior Reservation roads for border wall construction purposes.

Defendant SLS's Plans to Construct a Border Wall and Associated Infrastructure Along the Nation's Southern Reservation Boundary

26. On June 26, 2026, Defendant SLS entered into a contract with CBP to design and build the "TCA-5 Tohono O'odham Barrier, Attributes and Roads Design Build Construction Project" along the Nation's southern border. This project calls for the construction of a "new primary vertical barrier, secondary vertical barrier (Option), various road(s) and power, cameras, light poles, infrared (IR) illuminators, linear ground

detection system (LGDS) and shelters" along the entire length of the Nation's southern border.

27. The Contract further provides that "[t]he contractor shall be responsible for obtaining all permits and approvals (local, state, Tohono O[']odham Nation and federal) required for construction"; that "[n]o roads are currently approved for accessing the project area [and that] the contractor shall not assume they will be permitted to access the project location from the North through the Tohono O'odham Reservation"; and that "due to the project's location within the Tohono O'odham Indian Reservation, there are real estate considerations and limitations which must be resolved before any [notices to proceed] will be granted."

28. The Nation has not consented to the construction of a border wall or associated infrastructure on its Reservation. In 2017, the Nation's Legislative Council enacted a Resolution detailing the reasons for its opposition to a wall while reaffirming its commitment to vigorous border protection measures. *See* Resolution of the Tohono O'odham Legislative Council No. 17-053.[2] The Nation remains firm in its position, as a border wall would have devastating effects on the Nation's lands, people, and natural and cultural resources, including the destruction of sacred mountains and cacti.

29. On August 7, 2026, the Nation sent a letter to Defendant SLS to inform it that the Nation does not consent to its presence on the Reservation nor to its planned border wall construction activities. Defendant SLS did not respond to the Nation's letter. However, between August 10 and August 12, Nation law enforcement stopped at least eleven vehicles associated with Defendant SLS and its subcontractors (collectively referred to as "contractors") who were attempting to perform activities associated with the Contract. All of these contractors were informed that they did not have permission to be on the Reservation and were directed to leave. On August 25, at approximately 5:30 in the morning, Nation law enforcement observed multiple contractors on the

[2] https://tolc-nsn.org/docs/Actions17/17053.pdf.

Reservation. They were escorted by CBP agents and were heading south towards the border to take geotechnical borings on the Reservation as part of the initial stages of border wall construction. Pursuant to discussions with CBP, the Nation subsequently agreed not to interfere with contractor activity on the Reservation's border so long as that activity was for the limited purposes of taking geotechnical borings and conducting saguaro geo-tagging.

30. On September 24, 2026, a CBP official emailed Nation officials to inform them that "arborists are assessing the health and feasibility of successful translocation for the Saguaro cacti in the planned construction area." On October 2, 2026, the same CBP official emailed the same Nation officials to inform them that "[c]acti translocation within the TCA-5 project area is currently scheduled to begin as soon as October 12, 2026." The Nation responded on October 6, 2026, informing CBP that "Saguaro cacti are among 'the most sacred plants in the O'odham religious tradition'" and that recent saguaro relocation efforts conducted by contractors associated with border wall construction activities had proved to be fatal to vast numbers of transplanted cacti, with especially high mortality rates for "'older or taller saguaros, which are not likely to survive.'" For those reasons, the Nation informed CBP that "the Nation vehemently opposes any efforts to remove thousands of cacti from their present location within the Reservation[.]"

31. CBP responded to the Nation's letter on October 9, 2026, informing the Nation that

> [i]n support of the project's construction activities, [Defendant SLS] has selected … the subcontractor for the removal and relocation of the saguaro cacti within the project area…. CBP plans to initiate the removal and relocation of saguaro cacti during the current seasonal period, extending from late summer through early winter…. The geotagging of cacti within the [Reservation's border region] has commenced and will continue over the next two weeks.

32. Nation officials have discovered Defendant SLS's contractors along the Reservation's border geotagging cacti as recently as October 21, with no prior notice to

the Nation that they would be entering the Reservation or conducting work on that date.

Irreparable Harm to the Nation, Balance of Harms, and Public Interest

33. Defendant SLS's ongoing and planned future trespasses onto the Nation's lands in furtherance of its border wall construction activities have imposed and will impose substantial harms on the Nation, including on its people, lands, and natural and cultural resources.

34. The planned border wall construction project will be a massive earth-moving and engineering endeavor, requiring the blasting of mountains in the path of the wall; significant grading, leveling, and embankment fill work; the blading of vast staging areas for equipment, materials, personnel, and concrete batching plants; and the grading of a network of additional access and switchback roads for construction vehicles and equipment.

35. Before such construction activity can even begin, Defendant SLS intends to remove up to 4,000 cacti and other plants from the Nation's lands along the border. Cacti to be removed include vast numbers of saguaros, which are among the most sacred plants in the O'odham religious tradition, with recognized personhood and protected legal status. Saguaro removal efforts have in the past resulted in the loss of half of the transplants, and mortality is especially high for older and taller cacti and those with multiple arms. Saguaros likewise suffer elevated mortality rates if transplanted during the rainy fall and winter seasons, when cooler weather and moisture tend to promote disease.

36. Such wholesale and irreversible damage to the Reservation environment and natural and cultural resources constitutes quintessential irreparable harm.

37. Defendant SLS has entered and intends to continue to enter the Nation's Reservation and conduct and direct work on it in derogation of the Nation's inherent right to territorial autonomy and its laws prohibiting such entry absent its explicit consent. Such manifest disregard for the Nation's sovereign right to control its territory and protect its natural and cultural resources inflicts grave and irreparable harm on the

Nation's fundamental sovereign rights.

38. Defendant SLS furthermore irreparably harms the Nation's property rights by entering and occupying the Reservation (and by leaving behind sixty-two miles of imposing, permanent structure) over the Nation's vigorous objections.

39. The public interest additionally favors according the Nation the relief that it seeks. Protecting against grave and irreparable environmental injury constitutes an important public interest in and of itself, as does protecting the Nation's sovereign and proprietary interests in its Reservation lands and resources.

40. Nor is there any countervailing public interest in border security that could outweigh these interests here. DHS and CBP have consistently announced that unauthorized entry and border-related crimes—both across the entire expanse of the southern border and within the specific Border Patrol district encompassing the Reservation—are at historically low levels. Further, alternative measures exist to secure the border and achieve the United States' border security goals, many of which are already in place within the Nation. DHS and CBP have, moreover, deemed the same measures operating effectively on the Nation's Reservation today sufficient to protect other areas of the U.S.-Mexico border short of a border wall.

CLAIMS FOR RELIEF

COUNT 1

Federal Common Law Trespass

41. The Nation restates, realleges, and incorporates by reference all preceding paragraphs and allegations.

42. Defendant SLS can be liable for trespass if it intentionally and without consent (a) enters private Reservation lands in the possession and control of the Nation, or causes a thing or a third person to do so; or (b) remains on private Reservation land. Defendant SLS's ongoing and planned border wall construction activities undeniably satisfy these elements.

43. Defendant SLS's ongoing and planned construction of a border wall and

associated infrastructure entails using, without the Nation's consent, interior Reservation roads over which there is no public or applicable private right-of-way and in which the Nation holds possessory rights, including the right to exclude.

44. Defendant SLS's ongoing and planned construction of a border wall and associated infrastructure entails trespassing on the Nation's lands and permanently altering and degrading them and the resources they support.

45. Defendant SLS's ongoing and planned construction of a border wall and associated infrastructure entails permanent trespass on the Nation's Reservation lands adjacent to the international border and destroy the Nation's exclusive possessory rights to use and occupy those lands.

PRAYER FOR RELIEF

WHEREFORE, the Nation respectfully requests that the Court:

A. Declare that Defendant SLS's ongoing and planned construction of a border wall and associated infrastructure on the Nation's Reservation constitutes trespass.

B. Preliminarily and permanently enjoin Defendant SLS—including, pursuant to Federal Rule of Civil Procedure 65(d)(2), Defendant SLS's officers, agents, servants, employees and attorneys, and including any subcontractors performing work associated with the contract—from entering the Nation's Reservation or conducting activity on it in furtherance of construction of a border wall or associated infrastructure along the Nation's southern boundary with Mexico.

C. Order Defendant SLS to disgorge all profits derived from trespassing on the Nation's Reservation in furtherance of construction of the border wall or associated infrastructure.

D. Grant such other relief as the Court deems just and proper.

DATED this 28th day of October, 2026.

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