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NEWS RELEASE

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Federal Agencies Have Stymied Access To Records Showing Impact of Texas-Mexico Border Wall

Public Citizen Argues That Delays and Denials Violate Freedom of Information Act

WASHINGTON, D.C. – Federal officials are illegally withholding documents that would allow the public to determine the full impact of the 700 miles of fence being built along the Texas-Mexico border, Public Citizen argued in a suit filed in U.S. district court today on behalf of a member of the University of Texas (UT) Working Group on Human Rights and the Border Wall.

Denise Gilman, a clinical law professor at UT, submitted a Freedom of Information Act (FOIA) request in April for records that would show where the fence would be built, including maps, surveys and appraisals of affected properties. She also requested information about the criteria for deciding where segments of the wall would be built and agency assessments of the impact of the wall on surrounding communities.

Almost a year later, the U.S. Department of Homeland Security (DHS), the U.S. Customs and Border Protection (CBP) and the U.S. Army Corps of Engineers have not complied with Gilman's request. Despite initial indications that the agencies possessed volumes of records responsive to Gilman's request, the corps of engineers denied part of her request outright and released only a few documents with substantial redactions. DHS referred her entire request to CBP, which released a mere two redacted documents in December. On Jan. 30, CBP told Gilman that it was still processing her request despite a federal requirement that it respond to her April request within 20 days.

UT's Working Group on Human Rights and the Border Wall was formed to study and investigate the impact of the wall on property owners, indigenous communities and the environment. A full analysis is difficult without the documents showing where the wall will be built and the criteria on which those decisions were made.

With what little information is available, researchers have found significant differences in the income and race of property owners whose land will be affected and those who will not. For example, news outlets have reported that the wall will skip a wealthy country club on the border while having a devastating impact on some poorer neighborhoods and Native American communities.

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“The Working Group at UT believes that the information we are seeking is necessary to allow a serious look at this massive border wall project moving forward at great expense to taxpayers, likely in the billions of dollars,” Gilman said. “We sincerely hope that the Obama administration, which has pledged greater transparency and accountability in government, will release the requested documents so that informed debate and consultation regarding the border wall can take place before there is any further construction.”

The Working Group at UT is launching a Web site to make the limited information available about the wall more publicly accessible. The site provides information gathered and prepared in the process of analyzing the human rights impacts of the border wall, including the limited FOIA responses received, other primary and secondary source materials, and the Working Group’s own analyses. The Web site is at <http://www.utexas.edu/law/academics/centers/humanrights/borderwall/>.

“The refusal to respond to Professor Gilman’s requests in a timely manner and each agency’s referral to another agency for a response constitute blatant disregards for the requirements of the Freedom of Information Act,” said Margaret Kwoka, the Public Citizen attorney representing Gilman. “These agencies should not be allowed to move forward with a project of such a scale and impact without being accountable to the public.”

In the lawsuit filed in U.S. District Court for the District of Columbia, Public Citizen asks the court to order the agencies to make the requested records available to Gilman. The suit also challenges the redactions taken in some key documents, including information about property ownership in affected areas.

Public Citizen is representing Gilman as part of its Public Interest FOIA Clinic (<http://www.foiaclinic.org>) which was launched last year and is designed to give comprehensive assistance to other nonprofit organizations seeking government-held information. Through the clinic, Public Citizen provides direct FOIA litigation assistance to public interest organizations. Public Citizen also collects and analyzes information about recent FOIA litigation conducted by public interest organizations to identify and address common FOIA problems.

To read the lawsuit, go to <http://www.citizen.org/documents/GilmanvDHSComplaint.pdf>.

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