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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

State of Arizona,

Plaintiff,

v.

Markwayne Mullin, Secretary of Homeland Security, sued in his official capacity; U.S. Department of Homeland Security; U.S. Immigration and Customs Enforcement; and Todd Lyons, Acting Director of U.S. Immigration and Customs Enforcement, sued in his official capacity,

Defendants.

No. _____

COMPLAINT

INTRODUCTION

1
2 1. The State of Arizona brings this action seeking declaratory and injunctive
3 relief to stop Defendants' unlawful decision to establish a massive immigration detention
4 facility in an industrial warehouse in Surprise, Arizona.

5 2. On January 23, 2026, Defendants purchased a vacant industrial warehouse
6 (the "Surprise Warehouse") in the City of Surprise, located in Maricopa County, Arizona,
7 for approximately \$70 million. Defendants intend to convert the Surprise Warehouse into
8 an immigration detention center capable of holding between 500 and 1,500 detainees.¹

9 3. In their rush to expand detention capacity across the country and implement
10 a deportation system that operates "like [Amazon] Prime, but with human beings,"²
11 Defendants have run roughshod over statutory requirements imposed by the Immigration
12 and Nationality Act (INA); National Environmental Policy Act (NEPA); and
13 Administrative Procedure Act (APA).

14 4. Defendants' plan, if allowed to occur, will undoubtedly have significant
15 impacts on the surrounding environment. The Surprise Warehouse was constructed as an
16 industrial distribution facility for up to four commercial tenants, not a space to house
17 hundreds of human beings. Because Defendants have failed to conduct any
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19 ¹ Initial reports indicated that the Defendants intended to house 1,500 detainees at
20 the Surprise Warehouse. Some recent reports indicate that Defendants intend to house up
21 to 542 detainees there. *See, e.g.,* Tim Henderson, *ICE scales back Surprise Az detention*
22 *warehouse plan from 1,500 beds to 542*, Tucson Sentinel (Apr. 18, 2026),
23 [https://www.tucson sentinel.com/local/report/041826_surprise_ice_warehouse/ice-](https://www.tucson sentinel.com/local/report/041826_surprise_ice_warehouse/ice-scales-back-surprise-az-detention-warehouse-plan-from-1500-beds-542)
24 [scales-back-surprise-az-detention-warehouse-plan-from-1500-beds-542](https://www.tucson sentinel.com/local/report/041826_surprise_ice_warehouse/ice-scales-back-surprise-az-detention-warehouse-plan-from-1500-beds-542) (last accessed
25 Apr. 21, 2026). But as identified herein, the harms to the State from Defendants' actions
26 arise from the extensive construction efforts required to render the Surprise Warehouse
27 fit for human occupancy and the siting of the Surprise Warehouse in a patently
28 inappropriate location. Those harms will be significant even if the Surprise Warehouse
holds "only" hundreds of detainees.

² Jerod Macdonald-Evoy, *ICE Director Envisions Amazon-Like Mass Deportation*
System: 'Prime, but with Human Beings', Ariz. Mirror (Apr. 8, 2025),
[https://azmirror.com/2025/04/08/ice-director-envisions-amazon-like-mass-deportation-](https://azmirror.com/2025/04/08/ice-director-envisions-amazon-like-mass-deportation-system-prime-but-with-human-beings)
system-prime-but-with-human-beings (quoting Acting ICE Director Todd Lyons) (last
accessed Apr. 1, 2026).

1 environmental analysis, the State has no idea how Defendants plan to modify the Surprise
2 Warehouse for its new intended purpose. As constructed, though, the Surprise Warehouse
3 almost certainly does not have the appropriate water and wastewater infrastructure to
4 safely (and humanely) house hundreds of people. Not to mention the strain that hundreds
5 of new, involuntary residents will place on Surprise’s resources and infrastructure—
6 water, sewage, roads, emergency services, etc.

7 5. Retrofitting the Surprise Warehouse for Defendants’ intended purposes
8 would require extensive construction and renovation efforts, which will also have
9 environmental impacts. Underscoring the finality of their plan, Defendants have already
10 issued contracts (to the tune of over \$300 million) to supervise that work.

11 6. Given the obvious impacts of Defendants’ plan on the surrounding
12 environment, Defendants were required under NEPA to either (1) compile an
13 environmental impact statement; (2) conduct an environmental assessment (resulting in
14 either a formal, public finding of no significant environmental impact or compilation of
15 an environmental impact statement); or (3) identify a categorical exclusion. Defendants
16 did none of the above.

17 7. Under the INA, Defendants are required to arrange for “appropriate” places
18 for immigrant detention. The Surprise Warehouse is not (and will never be) suitable for
19 use as a mass detention facility, so Defendants’ selection of the Surprise Warehouse to
20 house human beings violates the INA.

21 8. The Surprise Warehouse is located in an area zoned for industrial use. In
22 keeping with that zoning designation, it sits directly across the street from a chemical
23 storage facility containing thousands of gallons of hazardous materials. Defendants
24 appear to have performed no analysis regarding the appropriateness of housing a captive
25 population a stone’s throw from a storage facility for hazardous chemicals. The Surprise
26 Warehouse is also located approximately one mile from a public high school and a public
27 middle school. The location of the Surprise Warehouse will increase traffic and
28 negatively impact the municipality and State’s ability to protect public health and provide

1 emergency services, particularly in the event of an accident involving the chemical
2 storage warehouse located across the street.

3 9. Whatever the value of Defendants' intended reforms to the federal
4 immigration system—a question the State does not address here—Defendants cannot
5 simply ignore the statutory mandates imposed by NEPA, the INA, and the APA in
6 pursuing their policy objectives. Because Defendants' actions violate NEPA and the
7 INA, they violate the APA—not only are Defendants' actions arbitrary and capricious,
8 but they are also contrary to law.

9 10. The Court should accordingly enjoin Defendants from operating the
10 Surprise Warehouse as a mass detention center and enjoin Defendants from conducting
11 construction and retrofitting efforts to accomplish the same.

12 **JURISDICTION AND VENUE**

13 11. The Court has jurisdiction pursuant to 28 U.S.C. § 1331.

14 12. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e)(1) because
15 the State of Arizona and its Attorney General reside in this District and a substantial part
16 of the acts or omissions giving rise to this action occurred in this District.

17 **PARTIES**

18 13. Plaintiff State of Arizona is a sovereign state of the United States of
19 America. Arizona is represented through its chief law enforcement officer, Attorney
20 General Kris Mayes.

21 14. Defendant Markwayne Mullin is the Secretary of Homeland Security and
22 head of the U.S. Department of Homeland Security. He is sued in his official capacity.

23 15. Defendant U.S. Department of Homeland Security is a department of the
24 Executive Branch of the United States government. DHS is a federal agency within the
25 meaning of the APA, 5 U.S.C. § 551(1).

26 16. Defendant U.S. Immigration and Customs Enforcement is a federal agency
27 within the meaning of the APA, 5 U.S.C. § 551(1). ICE is under the supervision of DHS.

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1 22. “The EIS is ‘a procedural obligation designed to assure that agencies give
2 proper consideration to the environmental consequences of their actions.’” *Northcoast*
3 *Env’t Ctr. v. Glickman*, 136 F.3d 660, 666 (9th Cir. 1998) (quoting *Merrell v. Thomas*,
4 807 F.2d 776, 777–78 (9th Cir. 1986)). “The point [of an EIS] . . . is not merely that an
5 agency produce a report but ‘that environmental concerns be integrated into the very
6 process of agency decision-making.’” *Seven Cnty. Infrastructure Coal. v. Eagle County*,
7 605 U.S. 168, 197–98 (2025) (Sotomayor, J., concurring) (quoting *Andrus v. Sierra Club*,
8 442 U.S. 347, 350 (1979)).

9 23. NEPA defines a “major Federal action” as “an action that the agency
10 carrying out such action determines is subject to substantial Federal control and
11 responsibility.” 42 U.S.C. § 4336e(10)(A).

12 24. An agency preparing an EIS must consider numerous factors, including
13 “any reasonably foreseeable environmental effects of the proposed agency action”; “any
14 reasonably foreseeable adverse environmental effects which cannot be avoided should
15 the proposal be implemented”; “a reasonable range of alternatives to the proposed agency
16 action”; and “the relationship between local short-term uses of man’s environment and
17 the maintenance and enhancement of long-term productivity.” *Id.* § 4332(C).

18 **2. Preparation of an environmental assessment.**

19 25. If it is not clear whether the “major Federal action” will cause “reasonably
20 foreseeable significant [environmental] effect[s],” then the agency “*shall* prepare” an
21 environmental assessment (EA). 42 U.S.C. § 4336(b)(2) (emphasis added). An EA is a
22 “concise public document” resulting in one of two outcomes: a finding of no significant
23 impact (FONSI) or preparation of an EIS. *Id.*

24 26. If the EA concludes that the major Federal action will not result in
25 reasonably foreseeable significant environmental effects, then the agency must issue a
26 FONSI setting out the basis for its conclusions. *Id.*

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1 early and continues throughout the NEPA process.” *Id.*

2 33. The DHS Instruction Manual further specifies that “collaboration and
3 public involvement in NEPA activities include the following three key elements: (1)
4 seeking information from outside parties to help identify relevant issues; (2) presenting
5 the results of an environmental impact evaluation for public review or comment,
6 including a description of how the identified relevant issues were considered in the
7 evaluation; and (3) providing a public notice of DHS’s final decision, including
8 consideration of relevant public comments.” *Id.* at IV-6–7.

9 **B. The INA authorizes the construction of new detention facilities only in**
10 **“appropriate” locations.**

11 34. The Immigration and Nationality Act (INA) requires that DHS “arrange for
12 appropriate places of [immigrant] detention.” 8 U.S.C. § 1231(g)(1).

13 35. The INA does not define “appropriate.” But the plain meaning of that word
14 is “especially suitable or compatible.” *Appropriate*, Merriam-Webster,
15 <https://www.merriam-webster.com/dictionary/appropriate> (last accessed Apr. 1, 2026).

16 36. Under ICE’s detention standards, facilities are appropriate when they
17 possess “appropriate temperatures, air and water quality, ventilation, lighting, noise
18 levels, and detainee living space, in accordance with any applicable state and local
19 jail/prison standards.”⁴ Facilities must also provide “reasonably private bathing and
20 toileting environment[s] in accordance with safety and security needs.”⁵

21 37. The INA also establishes that “[p]rior to initiating any project for the
22 construction of any new detention facility for the Service, the Commissioner shall
23 consider the availability for purchase or lease of any existing *prison, jail, detention center,*

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26 ⁴ See Dep’t of Homeland Sec., Immigr. & Customs Enf’t, National Detention
27 Standards at 7 (rev. 2025) (hereinafter ICE National Detention Standards),
28 <https://www.ice.gov/doclib/detention-standards/2025/nds2025.pdf> (last accessed Apr.
13, 2026).

⁵ *Id.* at 128.

1 *or other comparable facility* suitable for such use.”⁶ 8 U.S.C. § 1231(g)(2) (emphasis
2 added).

3 **C. The Administrative Procedure Act forbids agency actions that are**
4 **arbitrary, capricious, or contrary to law.**

5 38. “The APA ‘sets forth the procedures by which federal agencies are
6 accountable to the public.’” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591
7 U.S. 1, 16 (2020) (quoting *Franklin v. Massachusetts*, 505 U.S. 788, 796 (1992)). It
8 “requires agencies to engage in ‘reasoned decisionmaking,’” *id.* (quoting *Michigan v.*
9 *EPA*, 576 U.S. 743, 750 (2015)), and mandates that agency actions be set aside if they
10 are “arbitrary,” “capricious,” or “otherwise not in accordance with law,” 5 U.S.C.
11 § 706(2)(A).

12 39. Reasoned decision-making requires an agency to “articulate a satisfactory
13 explanation for its action including a ‘rational connection between the facts found and the
14 choice made.’” *Motor Vehicle Mfrs. Ass’n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463
15 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168
16 (1962)). An agency fails to meet this standard if it “fail[s] to consider an important aspect
17 of the problem, offer[s] an explanation for its decision that runs counter to the evidence
18 before the agency, or is so implausible that it [can]not be ascribed to a difference in view
19 or the product of agency expertise.” *Id.*

20 40. Failure to engage in reasoned decision-making runs afoul of the APA’s
21 prohibition against agency actions that are “arbitrary, capricious, [or] an abuse of
22 discretion.” 5 U.S.C. § 706(2).

23 41. When an agency breaks with a prior policy or decision, “the requirement
24 that an agency provide reasoned explanation for its action . . . ordinarily demand[s] that
25 it display awareness that it *is* changing position. An agency may not, for example, depart

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27 ⁶ Although 8 U.S.C. § 1231(g)(2) refers to duties on the part of the
28 “Commissioner” of Immigration and Naturalization, those duties were transferred to DHS
in the Homeland Security Act of 2002. Homeland Security Act of 2002, Pub. L. No. 107-
296, § 402(3), 116 Stat. 2135, 2178 (2002).

1 from a prior policy *sub silentio* or simply disregard rules that are still on the books. And
2 of course the agency must show that there are good reasons for the new policy.” *FCC v.*
3 *Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (citations omitted).

4 42. Lastly, an agency’s actions are subject to review under the APA only when
5 they are “final.” 5 U.S.C. § 704. Finality occurs when the action reflects a
6 “consummation of the agency’s decisionmaking process” and is one “from which legal
7 consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 177–78 (1997) (cleaned up).

8 **II. Factual Background**

9 **A. ICE adopts a new policy for expanding mass immigration detention** 10 **through ICE-owned human warehouses.**

11 43. ICE has historically avoided operating its own detention places for
12 numerous reasons, including the increased costs of operating such facilities—as
13 compared to working with contractor-run facilities or local jails—and the typically
14 extensive timelines required for their design and construction.⁷

15 44. In both Eloy and Florence, Arizona, for example, ICE has contracted with
16 private operators to utilize *purpose-built* facilities for immigration detention.⁸

17 45. On the rare occasions DHS has attempted to construct or modify a
18 detention facility, it has complied with NEPA. For example, in 2021, DHS completed
19 an EA before advancing plans to construct a detention processing center in El Paso,
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22 ⁷ See U.S. Gov’t Accountability Off., GAO-21-149, *Immigration Detention:*
23 *Actions Needed to Improve Planning, Documentation, and Oversight of Detention*
24 *Facility Contracts* at 13 (Jan. 2021), <https://www.gao.gov/assets/gao-21-149.pdf> (last
accessed Apr. 14, 2026).

25 ⁸ See Florence Immigr. & Refugee Rts. Proj., *Anthology of Abuse: A Legacy of*
26 *Failed Oversight and Death at the Eloy Detention Center*, Detention Watch Network
27 (Oct. 2024), <https://www.detentionwatchnetwork.org/reports/2024/anthology-abuse-elay>
28 (last accessed Apr. 22, 2026); Off. of Detention Oversight Compliance Insp., Dep’t of
Homeland Sec., U.S. Immigr. & Customs Enf’t, Enforcement and Removal Operations,
ERO Phoenix Field Office, Florence Correctional Center, Florence, AZ at 2 (June 2016),
[https://embed.documentcloud.org/documents/3116128-2016-ODO-Inspection-Florence-](https://embed.documentcloud.org/documents/3116128-2016-ODO-Inspection-Florence-Correctional-Center)
Correctional-Center (last accessed Apr. 22, 2026).

1 Texas. The final EA discussed several opportunities for public involvement including
2 letters and a draft EA sent to 23 stakeholders.⁹

3 46. But under the current federal administration, ICE has extensively revised
4 its strategies for operating detention facilities. Speaking at a “Border Security Expo” in
5 Phoenix, Arizona, in April 2025, Acting ICE Director Todd Lyons explained that ICE
6 would begin “treating [deportation] like a business,” altering its deportation practices to
7 function “like [Amazon] Prime, but with human beings.”¹⁰

8 47. In July 2025, Congress appropriated \$45 billion to ICE for “single adult
9 alien detention capacity and family residential center capacity,” to remain available for
10 obligation through September 2029. Pub. L. 119-21 § 90003, 139 Stat. 72, 358 (July 4,
11 2025).

12 48. DHS immediately began working to expand ICE’s detention capacity
13 across the United States to “meet the growing demand for bedspace and streamline the
14 detention and removal process,” an effort that DHS has named the “ICE Detention
15 Reengineering Initiative” (DRI).¹¹

16 49. A key component of the DRI is its focus on utilizing “non-traditional
17 facilities built specifically to support ICE’s needs.” Thus, among other efforts, ICE plans
18 to acquire and renovate “eight large-scale detention centers and 16 processing sites.” ICE
19 will also purchase 10 existing “turnkey” facilities, which are privately owned jails and
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23 ⁹ See Dep’t of Homeland Sec., Immigr. & Customs Enf’t, *Final Environmental*
24 *Assessment for El Paso, Texas Service Processing Center* at 6 (Sept. 15, 2021),
25 [https://www.dhs.gov/sites/default/files/publications/ice_el_paso_spc_final_ea_9-27-](https://www.dhs.gov/sites/default/files/publications/ice_el_paso_spc_final_ea_9-27-2021_508compliant.pdf)
26 [2021_508compliant.pdf](https://www.dhs.gov/sites/default/files/publications/ice_el_paso_spc_final_ea_9-27-2021_508compliant.pdf) (last accessed Apr. 14, 2026).

27 ¹⁰ See Macdonald-Evoy, *supra* n.2.

28 ¹¹ Dep’t of Homeland Sec., Immigr. & Customs Enf’t, *ICE Detention*
Reengineering Initiative at 1 (Feb. 13, 2026),
https://www.governor.nh.gov/sites/g/files/ehbemt971/files/media/media_document/merrimack-nh-detention-reengineering-initiative-final.pdf (last accessed Apr. 14, 2026)
(hereinafter DRI White Paper).

1 prisons that currently contract with ICE to hold immigration detainees. ICE plans to
2 spend \$38.3 billion to “fully implement” the DRI by September 30, 2026.¹²

3 50. Upon information and belief, ICE has to date spent over \$700 million to
4 purchase nine warehouses that it intends to use as three large-scale detention facilities
5 with planned capacity for 7,500-10,000 people and six “processing sites” with intended
6 capacity for up to 1,500 people. One of those recently acquired processing sites is the
7 Surprise Warehouse.

8 **B. ICE purchases the Surprise Warehouse.**

9 51. On January 22, 2026, DHS sent a letter to the Arizona State Historic
10 Preservation Office purporting to “initiate consultation on a proposed [DHS and ICE]
11 undertaking subject to Section 106 of the National Historic Preservation Act (NHPA) in
12 Surprise, Arizona.” *See* Exhibit A (NHPA Notice).

13 52. The NHPA Notice indicated that ICE was “proposing to purchase, occupy
14 and rehabilitate a 24.46-acre warehouse property in support of ICE operations” and had
15 “determined that the undertaking will result in a finding of No Historic Properties
16 Affected.” *Id.* at 2.

17 53. The NHPA Notice asked the Arizona State Historic Preservation Office to
18 “provide any comments on the undertaking and ICE’s finding within 30 calendar days of
19 the date of receipt of this letter.” *Id.* at 3. The Arizona State Historic Preservation Office
20 received the NHPA Notice on January 26, 2026.

21 54. On January 23, 2026, one day after initiating NHPA consultation with
22 Arizona and before the Arizona State Historic Preservation Office had even received the
23 NHPA Notice, ICE purchased the Surprise Warehouse for \$70,035,000.00. *See* Exhibit
24 B. DHS did not consult with or notify the City of Surprise before moving forward with
25 the purchase.¹³

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27 ¹² *Id.*

28 ¹³ At the first Surprise City Council meeting following announcement of the Surprise Warehouse purchase, Surprise residents spoke for nearly five hours—pushing the 7 p.m. meeting until midnight—in virtually uniform opposition to Defendants’ plans.

1 55. The Surprise Warehouse is located on a 24-acre parcel at 13290 W.
2 Sweetwater Avenue in Surprise, Arizona. The building itself is a spec-built, 418,400
3 square foot industrial “distribution facility” that was marketed for lease to up to four
4 tenants.¹⁴ The Surprise Warehouse was not designed or constructed to house, feed, bathe,
5 protect, or provide adequate care for humans.

6 56. The Surprise Warehouse is located approximately one mile from both
7 Dysart High School (which enrolls approximately 1,400 students) and Dysart Middle
8 School (which enrolls approximately 600 students).

9 57. At 13255 W. Sweetwater Ave., Surprise, Arizona—directly across the
10 street from the Surprise Warehouse—Rinchem Co., LLC, operates a 123,000 square foot
11 hazardous materials storage warehouse (the Chemical Warehouse) which includes more
12 than 100,000 feet of containerized hazardous materials storage for chemicals used in
13 semiconductor production.¹⁵

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24 ¹⁴ See *13290 W Sweetwater Ave Surprise, AZ 85379, Surprise Pointe Commerce*
25 *Center, Property For Lease, LoopNet* (Aug. 2023),
<https://www.loopnet.com/Listing/13290-W-Sweetwater-Ave-Surprise-AZ/29187738/>
26 (last accessed Apr. 14, 2026).

27 ¹⁵ See Rinchem, *Rinchem Opens Massive Custom Chemical Warehouse in*
28 *Surprise, Arizona to Support Semiconductor Giant*, PR Newswire (Feb. 27, 2024),
https://www.prnewswire.com/news-releases/rinchem-opens-massive-custom-chemical-warehouse-in-surprise-arizona-to-support-semiconductor-giant-302071977.html?tc=eml_cleartime (last accessed Apr. 14, 2026).

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58. After the purchase but sometime prior to February 18, 2026, ICE issued an “Early Notice and Public Review of a Proposed Activity in a 100- to 500- Year Floodplain.” *See* Exhibit C (Floodplain Notice).

59. According to the Floodplain Notice, ICE plans to “acquire, renovate, and occupy” the Surprise Warehouse “for use as a temporary detainee dormitory for individuals awaiting immigration proceedings.”

60. The Floodplain Notice identifies many planned modifications that ICE “may” undertake at the Surprise Warehouse, including “interior renovations, upgrades to parking, utilities, and stormwater, installation of upgraded perimeter fencing, construction of outdoor recreation spaces on existing paved surfaces, and construction of a guard shack.” *Id.*

61. DHS claims that “[p]otable water and sanitary sewer service are already sized for industrial-scale operations” and that “[p]reliminary engineering review indicates that the existing sanitary sewer lateral is expected to have sufficient capacity to support the proposed operational use.” *Id.*

1 62. The Floodplain Notice asserts that DHS considered, in addition to taking
2 no action, purchasing four other potential locations within Arizona. *Id.* DHS ultimately
3 concluded that the Surprise Warehouse was the “Preferred Alternative” because the
4 Surprise Warehouse (1) is new construction “requiring only limited interior modifications
5 and minor exterior improvements”; (2) is “located in an established industrial area with
6 compatible surrounding land uses”; (3) “includes existing utility, stormwater and
7 transportation infrastructure”; and (4) is proximate to ICE’s “Area of Responsibility.” *Id.*

8 63. All of the other potential locations DHS considered as alternatives are—
9 like the Surprise Warehouse—industrial warehouses not designed or suitable for mass
10 detention.

11 64. While providing no specifics, DHS purports to have evaluated these
12 alternative locations in accordance with NEPA. *Id.*

13 65. The Floodplain Notice invited public comment, but DHS gave conflicting
14 information regarding the deadline for submitting public comment. In the Floodplain
15 Notice, DHS stated that the deadline for public comment was January 19, 2026 (four days
16 *before* DHS’s purchase of the Surprise Warehouse). *Id.* However, the section of DHS’s
17 website which pertains to “Documents for Public Comment” previously stated that the
18 deadline for comment was February 20, 2026:

19
20 **Other Documents for Public Review**

21 DHS invites public comment on the [Early Notice and Public Review of a Proposed Activity in a 100-to 500- year](#)
22 [Floodplain - Surprise, AZ](#). Comments must be submitted to icesustainability@ice.dhs.gov by Friday, February
23 20, 2026.

24 Please also check the [CBP](#), [FEMA](#), [USCG](#), and [FLETC](#) environmental websites for additional documents.

25 66. On February 20, 2026, before one of the stated deadlines for public
26 comment had expired, DHS removed the Floodplain Notice regarding the Surprise
27 Warehouse and replaced it with a similar Notice for a warehouse facility in Michigan:
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Other Documents for Public Review

DHS invites public comment on the [Early Notice and Public Review of a Proposed Activity in a 100-to 500-year Floodplain - Romulus, MIZ](#). Comments must be submitted to icesustainability@ice.dhs.gov by Friday, February 27, 2026.

Please also check the [CBP](#), [FEMA](#), [USCG](#), and [FLETC](#) environmental websites for additional documents.

67. Aside from the NHPA Notice and a singular reference to NEPA in the Floodplain Notice, Plaintiff is not aware of any other notice or consultation that Defendants have provided to meet their legal obligations under NEPA and the APA with respect to the acquisition of the Surprise Warehouse. This includes through the invocation of an applicable categorical exclusion.

C. Defendants have failed to provide adequate responses to requests for information regarding the Surprise Warehouse.

68. Upon learning of Defendants' acquisition of the Surprise Warehouse, various members of Arizona's congressional delegation and Attorney General Mayes sent letters to Defendants asking for information regarding Defendants' plans for the Warehouse and the steps Defendants had taken to comply with the law.

69. On February 4, 2026, Representative Paul Gosar sent then-DHS Secretary Kristi Noem a letter asking for information regarding Defendants' plans for and prior communications regarding the Surprise Warehouse. Therein, Representative Gosar observed that "[a] detention facility of the reported size raises legitimate and reasonable questions for nearby residents, schools, first responders, and local governments" including "[c]oncerns regarding infrastructure capacity, traffic, emergency services, environmental impacts, and public safety[.]" Exhibit D.

70. One day later, Representatives Greg Stanton, Yassamin Ansari, and Adelita Grijalva sent a letter to then-Secretary Noem and Acting Director Lyons that sought answers to ten questions regarding the Surprise Warehouse, including a request that Defendants identify the NEPA pathway used for the Surprise Warehouse acquisition,

1 namely “whether DHS prepared an environmental assessment or environmental impact
2 statement, or relied on a categorical exclusion.” Exhibit E.

3 71. On February 9, Attorney General Mayes sent a letter to then-Secretary
4 Noem asking for, among other requests, details regarding traffic, noise, outdoor lighting,
5 anticipated water usage, plans for liquid and solid waste disposal,” and other impacts to
6 local services and neighboring residents, schools, and businesses. Exhibit F.

7 72. Attorney General Mayes requested a response by February 17, but has
8 received no response to date.

9 73. Representatives Stanton, Ansari, and Grijalva requested a response by
10 February 20, but, upon information and belief, have not received any response to date.

11 74. The only letter to which Defendants responded was Representative Gosar’s
12 letter. In her February 18 response to Representative Gosar, then-Secretary Noem
13 confirmed that “ICE and the contractor performing due diligence services did not have
14 direct contact with the city of Surprise or Maricopa County prior to site selection”; and
15 that ICE did not complete a “site and engineering evaluation” of any necessary
16 improvements to the infrastructure servicing the Surprise Warehouse prior to acquisition.
17 Exhibit G.

18 **D. Converting the Surprise Warehouse for use as a mass detention center**
19 **will require extensive construction and renovation efforts.**

20 75. To convert the Surprise Warehouse into a detention facility for hundreds
21 of detainees (to say nothing of hundreds of ICE staff and visitors), Defendants will need
22 to conduct extensive design, planning, and, ultimately, construction efforts that will
23 substantially change the character, purpose, function, and environs of the warehouse.

24 76. Upon information and belief, the Surprise Warehouse is currently
25 comprised of a single large room with concrete floors and a minimal amount of office
26 space. It was designed for a standard industrial setting with low demand for the use of
27 water.

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1 77. DHS has acknowledged that interior and exterior improvements “may” be
2 necessary to convert the Surprise Warehouse from an industrial warehouse to an
3 immigration detention facility.

4 78. These include “construction of holding and processing spaces, office space,
5 public-facing visitor spaces, and installation of amenities, such as cafeterias, bathrooms,
6 and health care spaces,” NHPA Notice (Ex. B) at 2, as well as “interior renovations,
7 upgrades to parking, utilities, and stormwater, installation of upgraded perimeter fencing,
8 construction of outdoor recreation spaces on existing paved surfaces, and construction of
9 a guard shack,” Floodplain Notice (Ex. C).

10 79. There is no question that such retrofitting efforts will *need* to take place.
11 Upon information and belief, the warehouse does not currently contain adequate facilities
12 to support a full-time presence of hundreds of full-time detainees and staff.

13 80. The Surprise Warehouse will require adequate plumbing fixtures, to
14 include showers, toilets, wash basins, and laundry facilities. Assuming the facility will
15 hold up to 1,500 detainees, as initially projected by ICE, and even assuming,
16 conservatively, that all those detainees are male (given that the number of fixtures
17 required per male detainee is lower than the number of fixtures required per female
18 detainee), the facility would be required under ICE’s own standards to have at least 125
19 showers, 125 toilets, and 125 wash basins for use by detainees.¹⁶ Even if that number
20 drops to 500 detainees, the facility will require dozens of showers, toilets, and wash
21 basins. This is to say nothing of the additional facilities required to support the constant
22 churn of supervisory staff and invitees such as visitors and lawyers.

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25 ¹⁶ See Dep’t of Homeland Sec., Immigr. & Customs Enf’t, *Performance-Based*
26 *National Detention Standards* at 329 (rev. Dec. 2016),
27 <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf> (last
28 accessed Apr. 14, 2026) (hereinafter Performance-Based National Detention Standards)
(identifying the need for one shower, toilet, and wash basin per every 12 male detainees).

The Performance-Based National Detention Standards are distinct from the
National Detention Standards.

1 81. Bringing the Surprise Warehouse in line with ICE’s own standards will thus
2 require a significant increase from the facility’s current number of showers, toilets, and
3 wash basins. Such a change would necessitate extensive design, planning, and
4 construction efforts.

5 82. ICE’s National Detention Standards also specifically require Defendants to
6 construct a “secure perimeter” equipped with a “sally port,” “reasonably private bathing
7 and toileting environment[s],” and an “emergency electrical power generator.” *See* ICE
8 National Detention Standards at 5, 25, 128.

9 83. Upon information and belief, the Surprise Warehouse currently possesses
10 none of these features. Building them will thus require additional construction.

11 84. ICE’s National Detention Standards also require Defendants to ensure that
12 “[p]otable water [is] available throughout the facility,” and that “[e]nvironmental health
13 conditions will be maintained at a level that meets recognized standards of hygiene,”
14 including those set by “the Occupational Safety and Health Administration (OSHA), the
15 Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), the
16 National Fire Protection Association . . . and the Centers for Disease Control and
17 Prevention (CDC).” *Id.* at 5–6.

18 85. The National Detention Standards also provide that detention facilities
19 “shall ensure appropriate temperatures, air and water quality, ventilation, lighting, noise
20 levels, and detainee living space, in accordance with any applicable state and local
21 jail/prison standards.” *Id.* at 7.

22 86. Upon information and belief, the Surprise Warehouse is not currently
23 capable of functioning in accordance with those requirements. And ensuring that the
24 Surprise Warehouse satisfies those requirements will require further—extensive—
25 construction efforts.

26 87. Given the substantial increase in occupancy of the Surprise Warehouse
27 under Defendants’ plans, construction will also likely be necessary to ensure that the
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1 facility has appropriate means of ingress and egress for emergency vehicles and other
2 vehicular traffic.

3 88. Defendants' actions since purchasing the Surprise Warehouse confirm the
4 necessity and extensive scale of the design, planning, construction, and retrofitting
5 efforts required to convert the facility for use as a mass detention center. Namely, on
6 March 6, 2026, Defendants contracted with GardaWorld Federal Services, LLC, to
7 retrofit and operate the Surprise Warehouse at a cost of approximately \$313 million.¹⁷
8 *See* Exhibit H. That contract authorizes a potential award of up to \$704 million.

9 89. Defendants have also conducted an economic analysis that predicts
10 construction efforts will require hiring nearly 1,400 workers.¹⁸

11 **E. Converting the Surprise Warehouse into a mass detention facility**
12 **harms the State and triggers Defendants' obligations under NEPA.**

13 90. By any standard, a \$300 million renovation contract requiring over one
14 thousand construction workers to complete constitutes a "major Federal action,"
15 triggering Defendants' obligations to comply with NEPA.

16 91. Despite Defendants' virtual failure to provide any information regarding
17 their plans for the Surprise Warehouse, the State has identified a number of harms which
18 NEPA is designed to prevent and which Defendants have failed to consider.

21 ¹⁷ GardaWorld has never undertaken this kind of facility conversion work before.
22 It is perhaps best known for providing staffing for so-called "Alligator Alcatraz," an
23 immigration detention facility in Florida that Amnesty International has called a "human
24 rights disaster." *See USA: New Findings Reveal Human Rights Violations at Florida's*
25 *"Alligator Alcatraz" and Krome Detention Centers*, Amnesty Int'l (Dec. 4, 2025),
[https://www.amnesty.org/en/latest/news/2025/12/estados-unidos-nuevas-](https://www.amnesty.org/en/latest/news/2025/12/estados-unidos-nuevas-investigaciones-revelan-violaciones-de-derechos-humanos-en-los-centros-de-detencion-de-alligator-alcatraz-y-krome-en-florida)
26 [investigaciones-revelan-violaciones-de-derechos-humanos-en-los-centros-de-detencion-](https://www.amnesty.org/en/latest/news/2025/12/estados-unidos-nuevas-investigaciones-revelan-violaciones-de-derechos-humanos-en-los-centros-de-detencion-de-alligator-alcatraz-y-krome-en-florida)
27 [de-alligator-alcatraz-y-krome-en-florida](https://www.amnesty.org/en/latest/news/2025/12/estados-unidos-nuevas-investigaciones-revelan-violaciones-de-derechos-humanos-en-los-centros-de-detencion-de-alligator-alcatraz-y-krome-en-florida) (last accessed Apr. 14, 2026).

28 ¹⁸ *See* Dep't of Homeland Sec., Immigr. & Customs Enf't, *Surprise, AZ Processing Site—Economic Impact Analysis* (Feb. 2026),
[https://npr.brightspotcdn.com/d4/3d/3843693e4ab4a8654dd21458115b/surprise-](https://npr.brightspotcdn.com/d4/3d/3843693e4ab4a8654dd21458115b/surprise-economic-impact.pdf)
[economic-impact.pdf](https://npr.brightspotcdn.com/d4/3d/3843693e4ab4a8654dd21458115b/surprise-economic-impact.pdf) (last accessed Apr. 14, 2026) (hereinafter Surprise Warehouse Economic Analysis).

1 92. Arizona is a desert state with a plethora of sensitive environmental
2 concerns including issues relating to water management and air quality control. Among
3 other impacts, conversion of the warehouse is likely to strain valuable surface water and
4 groundwater resources through significantly increasing both the water usage and
5 wastewater creation of the Surprise Warehouse from its original footprint. Conversion
6 of the warehouse is also likely to significantly increase air emissions.

7 93. Any attempt to convert the Surprise Warehouse in line with Defendants'
8 intentions accordingly poses substantial risks to the surrounding environment.

9 **1. Conversion of the Surprise Warehouse will increase the strain**
10 **on local sewer systems.**

11 94. Defendants' plans for the Surprise Warehouse create a serious risk of
12 overwhelming local wastewater systems.

13 95. If the Surprise Warehouse were converted into a detention facility housing
14 between 500 and 1,500 detainees, its projected wastewater output from detainees alone
15 would be between 35,000 and 104,000 gallons per day.¹⁹ Upon information and belief,
16 this is significantly greater than the currently planned and anticipated wastewater usage
17 of the Surprise Warehouse.

18 96. The City of Surprise's existing conveyance system may have insufficient
19 capacity to convey the additional anticipated flow from the Surprise Warehouse.

20 97. Wastewater flow from the Surprise Warehouse that exceeds the capacity of
21 the existing infrastructure poses serious risks of damage to the sewer system and sewage
22 overflows into the Surprise Warehouse itself, as well as potential overflows onto nearby
23 land and neighboring properties.

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26 ¹⁹ See Env't Protection Agency, *Onsite Wastewater Treatment Systems Manual* at
27 3-3 (Feb. 2002), https://www.epa.gov/sites/default/files/2015-06/documents/2004_07_07_septics_septic_2002_osdm_all.pdf (last accessed Apr. 14,
28 2026) (calculating the average wastewater output of an individual at approximately 69 gallons per day).

1 98. DHS also cannot simply avoid modifying sewage use by trucking
2 wastewater out, as that shortcut would render the warehouse unfit for human occupancy
3 under both the City of Surprise and DHS’s own policies and procedures. *See*
4 Performance-Based National Detention Standards at 329; International Building Code
5 § 2902.1 (2024).²⁰

6 **2. Conversion of the Surprise Warehouse will increase the strain**
7 **on local water systems.**

8 99. Converting the Surprise Warehouse into a detention facility housing
9 hundreds of detainees at a time will also greatly increase the strain on the City of
10 Surprise’s water systems.

11 100. Upon information and belief, the Surprise Warehouse is currently capable
12 of providing water for limited use by four commercial tenants during normal business
13 hours.

14 101. Were the Surprise Warehouse to house between 500 and 1,500 detainees,
15 the facility’s water demand would balloon to between 40,000 and 123,000 gallons per
16 day for the detainee population alone.²¹ Upon information and belief, this is significantly
17 greater than the currently planned water usage for the Surprise Warehouse.

18 102. If Defendants convert the Surprise Warehouse into a detention facility
19 housing hundreds of people and draw on the existing system to provide water for that
20 facility, they will drastically increase the strain on the City of Surprise’s water system.

21 103. Increasing the Surprise Warehouse’s water usage in this manner poses a
22 substantial risk of exceeding the available allocation or system capacity, which could in
23 turn reduce water pressure and reliability for other users, impair flows needed for
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26 ²⁰ The City of Surprise has adopted the International Building Code.

27 ²¹ *See* Env’t Protection Agency, *Statistics and Facts* (Mar. 11, 2026),
28 <https://www.epa.gov/watersense/statistics-and-facts> (last accessed Apr. 14, 2026)
(calculating the average daily usage of water for an individual at 82 gallons).

1 suppressing fires, accelerate the depletion of underground water aquifers, diminish nearby
2 wells, and alter groundwater flow in ways that reduce water quantity.

3 **3. Construction and operation of the Surprise Warehouse will**
4 **detrimentally impact air quality.**

5 104. The State has a well-established interest in maintaining air quality. *See*
6 A.R.S. § 49-401. Converting the Surprise Warehouse to a detention facility and operating
7 it as such will necessarily increase air emissions.

8 105. These problems are exacerbated if additional boilers, emergency generating
9 units, or similar emitting equipment are required. As DHS’s own National Detention
10 Standards require an “emergency electrical power generator,” some increase in air
11 emissions is effectively certain. *See* ICE National Detention Standards at 5.

12 106. DHS expects to employ approximately 1,400 people during construction
13 and nearly 500 staff at the Surprise Warehouse following its conversion.²² The increased
14 traffic in the area from the establishment of a mass detention facility would increase local
15 air emissions as well. For instance, the Environmental Protection Agency has recognized
16 that vehicles emit nitrogen oxide, a precursor to ground-level ozone.²³ Ozone is a
17 pollutant for which the EPA sets National Ambient Air Quality Standards due to its
18 negative health impacts. These include causing difficulty breathing, increasing asthma
19 attacks, and aggravating respiratory diseases.²⁴

20 ***

21 107. Each of these interests should have been considered by Defendants in an
22 appropriate NEPA document *before* taking steps to acquire and convert the Surprise
23 Warehouse into an immigration detention facility.

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26 ²² *See* Surprise Warehouse Economic Analysis.

27 ²³ *See* Env’t Protection Agency, *Basic Information about NO2* (July 10, 2025),
28 <https://www.epa.gov/no2-pollution/basic-information-about-no2> (last accessed Apr. 14,
2026).

²⁴ *Id.*

1 **F. The Surprise Warehouse location will never be an appropriate site for**
2 **a mass detention facility under the INA.**

3 **1. The Surprise Warehouse’s proximity to the Chemical**
4 **Warehouse renders it an inappropriate location for a mass**
5 **detention facility.**

6 108. The Surprise Warehouse’s commercial listing identifies the property type
7 as “Industrial.”²⁵ When it was built, its designers identified it as being suitable for
8 “tenants in the ecommerce, manufacturing and semiconductor supply industries.”²⁶

9 109. As identified above, the Surprise Warehouse sits directly across the street
10 from the Chemical Warehouse. The Chemical Warehouse includes “storage spaces
11 ranging from refrigerated and freezer rooms to temperature-controlled zones for
12 flammable and corrosive materials.”²⁷

13 110. Typical chemicals used in the production of semiconductors include
14 hydrofluoric acid, hydrochloric acid, sulfuric acid, ammonium fluoride, and flammable
15 solvents (such as acetone).²⁸

16 111. Section 112(r) of the Clean Air Act requires facilities involved in the
17 storage of hazardous substances to submit a Risk Management Plan (RMP). *See* 42
18 U.S.C. § 7412(r)(7)(b)(ii). Rinchem’s RMP for the Chemical Warehouse was filed on
19 January 1, 2026.²⁹

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21 ²⁵ *See supra* n.14.

22 ²⁶ *See Rockefeller Group Buys Surprise Industrial Project Site*, AZ BEX (Apr. 19,
23 2023), <https://azbex.com/planning-development/rockefeller-group-buys-surprise-industrial-project-site/> (last accessed Apr. 14, 2026).

24 ²⁷ *See supra* n.15.

25 ²⁸ *See Int’l Sematech Mfg. Initiative, Overview of the Semiconductor Industry and*
26 *its Approach to Chemical Management and Environment, Safety, and Health* (Dec. 29,
2006), <https://www.semiconductors.org/wp-content/uploads/2020/10/Overview-Of-The-Semi-Industry-And-Its-Approach-To-Chem-Mgmt-and-EHS.pdf> (last accessed Apr. 14,
2026).

27 ²⁹ *See* Nw. Valley Indivisible, *Federal Records Show Planned Surprise ICE*
28 *Detention Center May Sit Inside a Chemical Hazard Zone* (Apr. 2, 2026),
<https://northwestvalleyindivisible.org/federal-records-show-planned-surprise-ice-detention-center-may-sit-inside-a-chemical-hazard-zone> (last accessed Apr. 14, 2026).

1 112. Upon information and belief, the RMP does not consider the potential
2 hazards incurred by the presence of a mass detention facility next door, nor does it
3 contemplate risk mitigation measures responding to the same.

4 113. To Plaintiff’s knowledge, Defendants have conducted no risk assessment
5 regarding the proximity of the Surprise Warehouse to the Chemical Warehouse, nor have
6 they even acknowledged the proximity of the two locations in any public-facing
7 communications.

8 114. It is a matter of general public policy that chemical storage warehouses be
9 located in non-residential areas to reduce the risks of residents’ exposure to hazardous
10 materials. The same holds especially true when chemical storage warehouses are located
11 near facilities—like the Surprise Warehouse—with large captive populations incapable
12 of seeking safety in the event of an accident or explosion.

13 115. Given that, it makes sense that the Chemical Warehouse and Surprise
14 Warehouse are both located in an area zoned for “Business Park” or “Industrial” use,
15 rather than residential or general commercial use. *See* Exhibit J.

16 116. The City of Surprise’s Land Development Ordinance characterizes
17 “Business Park” zones as those which provide “limited retail and service uses primarily
18 to serve the business park uses”; “Light Industrial” zones as those which “provide[] for
19 a mix of industrial activities which have generally negative impacts on the community,
20 and which may be incompatible with other uses”; and “General Industrial” zones as those
21 which “provide[] for a mix of industrial activities requiring large land areas
22 unencumbered by nearby residential or commercial development.” *See* Surprise
23 Municipal Code § 106-7.2.

24 117. Of course, none of these uses encompass or envision the use of a given
25 property for mass detention purposes.

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1 **2. The Surprise Warehouse will negatively impact local traffic**
2 **systems in an area ill-suited for such expanded use.**

3 118. Operating the Surprise Warehouse as a detention facility housing hundreds
4 of detainees at a time and staffed by hundreds of ICE employees will increase local traffic
5 burdens in an area currently zoned for “Business” and “Industrial” use.

6 119. Although Defendants have not provided any details regarding expected
7 traffic impacts, conversion of the Surprise Warehouse will result in significantly
8 increased traffic in the area from (1) the actual process of construction itself, which will
9 involve extensive vehicular traffic and the movement of construction materials and
10 equipment; (2) movement of detainees to and from the facility; (3) increased staff
11 commuting to and from work at the facility; and (4) visits to the facility from friends,
12 family, and legal counsel exercising their right to visit detainees.

13 120. ICE’s own documents suggest there will be steady movement of detainees
14 to and from the facility, as the average stay for detainees at its new “processing centers”
15 is intended to be less than one week. *See* DRI White Paper at 1, 3.

16 121. Traffic impacts from staff commuting to and from the facility will be
17 significant. Again, DHS expects to employ more than one thousand people during
18 construction and hundreds of full-time staff at the Surprise Warehouse following its
19 conversion.³⁰

20 122. As an area zoned for “Business” and “Industrial” use, the location of the
21 Surprise Warehouse likely lacks adequate traffic infrastructure to support this anticipated
22 increase in traffic. For example, the turn onto Sweetwater Avenue from its major
23 connecting artery—Dysart Avenue—does not have a traffic light, rendering it clearly
24 inadequate to support the proposed influx of hundreds of construction workers and staff
25 to the Surprise Warehouse each day.

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³⁰ *See* Surprise Warehouse Economic Analysis.

1 223. Further, to the extent that Defendants intend to attempt to work around the
2 Surprise Warehouse’s sewer capacity limitations by transporting water to the warehouse
3 and sewage from the warehouse by truck, such actions would further exacerbate the
4 already significant traffic impacts of operating the site as a mass detention facility.

5 **3. Construction and operation of the Surprise Warehouse in an**
6 **inappropriate location will detrimentally impact public health**
7 **and safety.**

8 224. Operating the Surprise Warehouse as a detention facility housing hundreds
9 of detainees at a time is likely to create public health and safety concerns that will at best
10 massively strain the City of Surprise’s resources, and at worst exceed Surprise’s capacity
11 to manage and contain serious crises, requiring the State to expend its own limited
12 resources.

13 225. DHS’s detention facilities have a long and documented track-record of poor
14 public health conditions.³¹ This pattern of behavior is current and ongoing—including
15 within the State of Arizona.³²

16 226. One independent research report of DHS detainee deaths found that DHS
17 facilities “provided incomplete, inappropriate, or delayed treatment and medication,”
18 engaged in “flawed or delayed emergency response[s],” failed to “take basic precautions
19 during the COVID-19 pandemic,” and did not provide adequate “staff who are trained
20 and licensed to ensure patient health and safety.”³³

21 ³¹ See, e.g., Office of the Inspector Gen., U.S. Dep’t of Homeland Sec., *OIG-24-*
22 *59, Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years*
23 *2020-2023* at 10 (Sept. 24, 2024),
24 <https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf> (last
accessed Apr. 14, 2026).

25 ³² See Danielle Miller, *Arizona Democrats call Mesa ICE facility conditions*
26 *'shameful' after surprise visit*, FOX 10 Phoenix (Apr. 10, 2026),
[https://www.fox10phoenix.com/news/arizona-democrats-call-mesa-ice-facility-](https://www.fox10phoenix.com/news/arizona-democrats-call-mesa-ice-facility-conditions-shameful-after-surprise-visit)
27 [conditions-shameful-after-surprise-visit](https://www.fox10phoenix.com/news/arizona-democrats-call-mesa-ice-facility-conditions-shameful-after-surprise-visit) (last accessed Apr. 14, 2026).

28 ³³ ACLU, Am. Oversight & Physicians for Hum. Rts., *Deadly Failures:*
Preventable Deaths in U.S. Immigration Detention at 8–10, 37, 41–44, 48 (June 21,
2024), [https://www.aclu.org/publications/deadly-failures-preventable-deaths-in-us-](https://www.aclu.org/publications/deadly-failures-preventable-deaths-in-us-immigrant-detention)
[immigrant-detention](https://www.aclu.org/publications/deadly-failures-preventable-deaths-in-us-immigrant-detention) (last accessed Apr. 14, 2026).

1 that is “not in accordance with law,” or “without observance of procedure required by
2 law.” 5 U.S.C. § 706(2)(A), (C), (D). Defendants’ failure to comply with NEPA is both.

3 134. NEPA claims are subject to judicial review under the APA. *See Ashley*
4 *Creek Phosphate Co. v. Norton*, 420 F.3d 934, 939 (9th Cir. 2005).

5 135. Defendants’ decision to purchase, renovate, and operate the Surprise
6 Warehouse as a mass detention facility is final agency action reviewable under the APA.
7 Final agency actions are those which mark the consummation of the agency’s decision-
8 making process and are ones from which legal rights or consequences will flow. *See*
9 *Bennett*, 520 U.S. at 177–78.

10 136. Defendants have completed the decision-making process: they have
11 purchased the Surprise Warehouse expressly for the purpose of converting it to and using
12 it as a detention facility and they have contracted with GardaWorld to conduct the desired
13 retrofitting operations. Defendants’ actions triggered their obligations under NEPA, the
14 INA, and the APA.

15 137. The decision to purchase, construct, and operate the Surprise Warehouse is
16 a “major Federal action[.]” with impacts on the human environment that must be evaluated
17 under NEPA. 42 U.S.C. § 4332(C).

18 138. NEPA makes clear what is required for such actions to proceed: preparation
19 of an EIS or EA, or invocation of an applicable categorical exclusion.

20 139. Under NEPA, these requirements must be met *before* any major federal
21 action is taken. *See Ctr. for Biological Diversity*, 141 F.4th at 993.

22 140. Defendants have completely disregarded these statutory requirements.
23 Despite the scale, novelty, and certain environmental impacts of the Surprise Warehouse
24 conversion, Defendants have produced no EIS, EA, or FONSI. Defendants have invoked
25 no categorical exclusion excusing their failure to do so, nor is there any such applicable
26 categorical exclusion. And since purchasing the facility, Defendants have continued to
27 largely stonewall relevant stakeholders, including numerous members of Arizona’s
28 congressional delegation.

1 center, or other comparable facility suitable for such use.” 8 U.S.C. § 1231(g)(2)
2 (emphasis added).

3 156. As DHS identifies, it considered four alternative properties before deciding
4 on the Surprise Warehouse: 15784 W. Hatcher Road in Waddell, Arizona; 13543 W.
5 Northern Avenue in Glendale, Arizona; 16500 W. Glendale Avenue in Litchfield Park,
6 Arizona; and 8016 E. Pecos Road in Mesa, Arizona. See Floodplain Notice (Ex. C).

7 157. All of these facilities are—like the Surprise Warehouse—industrial
8 warehouses. None are “prison[s], jail[s], detention center[s] or other comparable
9 facilit[ies].” And Defendants have made no representations that they considered facilities
10 that fall within the scope of the controlling provision.

11 158. Defendants’ selection of the Surprise Warehouse without abiding by the
12 statutory procedures mandated by the INA was accordingly contrary to the requirements
13 of 8 U.S.C. § 1231(g)(2).

14 159. The Court should enjoin Defendants from operating the Surprise
15 Warehouse as a mass detention center and enjoin Defendants from conducting any future
16 physical modifications and construction at the site to accomplish such purposes.

17 **COUNT IV**

18 **Violation of the Administrative Procedure Act** 19 **Arbitrary and Capricious Agency Action (5 U.S.C. § 706)**

20 160. The State incorporates by reference all preceding allegations.

21 161. In addition to being contrary to law, Defendants’ decision to move forward
22 with the Surprise Warehouse is arbitrary and capricious—and thus forbidden by the APA.
23 See 5 U.S.C. § 706(2)(A).

24 162. Defendants have not offered “a satisfactory explanation for [their] action”
25 in selecting the Surprise Warehouse, an industrial warehouse which is patently unsuitable
26 for human detention, nor articulated “a ‘rational connection between the facts found and
27 the choice made.’” *State Farm*, 463 U.S. at 43 (quoting *Burlington Truck Lines*, 371 U.S.
28 at 168).

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RESPECTFULLY SUBMITTED this 24th day of April, 2026.

KRISTIN K. MAYES
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