

## **Agency Contacts**

### **U.S. Customs and Border Protection (CBP)**

Office of Public Affairs

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CBP Public Affairs Officer

(b) (6), (b) (7)(C)

### **U.S. Border Patrol**

Rio Grande Valley

Public Affairs Officer Supervisor

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### **Department of Interior**

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### **U.S. Fish and Wildlife Service**

Southwest Region

External Affairs

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### **U.S. Army Corps of Engineers**

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### **International Boundary & Water Commission**

Public Affairs Officer

Lori Kuczanski

(915) 832-4106

lori.kuczanski@ibwc.gov

### **U.S. Geological Survey**

For more information on research and published studies on barrier impacts to wildlife and for research on jaguars, please contact Catherine Puckett at U.S. Geological Survey.

Catherine Puckett

(352) 377-2469

cpuckett@usgs.gov

Border Wall Call – Notes – 6/13/17

John Andrew and (b) (6), (b) – DOI

Border Wall updates:

Texas: (IBWC and USFWS property) – first three miles

- No landowner engagement
- Army Corps – developing public affairs guidance
- Congressionals notified on Friday

4 Media Events Planned:

- Wall media update (small scale – small group)- IN DC
  - o Bringing media up to date
- When selection happens for prototype – DC briefing – Late July
  - o Who has been selected to build prototype
- Prototype Construction in San Diego
  - o 30 days to build prototypes
- May invite media
  - o Final selection to build the full wall
- Another briefing at that time (after prototypes are built)

Statements and public affairs guidance

- About environmental consultation

Consultation FAQ – shared with OCA and OCC

- Living and breathing document

## Border Wall Coordination Call – 07/18/2017

(b) (6), (b) (7)(C)

- Preliminary discussion on el paso sector replacement with ES/BLM

### John Andrew

- Before this meeting
- Referring everyone to CBP
- Pre-work is being done on levee, not Service/refuge property
- Drilling activities continue until the end of July
- Meeting between CBP/DHA/BIA about tribal consultation, John provided agreement for FY17 projects
  - o Working on time to get back together for consultation
- 

### Levee

### Media Coverage w/CBP Coordination Meetings with FWS

- Drafted short statement for the USFWS
- Meeting at RGV Headquarters, invited Robert Jess
  - o After action report
  - o RGV Sector Call
    - What they can expect to see
    - Not talking to private landowners

# Official Statement



Public Affairs Office  
PO Box 1306  
Albuquerque, NM 87103  
505/248-6911  
505/248-6915 (Fax)

August 13, 2017

## U.S. Fish and Wildlife Service statement on “Border Wall”

*“The Department of the Interior (DOI) is one of several federal agencies that U.S. Customs and Border Protection (CBP) has engaged with to implement the President’s Executive Order (EO) 13767 - Border Security and Immigration Enforcement Improvements. CBP has included DOI in initial discussions regarding the implementation of the EO in south Texas.”*

For inquiries, please contact U.S. Customs and Border Protection’s Office of Public Affairs at [cbpmediarelations@cbp.dhs.gov](mailto:cbpmediarelations@cbp.dhs.gov) or U.S. Border Patrol’s Rio Grande Valley (RGV) Public Affairs Officer Supervisor (b) (6), (b) (7)(C) or CBP Office of Public Affairs Officer (b) (6), (b) (7)(C).

*The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. We are both a leader and trusted partner in fish and wildlife conservation, known for our scientific excellence, stewardship of lands and natural resources, dedicated professionals, and commitment to public service.*

For more information on our work and the people who make it happen, visit [www.fws.gov](http://www.fws.gov). Connect with our Facebook page at [www.facebook.com/usfws](https://www.facebook.com/usfws) follow our tweets at [www.twitter.com/usfwsHQ](https://www.twitter.com/usfwsHQ) watch our YouTube Channel at <http://www.youtube.com/usfws> and download photos from our Flickr page at <http://www.flickr.com/photos/usfwsHQ>.

- [www.fws.gov/southwest](http://www.fws.gov/southwest) -

AUG 25 2017



**U.S. Customs and  
Border Protection**

Mr. Robert Jess  
United States Fish and Wildlife Service  
Lower Rio Grande Valley National Wildlife Refuge  
3325 Green Jay Road  
Alamo, TX 78516

Dear Mr. Jess:

U.S. Customs and Border Protection (CBP) is in the initial stages of planning for proposed levee wall along 28 miles of existing levee located in Hidalgo County, Texas within the U.S. Border Patrol's McAllen and Weslaco stations area of responsibility (AOR) and 32 miles of bollard wall in Starr County, Texas within the U.S. Border Patrol's Rio Grande City station AOR. In addition, CBP is in the planning stages of its second phase of gate installation to close 35 gaps in existing border fence in Hidalgo and Cameron counties. The 35 gates were funded in CBP's fiscal year (FY) 2017 appropriation, while the proposed 28 miles of levee wall and 32 miles of bollard wall are included in the President's FY18 budget request to Congress.

In Hidalgo County, CBP is proposing 28 miles of levee wall. The proposed levee wall alignment will be on the south face of the northern U.S. International Boundary Water Commission (IBWC) levee. The proposed design includes construction of a reinforced concrete levee wall to the height of the existing levee with 18-foot tall steel bollards installed on the top of the levee wall, a possible 150-foot enforcement zone on the south/river side of the levee wall, detection technology, enforcement zone lighting, video surveillance, automated vehicle gates, pedestrian gates, and an all-weather patrol road parallel to the levee wall. In addition, CBP will install gates within 20 gaps in existing border levee wall within Hidalgo County and in 15 existing gaps within Cameron County.

In Starr County, CBP is proposing 32 miles of bollard wall. The proposed design includes construction of 20 to 30-foot tall steel bollards, a possible 150-foot enforcement zone on the south/river side of the bollard wall, detection technology, enforcement zone lighting, video surveillance, and an all-weather patrol road parallel to the bollard wall.

Additional details of the possible components of the proposed action are as follows:

- **Levee Wall** -The levee wall will be a concrete wall to the height of the levee crest with 18 foot tall bollards installed in the top of the levee wall.
- **Bollard Wall** – The bollard wall will be 20 to 30 feet high utilizing 8-inch diameter, concrete filled steel bollards.
- **150 Foot Enforcement Zone** – The enforcement zone will be an area extending from the south/river side of the levee wall or bollard wall approximately 150 feet. All vegetation within the 150-foot enforcement zone will be cleared.
- **Gates** - Automated vehicle gates will be installed with a minimum height of 18 feet and minimum width of 20 feet. In addition, gates designed to allow for farming equipment will be installed where appropriate and range in width from 40 to 50 feet. All gates will be motorized overhead sliding gates with an enclosed drive and operator system.

- **Lighting** - LED lighting will be installed as part of this project. CBP will work with the appropriate stakeholders to develop solutions to avoid excess lighting beyond the enforcement zone.
- **All Weather Road** - An all-weather aggregate patrol road (type FC-2) will be constructed on the south side and parallel to the levee or bollard wall and within the 150-foot enforcement zone. The specific location of the road within the enforcement zone will be determined during the design phase of the project.
- **Cameras** - A camera surveillance system will be installed to ensure visibility of the enforcement zone and southern approach.

The purpose of the proposed action is to increase CBP's ability to impede or deny illegal border crossings, and to provide improved surveillance and detection capabilities to the areas of greatest risk of illegal cross-border activity located within the US. Border Patrol Rio Grande Valley Sector. The proposed action will be similar to other levee and border wall systems located within the Rio Grande Valley Sector. The proposed action will also support CBPs action under Executive Order (EO) 13767, where CBP is directed to "...secure the southern border of the United States through the immediate construction of a physical wall on the southern border, monitored and supported by adequate personnel so as to prevent illegal immigration, drug and human trafficking, and acts of terrorism."

CBP will evaluate the potential environmental impacts associated with the proposed action. CBP is gathering data and input from state and local government agencies, federal agencies, and Native American Tribes that may be affected by or otherwise have an interest in the proposed actions. Since your agency or organization may have particular knowledge and expertise regarding the potential environmental impacts from CBP's proposed action, your input is sought regarding the likely or anticipated effects to biological, cultural, and natural resources from the implementation of the proposed actions. Your response should include any state and local restrictions, permitting or other requirements with which CBP should consider during project siting, construction, and operation.

This letter is intended to provide initial information for CBP's proposed projects in the Rio Grande Valley and seek comments and concerns from potentially affected parties and interested groups. CBP intends similar outreach in other border regions as projects are identified and defined. Your prompt attention to this request is appreciated. Comments and information will be accepted up to 30 days following the date of this letter. If you have any questions or comments please contact me at (b) (6), (b) (7) @cbp.dhs.gov. Please include "RGV Wall and Gates Construction" in the title of your email. Thank you for your cooperation.

Sincerely,

(b) (6), (b) (7)(C)(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)(b) (6), (b) (7)(C)

Real Estate and Environmental Branch Chief  
U.S. Customs and Border Protection  
Border Patrol & Air and Marine  
Program Management Office



Kimbrough, Monica &lt;monica\_kimbrough@fws.gov&gt;

## Fwd: Congressional: QFR on border fence DD COB Friday, August 5

1 message

**Garrahan, Ken** <ken\_garrahan@fws.gov>

Fri, Aug 5, 2016 at 7:15 AM

To: Chris Tincher <chris\_tincher@fws.gov>, Thomas Harvey <Thomas\_Harvey@fws.gov>, Monica Kimbrough <monica\_kimbrough@fws.gov>

----- Forwarded message -----

From: **Perez, Chris** <chris\_perez@fws.gov>

Date: Thu, Aug 4, 2016 at 3:46 PM

Subject: Re: Congressional: QFR on border fence DD COB Friday, August 5

To: "Perez, Sonny" <sonny\_perez@fws.gov>

Cc: Imer DeLaGarza <imer\_delagarza@fws.gov>, Hilary Swarts <hilary\_swarts@fws.gov>, Jonathan Moczygamba <jonathan\_moczygamba@fws.gov>, Kimberly Wahl <kimberly\_wahl@fws.gov>, Boyd Blihovde <boyd\_blihovde@fws.gov>, Bryan Winton <bryan\_winton@fws.gov>, Gisela Chapa <gisela\_chapa@fws.gov>, Robert Jess <robert\_jess@fws.gov>, Mitch Sternberg <mitch\_sternberg@fws.gov>, Ken Garrahan <ken\_garrahan@fws.gov>

Sonny: Nonetheless, I looked around and did find these articles, but just not a whole lot. I think Bryan had some more. See attached.

On Thu, Aug 4, 2016 at 2:41 PM, Perez, Sonny <sonny\_perez@fws.gov> wrote:

Bio Team,

Can you help me with this request? Are any of you aware of any peer-reviewed, scientific studies which document impacts of border fence construction or operations on native wildlife populations?

Please respond to me ASAP but no later than 2PM on Friday, August 5.

Thank you,

Sonny

----- Forwarded message -----

From: **Garrahan, Ken** <ken\_garrahan@fws.gov>

Date: Thu, Aug 4, 2016 at 2:30 PM

Subject: Fwd: Congressional: QFR on border fence DD COB Friday, August 5

To: Bill Radke <Bill\_Radke@fws.gov>, Sid Slone <sid\_slone@fws.gov>, Sally Flatland <sally\_flatland@fws.gov>, Elaine Johnson <elaine\_johnson@fws.gov>, Sonny Perez <sonny\_perez@fws.gov>, Mitch Sternberg <mitch\_sternberg@fws.gov>

Cc: Monica Kimbrough <monica\_kimbrough@fws.gov>, Thomas Harvey <Thomas\_Harvey@fws.gov>

Please see the email string below and respond directly to Chris Tincher, cc to Tom Harvey and Monica Kimbrough. Information requested is in bold text.

Thanks

Ken

----- Forwarded message -----

From: **Thomas Harvey** <thomas\_harvey@fws.gov>

Date: Thu, Aug 4, 2016 at 12:31 PM

Subject: Fwd: Congressional: QFR on border fence DD COB Friday, August 5

To: Ken Garrahan <Ken\_Garrahan@fws.gov>

Cc: juliette\_fernandez@fws.gov, monica\_kimbrough@fws.gov

Ken,  
Please be sure to check with our Div of Bio Sciences and any border RMs that may have anything to contribute as well.  
Thanks

Tom

Sent from my iPhone

Begin forwarded message:

**From:** "Spangle, Steve" <[steve\\_spangle@fws.gov](mailto:steve_spangle@fws.gov)>  
**Date:** August 4, 2016 at 11:26:19 AM PDT  
**To:** "Calhoun, Jean" <[jean\\_calhoun@fws.gov](mailto:jean_calhoun@fws.gov)>  
**Cc:** "Tincher, Chris" <[chris\\_tincher@fws.gov](mailto:chris_tincher@fws.gov)>, Johnna Roy <[johnna\\_roy@fws.gov](mailto:johnna_roy@fws.gov)>, Thomas Harvey <[thomas\\_harvey@fws.gov](mailto:thomas_harvey@fws.gov)>, Kelly McDowell <[kelly\\_mcdowell@fws.gov](mailto:kelly_mcdowell@fws.gov)>, Dawn Gardiner <[dawn\\_gardiner@fws.gov](mailto:dawn_gardiner@fws.gov)>, Chuck Ardizzone <[chuck\\_ardizzone@fws.gov](mailto:chuck_ardizzone@fws.gov)>  
**Subject:** Re: Congressional: QFR on border fence DD COB Friday, August 5

Excellent--thanks Jean...

On Thu, Aug 4, 2016 at 11:23 AM, Calhoun, Jean <[jean\\_calhoun@fws.gov](mailto:jean_calhoun@fws.gov)> wrote:

Chris,

Here are a couple of peer-reviewed articles on border wall impacts on wildlife. I'm sure there are more. I'll let you know if I find/hear of others.

thanks  
Jean

[Jean A. Calhoun](mailto:Jean.A.Calhoun@fws.gov)

Assistant Field Supervisor  
Tucson Office- Arizona Ecological Services  
U.S. Fish and Wildlife Service  
201 N. Bonita Avenue, Suite 141  
Tucson, Arizona 85745  
Tel: (520) 670-6150, ext. 223  
[Jean\\_Calhoun@fws.gov](mailto:Jean_Calhoun@fws.gov)

On Thu, Aug 4, 2016 at 10:05 AM, Spangle, Steve <[steve\\_spangle@fws.gov](mailto:steve_spangle@fws.gov)> wrote:

I am unaware of any "peer-reviewed, scientific studies which document impacts of border fence construction or operations on native wildlife populations." The question is very specific to the border fence. More generally, the effects of impenetrable obstacles on wildlife populations is well-documented in the literature, however.

On Thu, Aug 4, 2016 at 9:57 AM, Tincher, Chris <[chris\\_tincher@fws.gov](mailto:chris_tincher@fws.gov)> wrote:

Apologies for the extremely short deadline. Please see the request below.

**HQ is looking for a response to a Question for the Record from the hearing "The Consequences of Federal Land Management along the US Border to Rural Communities and National Security."**

**Q. There have been periodic claims in the press that border fence construction has resulted in impacts to wildlife. Is the Department of the Interior aware of any peer-reviewed, scientific studies which document impacts of border fence construction or operations on native wildlife populations?**

**At this time we are not being asked to provide copies of any of the materials so indicating an affirmative response with key scientific records should be sufficient. If**

**you anticipate more time is needed to complete this request, please notify me as soon as possible.**

I will compile information from our Region and CLA will coordinate with Jon Andrew on the final response.

As always, please remember emails are considered records and may be called for during a FOIA.

Chris

Christine R. Tincher  
Congressional Liaison / Public Affairs Specialist  
U.S. Fish & Wildlife Service - Southwest Region  
New Mexico \* Arizona \* Texas \* Oklahoma

Office: (602) 242-0210, except Wednesdays  
Mobile: (505) 449-8776  
Email: [chris\\_tincher@fws.gov](mailto:chris_tincher@fws.gov)

\*\*\*\*\*

----- Forwarded message -----

From: **Gustavson, Angela** <[angela\\_gustavson@fws.gov](mailto:angela_gustavson@fws.gov)>  
Date: Thu, Aug 4, 2016 at 9:04 AM  
Subject: QFR on border fence  
To: Chris Tincher <[Chris\\_Tincher@fws.gov](mailto:Chris_Tincher@fws.gov)>  
Cc: Roya Mogadam <[Roya\\_Mogadam@fws.gov](mailto:Roya_Mogadam@fws.gov)>, Lisa Jones <[lisa\\_m\\_jones@fws.gov](mailto:lisa_m_jones@fws.gov)>, Alyssa Hausman <[alyssa\\_hausman@fws.gov](mailto:alyssa_hausman@fws.gov)>

Hi Chris,

On April 28th, Jon Andrew testified on behalf of the Department before the HNR Subcommittee on Oversight and Investigations at a hearing entitled "The Consequences of Federal Land Management along the U.S. Border to Rural Communities and National Security."

The Department received QFRs and they need our help with a couple, including this one below.

7. There have been periodic claims in the press that border fence construction has resulted in impacts to wildlife. Is the Department of the Interior aware of any peer-reviewed, scientific studies which document impacts of border fence construction or operations on native wildlife populations?

Could Region 2 please provide a response to this QFR by COB Friday, if possible?

Thanks,

Angela

Angela Gustavson  
Deputy Chief  
Division of Congressional and Legislative Affairs  
U.S. Fish and Wildlife Service  
Office: 703-358-2253  
Mobile: 202-909-5105  
[angela\\_gustavson@fws.gov](mailto:angela_gustavson@fws.gov)

--  
Steve Spangle, Field Supervisor

Arizona Ecological Services Office

**Note new address:**

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9828 North 31st Avenue, #C3  
Phoenix, Arizona 85051-2517

602/242-0210

--

Steve Spangle, Field Supervisor  
Arizona Ecological Services Office

**Note new address:**

DOI U.S. Fish and Wildlife Service  
9828 North 31st Avenue, #C3  
Phoenix, Arizona 85051-2517

602/242-0210

--

*Kenneth A. Garrahan, Chief, Division of Visitor Services, Southwest Region  
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P.O. Box 1306  
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505.850.8644 (c)  
505.248.6621 (fax)

--

Chris Perez, Wildlife Biologist  
Lower Rio Grande Valley NWR  
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Alamo, TX 78516  
Phone: 956-784-7553  
Fax: 956-787-8338

--

*Kenneth A. Garrahan, Chief, Division of Visitor Services, Southwest Region  
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**4 attachments**

 **Hemmed-in\_Border Article on Corridors.pdf**  
1845K

 **Chertoff's Monster.pdf**  
366K

 **Environmental Impacts of a Border Fence.pdf**  
181K

 **TransboundaryConservation.pdf**  
2296K



American Institute  
of Biological Sciences



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The Environmental Impacts of a Border Fence

Author(s): Jeffrey P. Cohn

Source: *BioScience*, Vol. 57, No. 1 (January 2007), p. 96

Published by: Oxford University Press on behalf of the American Institute of Biological Sciences

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## The Environmental Impacts of a Border Fence

A group of Arizona park and refuge managers, wildlife biologists, and conservationists has charged that building a wall along the US–Mexican border to keep illegal immigrants and drug smugglers out of the United States will fragment the Sonoran Desert ecosystem, damage the desert's plant and animal communities, and prevent the free movement of wildlife between the United States and Mexico. A border wall would affect any animal along the border that “walks, crawls, or slithers,” argues Brian Segee, a staff attorney with Washington, DC–based Defenders of Wildlife. “Anything that doesn't fly would find its routes blocked.” Actually, low-flying birds such as the cactus ferruginous pygmy owl might be affected as well.

Congress passed and President Bush signed the Secure Fence Act last fall. It authorizes the US Department of Homeland Security to build a \$2.2 billion wall in five sections along 700 miles of the 2000-mile-long US–Mexican border. One section would run from Calexico, California, to Douglas, Arizona. In some places, it would replace current or planned barriers that block vehicles but allow people and animals to pass through. Other areas would have lights, movement sensors, cameras, and unmanned airplanes as a “virtual fence.” To date, Congress has allocated no money to build the full wall, but it has appropriated \$1.2 billion for infrastructure plus \$67 million for a 28-mile segment in Arizona. Another law known as the REAL ID Act allows the secretary of homeland security to exempt the wall from environmental assessments or legal challenges because of national security.

So far, the political debate surrounding a border wall has focused mostly on illegal immigrants and drug smugglers. Few outside of the conservation and biology communities have looked at the consequences of building a wall for wildlife. But a symposium on border ecology in Tucson, Arizona, last fall,

sponsored by Defenders of Wildlife and the Wildlands Project, has helped refocus attention on the proposed wall's biological effects. The symposium, the second held by the two groups, brought together local and regional environmental and conservation organizations, state and federal wildlife and land agencies, and university researchers. It examined issues and information gaps relating to border ecology and the proposed wall, says Jenny Neeley, Defenders of Wildlife's Southwest representative.

Symposium participants expressed concern that the proposed wall would cut off US from Mexican populations of such species as javelinas, ocelots, and Sonoran pronghorn. A wall would also prevent jaguars from repopulating the southwestern United States from a population in Mexico's Sierra Madre Occidental forests. Jaguars from Mexico have shown up from time to time over the past decade in southern Arizona and New Mexico. Altogether, says Brian Nowicki, a Center for Biological Diversity conservation biologist, 30 endangered, threatened, or candidate species live along the US–Mexican border in Arizona and Sonora, 15 in the area where the wall would be built.

Moreover, building a wall, along with the roads and support facilities it necessitates, would not only plow under saguaros and other fragile desert plants but scare Sonoran pronghorn and other wildlife from important sources of food and water, Neeley says. “We want landscape permeability,” adds Janice Przybyl of the Sky Island Alliance, speaking of the ability of wildlife to move unencumbered by fences.

While recognizing the validity of those arguments, Roger DiRosa, manager of Cabeza Prieta National Wildlife Refuge near Ajo, Arizona, points to habitat loss and harm to wildlife caused by illegal immigrants and drug smugglers crossing the refuge. With new fences and increased Border Patrol and private group activity

to stop illegal border crossings elsewhere in the Sonoran Desert, a growing number of people now enter the United States at Cabeza Prieta, about 100 miles west of Tucson. At 860,000 acres, 800,000 of which are designated wilderness, Cabeza Prieta is the third largest national wildlife refuge outside Alaska.

DiRosa reports that Cabeza Prieta now has about 400 miles of illegal roads plus another 800 miles of unauthorized foot trails. Border issues take up to 85 percent of DiRosa's time and up to 75 percent of that of all refuge operations. Biologists working in the desert at night have to be accompanied by law enforcement officers. And the Border Patrol has built a one-acre base within Cabeza Prieta that includes roads, fuel tanks, a barracks for 10 officers, and a helicopter pad. “It's a war zone here,” he says. “We're into triage in deciding what to sacrifice in the environment to achieve border security.”

DiRosa wants to build a vehicle barrier along the 56 miles of border within Cabeza Prieta, similar to the one already in place along the border at Organ Pipe Cactus National Monument. Officials at Buenos Aires National Wildlife Refuge and the Tohono O'odham Nation in southern Arizona also have plans to build barriers. By contrast, the Secure Fence Act mandates a wall that allows no movement by most animals between the United States and Mexico.

“Border activities have supplanted environmental protection,” DiRosa says ruefully. “Our operations have been turned on their heads. We have to find a way to keep from pitting the environment against homeland security.”

---

*Jeffrey P. Cohn (e-mail: jeffcohn@sbcglobal.net) is a freelance science writer living in Takoma Park, Maryland.*

doi:10.1641/B570116  
Include this information when citing this material.

# WILEY

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Ecosystem services across borders: a framework for transboundary conservation policy  
Author(s): Laura López-Hoffman, Robert G Varady, Karl W Flessa and Patricia Balvanera  
Source: *Frontiers in Ecology and the Environment*, Vol. 8, No. 2 (March 2010), pp. 84-91  
Published by: Wiley  
Stable URL: <http://www.jstor.org/stable/20696434>  
Accessed: 04-08-2016 20:52 UTC

## REFERENCES

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# Ecosystem services across borders: a framework for transboundary conservation policy

Laura López-Hoffman<sup>1,2,3\*</sup>, Robert G Varady<sup>1</sup>, Karl W Flessa<sup>4</sup>, and Patricia Balvanera<sup>3</sup>

International political borders rarely coincide with natural ecological boundaries. Because neighboring countries often share ecosystems and species, they also share ecosystem services. For example, the United States and Mexico share the *provisioning service* of groundwater provided by the All-American Canal in California; the *regulating service* of agave crop pollination by long-nosed bats; and the aesthetic value of the North American monarch butterfly, a *cultural service*. We use the Millennium Ecosystem Assessment (MA) to elucidate how drivers in one country can affect ecosystem services and human well-being in other countries. We suggest that the concept of ecosystem services, as articulated by the MA, could be used as an organizing principle for transboundary conservation, because it meets many of the criteria for successful transboundary policy. It would frame conservation in terms of mutual interests between countries, consider a diversity of stakeholders, and provide a means for linking multiple services and assessing tradeoffs between uses of services.

*Front Ecol Environ* 2010; 8(2): 84–91, doi:10.1890/070216 (published online 26 Mar 2009)

International political borders traverse ecosystems and cross watersheds, and rarely coincide with natural ecological boundaries. Many species of mammals, reptiles, birds, and insects regularly migrate across international borders (López-Hoffman *et al.* 2009). When neighboring countries share ecosystems, species, and ecosystem processes, they also share ecosystem services. Because the well-being of humans depends on the services provided by ecosystems (Daily 1997), when countries share such services, the welfare of their citizens is linked.

We present three case studies of ecosystem services shared by the United States (US) and Mexico to highlight

the need for strategies to sustainably manage transboundary services. We suggest that the concept of ecosystem services, as developed by the Millennium Ecosystem Assessment (MA), could be used as an organizing principle for transboundary conservation, because it meets many criteria of successful transboundary policy: it frames conservation in terms of mutual interests, considers a diversity of stakeholders, and provides a means for linking multiple services and assessing tradeoffs between uses of services.

While this is not a review of US–Mexico transboundary environmental policy, the discussion is timely, given the recent construction of a border wall that divides the two countries (Córdova and de la Parra 2007). At this time, it is particularly important to understand how the ecosystem services shared by the two countries transcend the border wall, and even the border region itself.

## In a nutshell:

- Neighboring countries share ecosystem services
- Actions and policies in one country can affect ecosystem services and human well-being in another
- The US and Mexico share provisioning services (such as water), regulating services (such as crop pollination), and cultural services of migratory species (such as monarch butterflies)
- The transboundary services shared by the US and Mexico extend far beyond the border region
- The Millennium Ecosystem Assessment framework should be used as an organizing principle for transboundary conservation policy

## ■ Conceptual framework

The MA is an international initiative to elucidate the relationship between ecosystems and human well-being. To characterize this relationship, the MA developed a conceptual framework for evaluating the complex interactions between ecosystems, the services they provide, and human quality of life (ie basic material for a good life, health, positive social relations, and security; Figure 1). The MA identifies two types of drivers of ecosystem change: indirect (ie social transformation, such as population growth, technology, and lifestyle) and direct (ie manipulation or management of ecosystems). We have adapted the MA to show how drivers in one country can affect ecosystem services and human welfare in a neighboring country (or in both countries, and not just in the

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border zone) and how stakeholder interventions may have consequences across international borders (Figure 2).

The MA identifies four types of ecosystem services. *Provisioning services* are material benefits to humans, such as water or food. Processes such as pollination and disease control are described as *regulating services*. Biodiversity maintenance and nutrient cycling are *supporting services*. *Cultural services* are those aspects of species and ecosystems that provide humans with recreational, spiritual, or religious experiences (MA 2003).

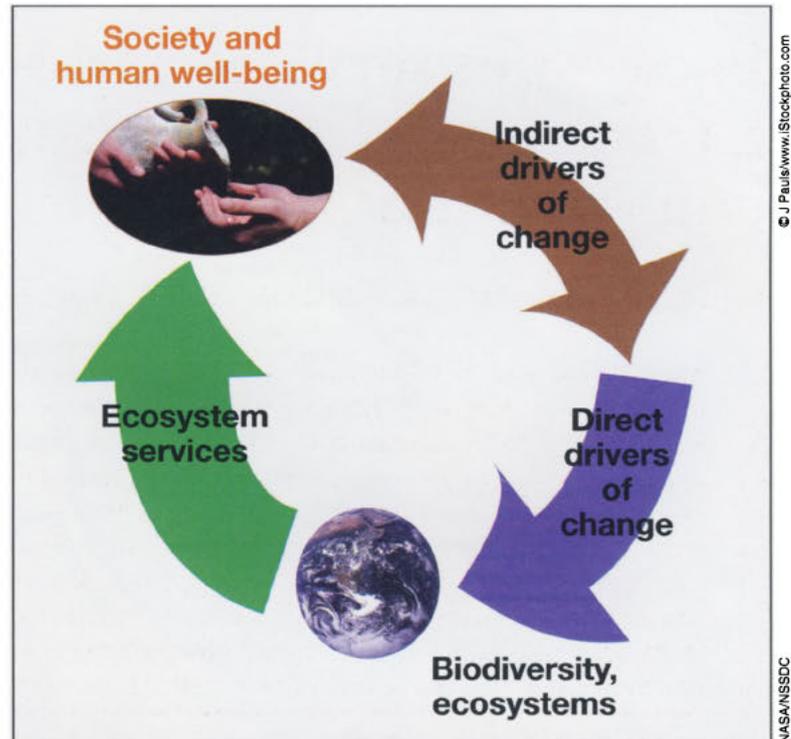
Using existing data from published research, including data from governmental and non-governmental organization (NGO) databases, we have assembled three case studies of ecosystem services shared by the US and Mexico: (1) the *provisioning service* of shared groundwater provided by the All-American Canal in California; (2) the *regulating service* of agave crop pollination by long-nosed bats; and (3) and *cultural services*, such as the aesthetic value of the North American monarch butterfly.

### ■ Case studies

#### *Provisioning services*

The All-American Canal (AAC), constructed in 1942, diverts water from the Colorado River to California's Imperial Valley (Figure 3). Annually, millions of cubic meters of water seep from the unlined dirt canal, filtering into an aquifer beneath Mexico's Mexicali Valley. The leaked water accounts for 10–12% of the aquifer's annual recharge (Bureau of Reclamation 1994). This is an unintended addition to Mexico's official Colorado River allotment under the 1944 Water Treaty. For 60 years, this leaked water has provided substantial economic benefits to people living in the Mexicali Valley (Cortéz-Lara and García-Acevedo 2000; Sánchez Munguía 2006). In addition, the seepage has created new habitats that support biodiversity; 6000 ha of wetlands have formed on Andrade Mesa, 3500 ha of which are in Mexico. The wetlands provide critical habitat for endangered and protected species, including the Yuma clapper rail (*Rallus longirostris yumanensis*, endangered in the US), the large-billed savannah sparrow (*Passerculus sandwichensis rostratus*, protected in Mexico), the gull-billed tern (*Gelochelidon nilotica*, a "Species of Special Concern" in California), and at least three other species that rarely breed elsewhere (Hinojosa-Huerta *et al.* 2002).

However, on the US side of the border, for years, heavy water users have called for the US Bureau of Reclamation to stem the transborder flow of water into Mexico. To supply more water to the city of San Diego, the Bureau is lining the AAC with cement, which will reduce annual water seepage by 83.5 million cubic meters. Although the

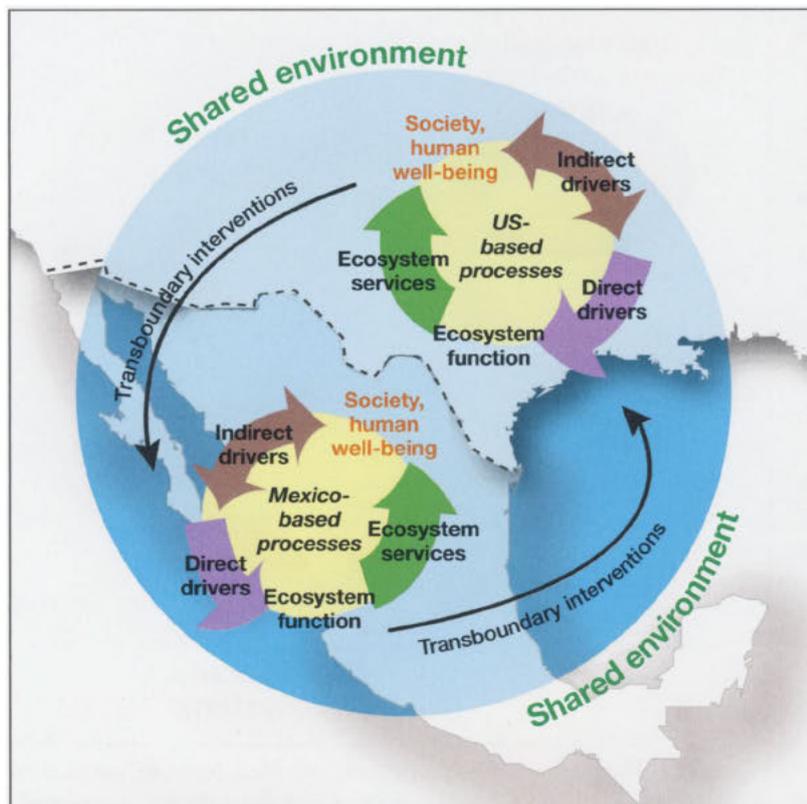


**Figure 1.** The MA (2003) framework, modified from the original to emphasize the relationship between indirect and direct drivers, ecosystems, and the services they provide, and human society and well-being.

Bureau's Environmental Impact Assessment considered the effect on wetlands in Mexico, its recommendations only addressed wetland mitigation in the US (Bureau of Reclamation 2006).

In 2005, a partnership between Mexican business and civic leaders and two US environmental NGOs filed a lawsuit in the US district court, asserting that lining the AAC would make the aquifer "completely unusable" for the 1.3 million residents of the Mexicali Valley, and that it would harm the local economy, destroy important wetlands, and negatively impact associated wildlife in Mexico (California Water Reporter 2006). In July 2006, the court dismissed the lawsuit, asserting that the protections of the US Constitution and Fifth Amendment do not apply to aliens outside US territory and that disputes over international water treaties should be resolved by diplomatic means (California Water Reporter 2006). In mid-2007, the Bureau of Reclamation began lining the AAC.

There are currently no adequate means for dealing with groundwater conflicts on the Mexico–US border. The 1944 Water Treaty mandated that the binational International Boundary and Water Commission (IBWC) distribute the surface waters of the Colorado River, but did not address groundwater. In 2006, the Mexican section of IBWC formally opposed the lining of the AAC, but it was powerless to intervene because the canal lies wholly within the US. Differences in water management, historically federal-level in Mexico and state-level in the US (Mumme 2000), and the "invisible" nature of groundwater (Ingram 2000) have also contributed to the lack of



**Figure 2.** The MA (2003) framework, adapted to explain transboundary ecosystem services shared by the US and Mexico. Two drivers of ecosystem change, indirect (ie socioeconomic factors such as population level, technology, and lifestyle) and direct (ie direct manipulation or management of ecosystems), impact ecosystem components and processes, in turn affecting ecosystem services. In a transboundary situation, people in one country can intervene across borders, affecting the delivery of ecosystem services in another country.

binational groundwater management. In 2007, the US Congress passed legislation promoting cooperation between appropriate entities in the US and Mexico for mapping and modeling priority transboundary aquifers (House Bill 469, Senate Bill 214, 109th Congress). It is possible that this act could eventually morph into a binational groundwater treaty, to address problems such as those posed by the AAC.

In this case study, the indirect drivers of the reduction in water supply to Mexico are San Diego's growing population and a US lifestyle of intensive water consumption. The actions of parties on both sides of the border affected those on the other side; stakeholders in the US will create water shortages in Mexico by lining the canal, while those on the Mexican side participated in a lawsuit, filed in the US, in an attempt to protect their ecosystem service.

### Regulating services

Two species of endangered, long-nosed bats (genus *Leptonycteris*) are the principal pollinators of blue agave (*Agave tequilana*), the main ingredient of tequila. The regulating services provided by these bats are therefore important for healthy agave crops (Arita and Wilson 1987;

Eguiarte and Arita 2007; Figure 4). Mexican corporate producers currently propagate agave plants vegetatively, rather than allowing natural pollination and reproduction to take place (the agave heart, which is cooked and distilled, has a higher sugar content if the plant is prevented from flowering). Today, most large agave plantations cultivate only one or two genetic varieties. In the late 1980s, and again in 1996–1997, the genetically homogeneous crops were devastated by pathogens, resulting in substantial economic losses (Valenzuela-Zapata and Nabhan 2003). Higher genetic diversity is related to disease resistance; if bats were allowed to pollinate agave naturally, cross-pollination between different plants would lead to higher genetic diversity and increased pathogen resistance (Arizaga *et al.* 2002). Unless measures are taken to increase the genetic diversity of agave crops, they will continue to be devastated by pathogens (Valenzuela-Zapata and Nabhan 2003).

Several direct drivers threaten the survival of long-nosed bats. Many bats of these species spend the summer in caves in northern Mexico and the southwestern US, from Texas to Arizona (Medellín and Walker 2003). Millions have been burned, dynamited, or barred from their roosts by ranchers who mistake them for vampire bats. Bat caves have also been destroyed by urban development, highway construction, and vandals (Walker 1995). In the 1980s, a colony in Texas' Big Bend National Park declined in numbers by 90% (BCI 1988). Until the US Border Patrol installed fencing, long-nosed bats in the Cabeza Prieta National Wildlife Refuge in Arizona were being driven from their caves by human smugglers transporting undocumented migrants across the border (J Montoya pers comm).

In Mexico, large corporate tequila producers and small traditional artisans are pursuing different types of interventions. Although corporate producers are aware of the importance of genetically diverse agave crops, they are seeking to replace bat pollination services with technological solutions (Dalton 2005). Small-scale, artisanal tequila producers use many genetic variants of *A tequilana*, as well as other agave species, such as *Agave angustifolia* (Colunga-GarcíaMarín and Zizumbo-Villarreal 2006). They are interested in collaborating with conservation biologists to develop long-term solutions to bat conservation in both Mexico and the US (R Medellín pers comm). In this example, several indirect drivers – increased urban development and highway construction due to population growth in both countries, cultural fears of bats, and the consequence of undocumented workers crossing the border – have caused the destruction of bat

habitat, the direct driver of declining long-nosed bat populations (Medellín 2003).

### Cultural services

One of the most profound examples of aesthetic fulfillment from nature is the sense of awe that people from Canada to Mexico experience when they witness the extraordinary migration of the monarch butterfly (*Danaus plexippus*). Every fall, more than 100 million monarch butterflies migrate from Canada and the US to southern Mexico, alighting in oyamel fir (*Abies religiosa*) forests on ten small mountaintops. Over the past 10 years, ecotourism in Mexico has increased, as more people are drawn to the spectacular sight of forests laden with butterflies (Figure 5).

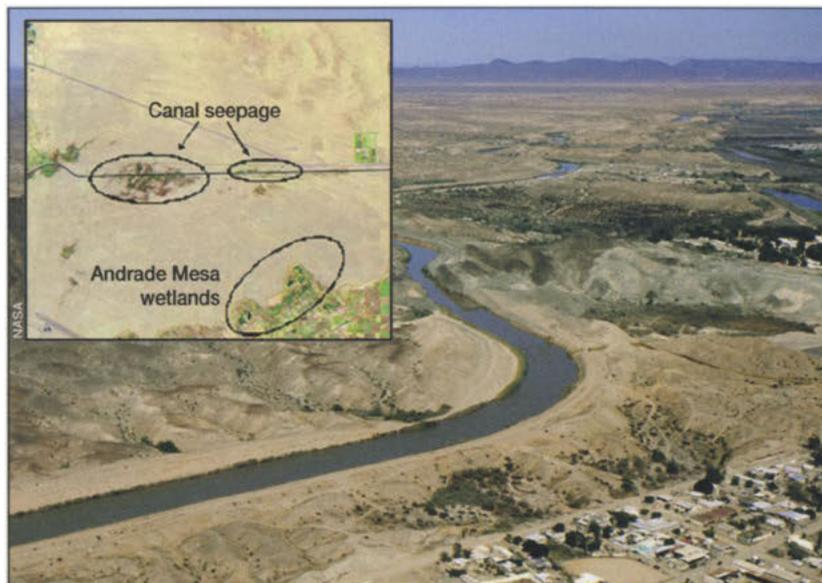
Throughout their range, however, monarch butterflies are in jeopardy. Their winter habitat in Mexico is threatened by illegal logging in the fir forests (Galindo-Leal 2006). In the species' US and Canadian summer grounds, there are indications that pollen from corn transgenically engineered to express insecticidal proteins may harm butterflies and other insects (Jesse and Obrycki 2000). In Canada, milkweed (*Asclepias* spp), the monarch's primary host plant and food source, is considered a noxious weed, and has been designated for eradication. In the US, intensive agricultural practices have reduced native vegetation around fields, inducing the loss of the milkweed plants that fuel the butterflies' fall migration to Mexico (Brower et al. 2006).

To date, monarch conservation efforts have largely focused on Mexico. In 1986, the Mexican government proclaimed the monarch overwintering sites as a Biosphere Reserve and prohibited logging. Using a direct payment approach, US and Canadian NGOs recently began paying local people to forgo logging in forests where the butterflies spend the winter (Missrie and Nelson 2005). Despite these efforts, deforestation seems to be increasing in the reserve (Galindo-Leal 2006). Until recently, relatively less attention has been given to protecting the butterflies in their summer sites in the US and Canada, although NGOs have been encouraging the cultivation of milkweed plants by providing gardeners with seeds and instructions for creating butterfly gardens (Monarch Watch 2007).

In Mexico, the indirect drivers of declines in monarch butterfly numbers are poverty and constrained law enforcement, resulting in illegal logging. In the US and Canada, intensive agricultural practices and weed-control policies are linked to declining butterfly populations.

### Scale and range of transborder services

These case studies demonstrate that transborder ecosystem services range far beyond political boundaries. The



**Figure 3.** The All-American Canal. In the Landsat image (inset), seepage from the canal and the Andrade Mesa wetlands in Mexico are labeled. Inset modified by A Hinojosa.

North American Agreement on Environmental Cooperation (NAAEC), a provision of the North American Free Trade Agreement (NAFTA), delineated the US–Mexico border region as a 100-km-wide band on either side of the political boundary (Varady et al. 1996). The 200-km-wide strip, designated as a zone for environmental infrastructural investment, has thus been commonly assumed – mistakenly, we believe – to represent the



**Figure 4.** A long-nosed bat (*Leptonycteris yerbabuena*), a pollinator of the agave plant.



M. Ramírez

**Figure 5.** Monarch butterflies roosting in Michoacán, Mexico.

limit of the ecological connection between the two countries. In fact, most studies of the transborder environmental connections between the US and Mexico have focused on the geographically narrow border region (Herzog 2000; Fernandez and Carson 2002; Hoffman 2006a).

In our first example, the environmental impact of shared canal water is geographically limited by the physical drainage basin, but the bat and butterfly examples clearly demonstrate that the services shared by the US and Mexico range far beyond the border (Figure 6). We suggest that the scale of ecological connection between countries should be delimited by the size of the ecosystem or the scale of the ecological processes and services in question. For services provided by migratory species, the scale is determined by the species' distribution range.

We have presented only three case studies of ecosystem services shared by the US and Mexico. However, there are other, equally compelling examples. For example, the Santa Cruz River, which flows northward from Nogales, Mexico, is critical for biodiversity in the Tumacacori region of Arizona. Some Arizonans fear that Nogales might follow the example of San Diego and stop the transboundary flow of water. In addition, the conservation status in Mexico of the Brazilian free-tailed bat (*Tadarida brasiliensis*) is critical for cotton crop pest regulation in Texas and Arizona (Cleveland *et al.* 2006).

## Discussion

The AAC, long-nosed bat, and monarch butterfly case studies demonstrate that ecosystem services shared by the US and Mexico are fundamental for human well-being in both countries. Given the importance of ecosystem services shared by neighboring countries, strategies to sustainably manage transboundary services are urgently needed. The concept of ecosystem services as articulated by the MA could be used as an organizing principle for transboundary conservation, because it meets many criteria of successful transboundary policy: it frames conservation in terms of mutual interests, considers a diversity of stakeholders, and provides a means for linking multiple services, assessing tradeoffs between uses of services, and monitoring changes in services (*sensu* Susskind *et al.* 2002; Wolf 2007).

### Mutual interests

Scholars of transboundary environmental policy agree that successful policy is best achieved when the discussion is framed in terms of mutual interests instead of rights and needs. They point out that something in the mutual interest of two countries gives both countries incentives to work together, rather than against one another (Mumme 2000; Susskind *et al.* 2002; Hoffman 2006b; Wolf 2007). The notion of interest – importance to human well-being – is inherent in the ecosystem service concept (MA 2005). If transboundary conservation problems were framed as the conservation of shared ecosystem services, as in Figure 2, the discussion would be transformed into one of mutual interest between countries.

The monarch butterfly is a timely example of transboundary conservation being reframed as one of mutual interest between nations. Although drivers of change in monarch populations have been occurring in all three countries, until recently, the most important conservation interventions focused on Mexico and on the Mexican government's failure to halt logging in the monarch's winter grounds (Missrie and Nelson 2005; Galindo-Leal 2006). However, in April 2008, in recognition of the monarch's status as a cultural symbol throughout North America, the trilateral Commission for Environmental Cooperation (CEC) and World Wildlife Fund-Mexico launched an effort to identify drivers of monarch decline and prioritize areas for habitat conservation throughout the entire North American migratory flyway (CEC 2008). In the monarch example, the mutual interests of the US and Mexico in conserving the butterfly align; efforts to protect monarchs in one country will benefit stakeholders in all countries.

In the case of the AAC, it has been very difficult to

reach agreements in the mutual interest of both countries that are considered fair and equitable by all parties (Mumme 2008). This is due in part to the nature of the service; because water is finite, efforts to increase water on one side of the border necessarily dictate a decrease on the other side. In such situations where binational interests do not align well, innovative approaches, such as new institutions, legal structures, or creative transboundary collaborations, may be used to find common ground.

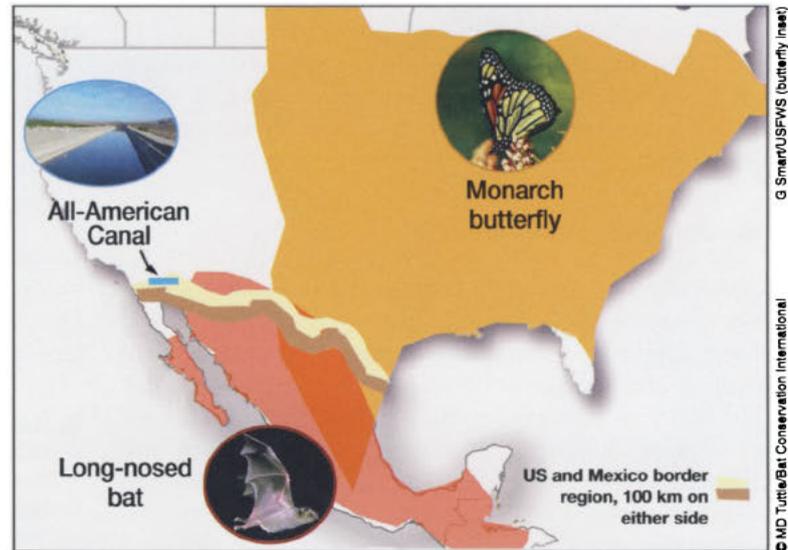
A creative solution to the AAC situation might involve transboundary payments for ecosystem services. Stakeholders in the US and Mexico who are concerned about the loss of biodiversity in Mexico's Andrade Mesa wetlands could buy existing Colorado River water rights in Mexico, and dedicate the water to wetland protection. Mexico's national water law was recently amended to allow for "environmental use". Income from selling existing water rights might partially offset Mexican agricultural losses due to groundwater reductions. Two NGOs, the US-based Sonoran Institute and Mexico's Pronatura Noroeste, are using a similar approach to secure water for restoring the Colorado River delta (Zamora-Arroyo *et al.* 2008).

### Multiple stakeholders

An advantage of using the MA as a foundation for transboundary environmental policy is that it recognizes that stakeholders differentially benefit from ecosystem services (Maass *et al.* 2005). In discussions of transboundary water policy, the interests of stakeholders within countries are often treated as homogeneous – the conversation is framed as "the US wants..." or "Mexico feels..." (sensu Wolf 2007). This masks the differing uses of and attitudes toward ecosystem services among groups of stakeholders. For example, in the agave pollination case study, corporate and small-scale tequila producers in Mexico value bat regulating services very differently; corporate producers are trying to replace pollination services, while artisanal producers are trying to protect bats and the ecosystem services they provide.

### Interactions between services

A strength of the MA conceptual framework is that it considers interactions between ecosystem services and how they may depend on ecological and social processes operating at different spatial scales (MA 2003; Rodríguez *et al.* 2005). In most transboundary environmental policies, different types of issues are usually managed separately – for example, water issues are dealt with in water treaties and migratory species in migratory species treaties (Hoffman 2006b; Wolf 2007). Transboundary water policy scholars have begun to realize that water treaties that ignore other



**Figure 6.** Alternative perspectives on the conceptual dimensions of the US–Mexico border: the 200-km-wide border strip is shown in brown and beige; the potential area of influence of water from the All-American Canal is in blue; the long-nosed bat species distribution is rose colored; and the monarch butterfly range is in gold. Geographic representations not to scale.

issues and resources either fail or result in suboptimal and inequitable arrangements (Wolf 2007). When linkages are made between water and other resources, creative solutions with greater benefits to stakeholders can be devised (Sadoff and Gray 2002). In a multi-service treaty based on the MA conceptual framework, the management of a fundamental provisioning service, like water, could be tied to the protection of regulating and supporting services. For example, a treaty might mandate that no changes in water provisioning could be undertaken without considering the effects on other types of services.

In the AAC case study, Mexican stakeholders attempted to tie the loss of provisioning water services to the loss of supporting services for bird habitat. In addition to claiming loss of property (ie water), their lawsuit also claimed that the canal lining would violate the US Endangered Species and National Environmental Policy Acts (NEPA) and the Migratory Bird Treaty by harming the Andrade Mesa wetlands. A 2006 US Congressional waiver prevented the district court from determining the merits of those claims. Had the underlying treaty considered the importance of water for other resources and services, concerns about the loss of wetland habitat might not have been so easily dismissed.

### Tradeoffs

The MA provides a framework for identifying the tradeoffs between multiple uses of ecosystem services and between uses by different stakeholders (Hassan and Scholes 2005; Maass *et al.* 2005; Rodríguez *et al.* 2006). In the AAC example, there is a tradeoff in how water is used – currently, water is being allocated to agriculture and municipal uses in California to the detriment of supporting bio-

diversity in both the US and Mexico. For corporate tequila producers, there is a tradeoff between production efficiency and susceptibility to pathogens – cloned agave plants have higher sugar contents but lower genetic diversity and increased susceptibility to pests.

### Monitoring drivers of change

Given the importance of transboundary ecosystem services, mechanisms for monitoring the indirect and direct drivers that affect the provisioning of ecosystem services and human welfare across borders are needed. The MA provides an effective conceptual framework for monitoring drivers of ecosystem change (Hassan and Scholes 2005). It will be critical for the US and Mexico to monitor the drivers changing their shared environment. Although the case studies represent different types of ecosystem services, a common set of drivers is affecting the services and their delivery – growing human populations and concomitant urbanization along with land-cover changes and more intensive uses of land on both sides of the border. In the AAC example, increased water demands from southern California's growing population will decrease water supply in Mexico. In the bat and butterfly examples, urbanization as well as both intensive and extensive land use are degrading critical habitat supporting the service. In all case studies, land-use change in one country is affecting stakeholders in the other country.

### Conclusion

We have used three examples from the US and Mexico to demonstrate that neighboring countries share ecosystem services. The water flowing across the US–Mexico border through rivers and aquifers provides vital provisioning and supporting services in both countries. Species such as bats and butterflies may migrate many hundreds of kilometers across the border, providing critical regulating and cultural services to people in both countries.

Given the importance of transboundary ecosystem services, strategies for managing shared services are urgently needed. The concept of ecosystem services, as articulated by the MA, could be used as an organizing principle for transboundary conservation. The MA provides a way of framing transboundary conservation in terms of mutual interest between countries. In some cases, the mutual interests of the countries will align well, as in the example of the monarch butterfly. In situations such as the AAC, the interests of the two nations are not so well aligned. In such cases, creative and innovative approaches to transboundary collaboration – new institutions and legal structures and payments for transboundary ecosystem services – are needed. Given the importance of transboundary ecosystem services to human well-being, it is in the interest of neighboring countries, such as Mexico and the US, to develop perma-

nent, long-term strategies to equitably manage shared ecosystem services.

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## Chertoff's monster

What do gila monsters and Secretary of Homeland Security Michael Chertoff have in common? Other than persistence, very little. US immigration policy – once described as “squeezing a balloon” (ie shifting emphasis from one sector to another) – and environmental policy seem to have become disparate as well. The fence now under construction along the US–Mexico border is the most recent intra-governmental standoff between the National Environmental Policy Act (NEPA) and another governmental function, immigration control by the Department of Homeland Security (DHS). NEPA has, as its basis, the mission “to declare a national policy which will encourage...harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere...[and] to enrich the understanding of the ecological systems and natural resources important to the Nation”. Immigration policy in the Sonoran Desert is designed to stop criminal activity, and NEPA's harmonious nature is being tested again.

In what most see as an aggressive action to comply with the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 and the Secure Fence Act of 2006, installation of fencing, barriers, roads, lighting, cameras, and sensors was mandated. The DHS announced in early April decisive moves to finish 370 of almost 700 miles of barriers on the approximately 1969 miles of the border with Mexico by the end of 2008, and that it would exercise waivers built into the fence statute to suspend federal and state environmental laws to meet that goal. Chertoff argued that Congressional authority under IIRIRA justified the waiver: “Congress and the American public have been adamant that they want and expect border security”, and, in addition to security risks and the flow of illegal immigrants, “Illegal border traffic has also caused severe and profound impacts to the environment”.

The statement alluded to completed draft Environmental Impact Statements (EIS), and Chertoff promises an environmental accounting by year's end to “carefully identify natural, biological, and cultural resources potentially affected by construction of border barriers, and...ways to reduce and mitigate the impacts”. In the meantime, the otherwise strict EIS requirements go by the wayside. Last year, the Sierra Club and Defenders of Wildlife filed a suit challenging the construction of fencing on the San Pedro Riparian National Conservation Area in Arizona. A federal judge issued an injunction against construction in October; however, the DHS trumped the injunction with a congressionally authorized waiver of environmental restrictions, issued on October 26, 2007. In March of this year, the environmental groups, expounding the view that environmental laws were just “a bother to the Bush Administration”, peti-

tioned the US Supreme Court to find that waivers are unconstitutional, unlawfully giving the executive branch of government legislative power.

Passed in 1969, NEPA was designed to ensure that federal projects would be reviewed to assess their potential environmental harm. The law requires federal agencies to integrate environmental awareness and values into decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies are required to prepare a detailed EIS for each such project. The US Environmental Protection Agency (EPA) reviews and comments on EISs prepared by other federal agencies. Congress can, in unusual and emergency situations, waive NEPA compliance to counterbalance unnecessary delays in an essential project, but such waivers must be fully vetted. Earlier this year, a federal court struck down a waiver issued by the White House that would have exempted the US Navy

from complying with the Coastal Zone Management Act during sonar training exercises off of southern California.

With the waivers in place, one might ask, what does the fence have to do with the environment? The answer is, plenty. At issue now is that the fence, designed to keep out criminals, illegal immigrants, terrorists, and so forth, also disturbs the natural ecological immigration of fauna. Some commentators believe that the fence is a waste of money, and will do nothing to stem the flow of cross-border migrants. On the other hand, the border spans the Sonoran Desert, wilderness areas such as Cabeza Prieta National Wildlife Refuge, the Organ Pipe Cactus National Monument, and the San Pedro Riparian National Conservation Area, and the effects on those areas are already clearly visible.

Ecosystems, of course, know no borders, and a number of endangered and threatened species live in this environment shared by Mexico and the US, including jaguars, ocelots, jaguarundis, gila monsters, and Sonoran pronghorns, among others; one ecologist has described the fence as “a Great Wall of Arizona”. The fence, argue environmental groups, and even some Members of Congress, will cut off migration routes for many of these species and will bisect a series of dry washes. During monsoon season, water will pool behind the fence foundations, causing erosion that could eventually alter existing willow forests and other habitat.

So, given the outcry, we may soon see who has the most tenacious bite – Chertoff, or our old friend, the gila monster.

**Douglass F Rohrman  
DLAPiper US, LLP**





Kimbrough, Monica &lt;monica\_kimbrough@fws.gov&gt;

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**Fwd: Copy of incoming RO mail re: Notice of Violation of Env. Laws re: Border Wall Lower Rio Grande, TX**

1 message

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**Jess, Robert** <robert\_jess@fws.gov>

Thu, Oct 26, 2017 at 8:47 AM

To: Monica Kimbrough &lt;monica\_kimbrough@fws.gov&gt;, Sonny Perez &lt;sonny\_perez@fws.gov&gt;, Bryan Winton &lt;bryan\_winton@fws.gov&gt;

FYI

----- Forwarded message -----

From: **Ardizzone, Chuck** <chuck\_ardizzone@fws.gov>

Date: Thu, Oct 26, 2017 at 6:02 AM

Subject: Fwd: Copy of incoming RO mail re: Notice of Violation of Env. Laws re: Border Wall Lower Rio Grande, TX

To: Ernesto Reyes &lt;ernesto\_reyes@fws.gov&gt;, Robert Jess &lt;robert\_jess@fws.gov&gt;

Cc: Dawn Gardiner &lt;dawn\_gardiner@fws.gov&gt;

FYI

**Chuck Ardizzone**

Project Leader

Texas Coastal Ecological Services

U.S. Fish &amp; Wildlife Service

17629 El Camino Real, Ste 211

Houston, TX 77058

W: (281) 286-8282 Ext 228

C: (713) 882-1912

F: (281) 488-5882

----- Forwarded message -----

From: **Baker, Denise** <denise\_baker@fws.gov>

Date: Wed, Oct 25, 2017 at 7:02 PM

Subject: Copy of incoming RO mail re: Notice of Violation of Env. Laws re: Border Wall Lower Rio Grande, TX

To: Chuck Ardizzone &lt;chuck\_ardizzone@fws.gov&gt;, Dawn Gardiner &lt;dawn\_gardiner@fws.gov&gt;, David Hoth &lt;david\_hoth@fws.gov&gt;, Melanie Ruiz &lt;melanie\_ruiz@fws.gov&gt;, Kelly McDowell &lt;kelly\_mcdowell@fws.gov&gt;

See attached.

**Denise Baker**

Division Chief, Environmental Review

Ecological Services, Southwest Region

U.S. Fish &amp; Wildlife Service

P.O. Box 1306, Albuquerque, NM 87103

505-248-6681, mobile 505-681-6387

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robert jess  
project leader  
south texas refuge complex  
alamo, texas



**BorderWall Lower RG Texas complaint.pdf**

2280K



OCT 16 2017

October 4, 2017

The Honorable Elaine C. Duke  
Secretary (Acting)  
United States Department of Homeland Security  
Washington, D.C. 20528

Jim Kurth  
Director (Acting)  
United States Fish and Wildlife Service  
1849 C Street, N.W.  
Washington, D.C. 20240

Kevin K. McAleenan  
Commissioner (Acting)  
United States Customs and Border Patrol  
1300 Pennsylvania Ave. N.W.  
Washington, D.C. 20229

(b) (6), (b) (7)(C)

Chief Patrol Agent, Rio Grande Valley Sector  
United States Customs and Border Patrol

(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)

**Sent via Certified Mail**

**Notice of Violations of Environmental and Constitutional Laws**

Dear Secretary Duke, Director Kurth, Commissioner McAleenan, and Chief

(b) (6).

We represent the North American Butterfly Association (“NABA”). On its behalf, we are providing you notice that the Department of Homeland Security (“DHS”) and its component agency U.S. Customs and Border Protection (“CBP”) (collectively, “the Agencies”) are in violation of the National Environmental Policy Act (“NEPA”)<sup>1</sup> and the Endangered Species Act (“ESA”).<sup>2</sup> This letter additionally provides notice of unconstitutional takings caused by the Agencies’ unannounced and unauthorized interference with NABA’s property, as well as consistent harassment of NABA’s employees and visitors on the basis of protected status.

<sup>1</sup> 42 U.S.C. § 4321 *et seq.*

<sup>2</sup> 16 U.S.C. § 1531 *et seq.*

As part of its activities, NABA owns and operates the National Butterfly Center (the "NBC") in Mission, Texas. In July 2017, Marianna Wright, Executive Director of the NBC, discovered CBP contractors widening a roadway on NABA property; elsewhere in the property, she discovered surveyor flags. She quickly contacted CBP, which first denied its involvement and then asserted its blanket authority for the invasion. (b) (6), (b) (7)(C) Chief Patrol Agent for the Rio Grande Valley Sector of CBP, told Ms. Wright that a proposed "border wall" would be built through NABA property. He added that additional large areas of the NBC would be cleared for secondary roads and government operations. Moreover, Chief (b) (6), (b) (7)(C) admitted that "sensors" had been placed throughout the NBC. He would not disclose their type or location.

NABA demands that the Agencies immediately cease preparation and construction on NABA property; engage in consultations with NABA regarding agency entrance and activity on NABA property; and cease discriminatory conduct against employees and individuals, as well as provide appropriate remedies therefor. This notice is not required for NABA's NEPA and constitutional claims. NABA issues this notice with a full reservation of rights, including the right to amend, update, modify, supplement, or otherwise revise this notice in any respect at any time. The issue of this notice is not a waiver or release of any of NABA's rights against any person, entity, or property, and this notice does not encompass all claims that NABA may have, arising either before or after the issue of this notice.

## **I. Background**

NABA is a New York State nonprofit 501(c)(3) organization headquartered in Morristown, New Jersey, whose mission is to conserve butterflies and their habitats. NABA owns and operates the NBC. The 100-acre NBC is the premier place in the United States to see and learn about wild butterflies. It is visited by tens of thousands of people each year, including thousands of local schoolchildren, who come to learn about nature and the environment. On a given day, one can see 100 species of wild butterflies and as many as 200,000 individual butterflies at the NBC, each of which is at the NBC of its own volition. The NBC is a part of the United States Fish and Wildlife Service's Lower Rio Grande Valley Wildlife Corridor, and its land reaches the Rio Grande River.

Proposed border-wall construction would cut off two-thirds of the NBC, destroying the Center and leaving behind a 70-acre no-man's land between the proposed border wall and the Rio Grande. No agency of the United States government, whether DHS, CBP or otherwise, contacted NABA prior to entering the NBC to begin construction. Nor has any agency of the United States government contacted NABA since.

## II. Claims

### A. The National Environmental Policy Act

NEPA<sup>3</sup> is “the basic national charter for protection of the environment.”<sup>4</sup> It mandates, among other requirements, that all agencies of the federal government include, “in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment,” a “detailed statement by the responsible official on . . . the environmental impact of the proposed action,”<sup>5</sup> as well as “any adverse environmental effects which cannot be avoided should the proposal be implemented, alternatives to the proposed action, . . . [and] any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.”<sup>6</sup>

The Supreme Court has stated that the preparation of an environmental impact study (“EIS”) promotes NEPA’s broad environmental objectives in key regards. Preparing an EIS ensures that the agency, “in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts.”<sup>7</sup> “[P]erhaps more significantly,” the preparation of an environmental impact statement “provides a springboard for public comment,” so studies reflect the work not only of the agencies themselves, but also “the critical views” of stakeholders.<sup>8</sup> Where, as here, potential adverse impacts on air quality, waters, an international boundary, and fauna, will be subject to regulation by other governmental bodies, the EIS “serves the function of offering those bodies adequate notice of the expected consequences and the opportunity to plan and implement corrective measures in a timely manner.”<sup>9</sup>

The Agencies have flaunted NEPA’s requirements. They have not studied environmental issues, provided environmental impact statements or even environmental assessments, demonstrated consultation with other agencies, or otherwise taken steps to ensure regulatory compliance.<sup>10</sup> Their failure to conduct any environmental analysis or provide records to the public if such an analysis has occurred undermines NEPA’s specific requirements, as well as its dual purposes

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<sup>3</sup> 42 U.S.C.A. § 4321 *et seq.*

<sup>4</sup> 40 C.F.R. § 1500.1(a).

<sup>5</sup> 42 U.S.C.A. § 4332(C).

<sup>6</sup> *Id.*

<sup>7</sup> *Robertson v. Methow Valley Citizen Council*, 490 U.S. 332, 349 (1989).

<sup>8</sup> *Id.* at 349-350.

<sup>9</sup> *Id.* at 350.

<sup>10</sup> 40 C.F.R. § 1501 *et seq.*

of better informing agency decision-making so that potential environmental impacts can be avoided or mitigated.

## B. Endangered Species Act

Every federal agency is required by the ESA<sup>11</sup> to insure, in consultation with the United States Fish and Wildlife Service, “that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species.”<sup>12</sup> Once a species of plant or animal is listed as threatened or endangered, the ESA provides a variety of procedural and substantive protections to guarantee not only the species’ continued survival, but its ultimate recovery. To that end, the ESA mandates that federal agencies avoid actions that jeopardize listed species or destroy or adversely modify designated critical habitat.<sup>13</sup>

As a preliminary matter, each federal agency must review its actions “at the earliest possible time” to determine whether any action “may affect listed species or critical habitat.”<sup>14</sup> If such effect is possible, formal consultation with the Fish and Wildlife Service is required.<sup>15</sup> Through the consultation process, the Fish and Wildlife Service prepares a “biological opinion” as to whether proposed agency action jeopardizes species or modifies critical habitat and, if so, suggests “reasonable and prudent alternatives.”<sup>16</sup>

The Rio Grande Valley is a major bird migration corridor with over 500 species, and is the last remaining habitat for the endangered ocelot. The NBC itself is home to a number of endangered species. For example, the NBC partnered with the Fish and Wildlife Service to create a refugium for the Slender Rushpea (*Hoffmannseggia tenella*),<sup>17</sup> and is creating a 5-acre refugium for endangered Tamaulipan Kidneypetal (*Ayenia limitaris*).<sup>18</sup> The NBC is home to endangered Walker’s Manioc (*Manihot walkerae*).<sup>19</sup> It is home to threatened species like Texas Tortoises (*Gopherus berlandieri*),<sup>20</sup> Texas Horned Lizard (*Phrynosoma cornutum*),<sup>21</sup> and Texas Indigo Snakes (*Drymarchon melanurus*

<sup>11</sup> 16 U.S.C. § 1531 *et seq.*

<sup>12</sup> 16 U.S.C. § 1536(a)(2).

<sup>13</sup> *Id.*

<sup>14</sup> 50 C.F.R. § 402.14.

<sup>15</sup> *Id.*

<sup>16</sup> 16 U.S.C. § 1536(b)(3)(A).

<sup>17</sup> The Slender Rushpea was listed as endangered on November 1, 1985. 50 Fed. Reg. 45614, 45618.

<sup>18</sup> Texas *Ayenia* was determined to be endangered on August 24, 1994. 59 Fed. Reg. 43648, 43652.

<sup>19</sup> Walker’s Manioc was determined to be endangered on October 2, 1991. 56 Fed. Reg. 49850, 49854.

<sup>20</sup> Both the federal and Texas governments have determined the tortoise is threatened.

<sup>21</sup> Texas determined the lizards are threatened.

*erebennus*).<sup>22</sup> Additionally, there are a number of federally endangered aquatic species that live in the Mission Main Canal that flows through the NBC. Deprivation of these animals' habitats, and the construction of a barrier impeding access to food, water, and mates, threatens their continued existence.

The threshold for triggering an agency's duties under the ESA has been met.<sup>23</sup> Notwithstanding their clear obligations, the Agencies have failed to conduct any environmental analyses for the project. As a result, the scope of the impact of their conduct on endangered and threatened species and their habitats is unknown. The Agencies have failed to consult with the Fish and Wildlife Service, or to take any affirmative steps to conserve the threatened and endangered species that may be impacted by the project. These failures violate Section 7 of the ESA. Additionally, the Agencies have failed to conduct surveys or other investigations into endangered species present in the NBC. They may therefore cause needless harm to listed species. In the event these failures result in the taking of a listed species, the Agencies would violate Section 9 of the ESA.

### C. Deprivation of Property without Due Process of Law

For over 15 years, NABA has lawfully owned the 100-acre NBC, devoting significant time, effort, and expense to converting a commercial onion farm into a center for birds, butterflies, and other wildlife visited by tens of thousands of people per year.

The United States Constitution provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."<sup>24</sup> The Agencies have deprived NABA of its property without due process of law.

Without notification or authorization, CBP contractors entered the NBC and began destroying NBC property – cutting down trees and brush along a road through the center. The express purpose of this entry and destruction is to enable construction of a border wall. CBP further placed sensors throughout NABA property, constituting a permanent trespass and a deprivation of NABA's use and enjoyment of the NBC.

Although the United States government enjoys a limited easement for the purposes of constructing and maintaining levees for flood control purposes, the Agencies' conduct is outside the scope of these grants of permission. The Agencies enjoy no legal right to enter into or use NABA's property for the construction of a border wall. Further, nothing in the easements authorizes the

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<sup>22</sup> Texas determined the snakes are threatened.

<sup>23</sup> 16 U.S.C.A. § 1536(4).

<sup>24</sup> U.S. CONST. amend. V.

distribution, without NABA's knowledge and consent, of sensors throughout the NBC.

The Agencies, in their conduct and stated intentions, foreclose any doubt as to the purpose of the destruction of property and placement of sensors. The purpose is not the maintenance of levees. As such, the Agencies entered into NABA property without authorization or lawful basis.

The distribution of sensors throughout NABA property additionally constitutes an impermissible search under the Fourth Amendment. The Fourth Amendment provides that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated."<sup>25</sup> It is no matter that the evidence sought pertains to others – the placement of sensors, without authorization or disclosure of their location, serves as a constant search upon NABA property without legal authority or exigent circumstance. The Constitution cannot tolerate the Agencies' continual violation of NABA's rights.

#### D. Unlawful Discrimination on the Basis of Race and Ethnicity

Prior to and since the CBP's illegal activity in the NBC, CBP officials have engaged in a pattern and practice of discrimination against NBC employees and visitors on the basis of employees' and visitors' perceived race or ethnicity. The scope of the Agencies' illicit conduct in this regard is the subject of continued investigation. Stops and harassment of employees and visitors on the basis of perceived race and national origin constitutes a violation of these employees' and visitors' rights.

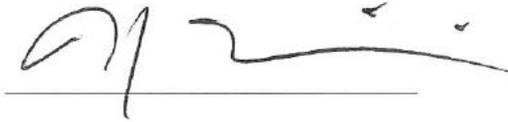
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<sup>25</sup> U.S. CONST. amend. IV.

**III. Conclusion**

NABA requests immediate cessation of border-wall preparation and construction activities on its property. NABA requests immediate disclosure of the location of all sensors, and, where necessary, costs for their removal. Should the Agencies fail to remedy the aforementioned violations within 60 days, NABA intends to pursue this matter in a federal district court. As prior notice is not required for NEPA or constitutional violations, NABA reserves the right to immediately pursue relief for those violations at any time. NABA further reserves all rights under law, equity, and any agreements with state and federal government.

Respectfully submitted,



Harry Zirlin

Debevoise & Plimpton, LLP  
919 Third Avenue  
New York, NY 10022  
(212) 909-6575

cc: Office of the General Counsel  
U.S. Department of Homeland Security

(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

ogc@hq.dhs.gov

(b) (6), (b) (7)(C)

Chief Counsel  
U.S. Customs and Border Protection

(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)



Kimbrough, Monica &lt;monica\_kimbrough@fws.gov&gt;

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**Fwd: Geotechnical Testing on Fish and Wildlife Lands in RGV**

1 message

**Reyes, Ernesto** <ernesto\_reyes@fws.gov>

Tue, Nov 21, 2017 at 1:14 PM

To: Kelly McDowell &lt;kelly\_mcdowell@fws.gov&gt;, Monica Kimbrough &lt;monica\_kimbrough@fws.gov&gt;

FYI

Ernesto Reyes  
U.S. Fish and Wildlife Service  
Alamo Ecological Service Sub-Office  
3325 Green Jay Rd  
Alamo, Texas 78516  
Tel:956-784-7560  
Fax:956-787-8338

----- Forwarded message -----

From: **Wahl, Kimberly** <kimberly\_wahl@fws.gov>

Date: Tue, Nov 21, 2017 at 2:11 PM

Subject: Re: Geotechnical Testing on Fish and Wildlife Lands in RGV

To: "Reyes, Ernesto" &lt;ernesto\_reyes@fws.gov&gt;

Cc: "Gardiner, Dawn" &lt;dawn\_gardiner@fws.gov&gt;, "Winton, Bryan" &lt;bryan\_winton@fws.gov&gt;

Here are quick notes I can provide regarding the tracts they identified:

1. Las Ruinas Tract
  - Is designated critical habitat for Zapata bladderpod
  - no populations have been identified on this tract
  - the area of highest concern I have at that site is the eastern 1/3 of the tract.
2. Arroyo Ramirez Tract
  - Is designated critical habitat for Zapata bladderpod
  - Has a known population of Zapata bladderpod
  - cultural resources have been identified on this tract
3. Arroyo Morteros Tract
  - Is designated critical habitat for Zapata bladderpod
  - Has a known population of Zapata bladderpod
4. Los Negros Creek Tract
  - Is designated critical habitat for Zapata bladderpod
  - no populations have been identified on this tract
  - cultural resources have been located on this tract
5. Los Velas West Tract
  - no known T&E plant populations
6. Los Velas Tract
  - no known T&E plant populations
7. La Casita East Tract
  - no known T&E plant populations

8. San Francisco Banco Tract
  - no known T&E plant populations
9. Guerra Tract
  - no known T&E plant populations
10. Retama Tract
  - no known T&E plant populations
11. Chicharra Banco Tract
  - has a known population of Walker's manioc
12. Cuevitas Tract
  - no known T&E plant populations

Also attached is the map that identifies refuge tracts with KNOWN populations of endangered plants and the tracts identified as critical habitat for Zapata bladderpod. These are only wild populations, not reintroductions.

Kimberly Wahl-Villarreal  
Plant Ecologist  
South Texas Refuge Complex  
Phone (cell): 956-522-5746

On Tue, Nov 21, 2017 at 1:56 PM, Winton, Bryan <[bryan\\_winton@fws.gov](mailto:bryan_winton@fws.gov)> wrote:

Does Kim wall have the distribution maps for Zapata Bladderpod? Kim made a map for the EA previously. I'll send it to you.  
bryan

On Tue, Nov 21, 2017 at 1:55 PM, Reyes, Ernesto <[ernesto\\_reyes@fws.gov](mailto:ernesto_reyes@fws.gov)> wrote:  
Zapata bladderpod on some of the tracts that are critical habitat.

Ernesto

Ernesto Reyes  
U.S. Fish and Wildlife Service  
Alamo Ecological Service Sub-Office  
[3325 Green Jay Rd](#)  
[Alamo, Texas 78516](#)  
Tel:956-784-7560  
Fax:956-787-8338

On Tue, Nov 21, 2017 at 12:39 PM, Dawn Gardiner <[dawn\\_gardiner@fws.gov](mailto:dawn_gardiner@fws.gov)> wrote:  
Any listed plant concerns to share?

Sent from my iPhone

On Nov 21, 2017, at 7:11 AM, Reyes, Ernesto <[ernesto\\_reyes@fws.gov](mailto:ernesto_reyes@fws.gov)> wrote:

FYI. Looks like this is the western alignment of the Starr Co border fence.

Ernesto Reyes  
U.S. Fish and Wildlife Service  
Alamo Ecological Service Sub-Office

3325 Green Jay Rd  
Alamo, Texas 78516  
Tel:956-784-7560  
Fax:956-787-8338

----- Forwarded message -----

From: (b) (6), (b) (7)(C)(b) (6), (b) (7)(C) @cbp.dhs.gov>  
Date: Tue, Nov 21, 2017 at 12:31 AM  
Subject: Geotechnical Testing on Fish and Wildlife Lands in RGV  
To: "bryan\_winton@fws.gov" <bryan\_winton@fws.gov>, "Jess, Robert" <robert\_jess@fws.gov>, "Reyes, Ernesto" <ernesto\_reyes@fws.gov>  
Cc: (b) (6), (b) (7)(C)(b) (6), (b) (7)(C) @cbp.dhs.gov>

Gentlemen – I hope you are doing well. CBP and USACE are seeking access to lands managed by USFWS in Starr County for the purpose of performing geotechnical testing associated with proposed border wall. A hydrology analysis is currently being performed to determine the exact alignment of proposed border wall. Given the current uncertainty with the proposed path of the wall it would be best if we could meet with you in the field to identify possible locations for geotech testing that will have the least environmental impact and will be representative of soil conditions in the area of the proposed border wall.

We are tentatively scheduling design meetings the week of December 4<sup>th</sup> at RGV sector headquarters. Would you be available during that week to meet and identify preferred geotech testing locations on the first priority tract, the Las Ruinas Tract? Although the priority tract for geotech borings is the Las Ruinas tract, we will eventually require access to other tracts in Starr County and would prefer to execute one permit, if possible. To that end, please let me know what information or documentation will be needed in order to obtain a permit for geotech testing and if it will be possible to obtain one permit for all tracts.

We anticipate conducting geotech testing on the Las Ruinas Tract within the next 3 to 4 weeks. Below are a list of the properties (by priority) within Starr County we would like to access for the purpose of performing geotech testing.

1. Las Ruinas Tract
2. Arroyo Ramirez Tract
3. Arroyo Morteros Tract
4. Los Negros Creek Tract
5. Los Velas West Tract
6. Los Velas Tract
7. La Casita East Tract
8. San Francisco Banco Tract
9. Guerra Tract
10. Retama Tract
11. Chicharra Banco Tract
12. Cuevitas Tract

4/12/2018

DEPARTMENT OF THE INTERIOR Mail - Fwd: Geotechnical Testing on Fish and Wildlife Lands in RGV

Thank you in advance for your assistance and if you prefer to have a conference call to discuss this request, please let me know and I will set one up.

(b) (6), (b)

Real Estate and Environmental Branch Chief

Border Patrol & Air and Marine Program Management Office

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Phone: (b) (6), (b)

Cell: (b) (6), (b)

--

Bryan R. Winton, Wildlife Refuge Manager  
Santa Ana National Wildlife Refuge  
Lower Rio Grande Valley National Wildlife Refuge  
[3325 Green Jay Road, Alamo, Texas 78516](#)  
(956) 784-7521 office; (956) 874-4304 cell  
[bryan\\_winton@fws.gov](mailto:bryan_winton@fws.gov)

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 **LRGVNWR Refuge Tracts\_T&E occurrences map\_corrected.pdf**  
206K



Kimbrough, Monica &lt;monica\_kimbrough@fws.gov&gt;

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**Re: Media Inquiry - Border interview question**

1 message

**Lesli Gray** <lesli\_gray@fws.gov>

Tue, Aug 23, 2016 at 4:33 PM

To: "Kimbrough, Monica" &lt;monica\_kimbrough@fws.gov&gt;

Cc: Kelly McDowell &lt;kelly\_mcdowell@fws.gov&gt;, Thomas Harvey &lt;thomas\_harvey@fws.gov&gt;, Beth Britt &lt;beth\_britt@fws.gov&gt;, Beth Ullenberg &lt;beth\_ullenberg@fws.gov&gt;

Hi Monica, I spoke to Tom a bit ago and we are trying to determine if there is a location where the reporter can see the existing wall at either Santa Ana NWR or the Lower Rio Grande NWR. I have let Meridith know that we would follow up once we have this information. Lesli

Lesli Gray  
USFWS Public Affairs Specialist  
[Lesli\\_gray@fws.gov](mailto:Lesli_gray@fws.gov)  
972-439-4542  
[www.fws.gov/southwest](http://www.fws.gov/southwest)

On Aug 23, 2016, at 5:10 PM, Kimbrough, Monica <[monica\\_kimbrough@fws.gov](mailto:monica_kimbrough@fws.gov)> wrote:

Lesli - Based on most recent email, will you be following up with media to give them the information provided below?

Kelly - Please provide the pertinent information from Vanessa's email below to Laguna Atascosa NWR staff as an FYI since these reporters plan to visit the refuge.

Thanks,  
Monica

Monica Kimbrough  
Assistant Refuge Supervisor  
USFWS, National Wildlife Refuge System  
Southwest Region  
*office: 505-248-7419*  
*cell: 505-366-4628*

----- Forwarded message -----

From: **Kershaw, Jessica** <[jessica\\_kershaw@ios.doi.gov](mailto:jessica_kershaw@ios.doi.gov)>

Date: Tue, Aug 23, 2016 at 3:36 PM

Subject: Re: Media Inquiry - Border interview question

To: Vanessa Kauffman <[vanessa\\_kauffman@fws.gov](mailto:vanessa_kauffman@fws.gov)>

Cc: "Britt, Beth" <[beth\\_britt@fws.gov](mailto:beth_britt@fws.gov)>, "Shire, Gavin" <[gavin\\_shire@fws.gov](mailto:gavin_shire@fws.gov)>, Lesli Gray <[lesli\\_gray@fws.gov](mailto:lesli_gray@fws.gov)>, Kelly McDowell <[kelly\\_mcdowell@fws.gov](mailto:kelly_mcdowell@fws.gov)>, Beth Ullenberg <[beth\\_ullenberg@fws.gov](mailto:beth_ullenberg@fws.gov)>, Monica Kimbrough <[monica\\_kimbrough@fws.gov](mailto:monica_kimbrough@fws.gov)>, Blake Androff <[blake\\_androff@ios.doi.gov](mailto:blake_androff@ios.doi.gov)>, Kevin Thompson <[kevin\\_thompson@ios.doi.gov](mailto:kevin_thompson@ios.doi.gov)>, Amanda Degroff <[amanda\\_degroff@ios.doi.gov](mailto:amanda_degroff@ios.doi.gov)>

Folks - At this point, I think it's fine to move forward with a process based answer based on what you pulled together below. I wanted to wait for further guidance on general talkers for this issue but it's not pertinent if it means we'll miss the deadline here so please proceed with the programmatic information as you've outlined below.

On Tue, Aug 23, 2016 at 1:38 PM, Vanessa Kauffman <[vanessa\\_kauffman@fws.gov](mailto:vanessa_kauffman@fws.gov)> wrote:  
It's the first two paras below.

Vanessa

Sent from my iPhone

On Aug 23, 2016, at 1:32 PM, Kershaw, Jessica <[jessica\\_kershaw@ios.doi.gov](mailto:jessica_kershaw@ios.doi.gov)> wrote:

thanks all - can you please share the TPs that have been prepared to respond to the Outside report that you elude to below?

On Tue, Aug 23, 2016 at 1:14 PM, Britt, Beth <[beth\\_britt@fws.gov](mailto:beth_britt@fws.gov)> wrote:

All,  
We will await DOI OCO guidance in the Southwest Region. We are prepared to provide overarching consultation information at any time.  
Thanks,  
Beth

On Tue, Aug 23, 2016 at 11:12 AM, Shire, Gavin <[gavin\\_shire@fws.gov](mailto:gavin_shire@fws.gov)> wrote:

I don't think the first statement is applicable here as they are just asking about a theoretical wall, but I do think the consultation part is useful. However, I'd still like folks in DOI OCO to respond with how they want to proceed.

G

On Tue, Aug 23, 2016 at 12:18 PM, Kauffman, Vanessa <[vanessa\\_kauffman@fws.gov](mailto:vanessa_kauffman@fws.gov)> wrote:

Hi:

We have a statement we developed for this since it may have come via the IPaC system. See below. The FAQs clearly outline the main purpose of IPaC.

The 'IPaC Trump Wall' report was not issued, requested or reviewed by the Service and there are no such consultations underway. The "Trump Wall" report you are referring to was created by Outside magazine (<http://www.outsideonline.com/2075761/these-are-111-endangered-species-threatened-trumps-border-wall>).

The IPaC tool is a database that essentially anyone can use and run and the FAQs on this page will likely answer to most of your topline questions about it, what it's for, who uses, etc.- [https://ecos.fws.gov/ipac/.](https://ecos.fws.gov/ipac/)

If the inquiry was just general in nature and not referencing IPaC, you could just discuss the general aspects of consultation. We have fact sheets online.

Section 10 (State, private, etc.)

<https://www.fws.gov/endangered/permits/index.html>  
<https://www.fws.gov/endangered/esa-library/pdf/permits.pdf>

Section 7 (Federal)

<https://www.fws.gov/endangered/what-we-do/consultations-overview.html>  
<https://www.fws.gov/endangered/esa-library/pdf/consultations.pdf>

They could also visit the refuge and see this wonderful natural resource that conserves habitat and species, as well as is available for recreational uses.

Best,  
Vanessa

On Tue, Aug 23, 2016 at 12:14 PM, Gavin Shire <[gavin\\_shire@fws.gov](mailto:gavin_shire@fws.gov)> wrote:

They may say this is not political but it is highly charged politically regardless. I think this should go to the Department and so am ccing them here for their advice on how to proceed.

G

Sent from my iPhone

On Aug 23, 2016, at 11:46 AM, Britt, Beth <[beth\\_britt@fws.gov](mailto:beth_britt@fws.gov)> wrote:

Hi Vanessa and Gavin,  
Please see below... I know we are referring all "wall" questions to headquarters, but this one is a bit different and rather urgent as they are planning a visit to our NWR on 25 August, and we would like to provide verbiage (which I assume says something to the effect of we wouldn't address the impact of a hypothetical wall) and guidance to our Refuge staff.  
Thank you,  
Beth

----- Forwarded message -----

From: **Gray, Lesli** <[lesli\\_gray@fws.gov](mailto:lesli_gray@fws.gov)>  
Date: Tue, Aug 23, 2016 at 9:07 AM  
Subject: Media Inquiry - Border interview question  
To: Beth Britt <[beth\\_britt@fws.gov](mailto:beth_britt@fws.gov)>  
Cc: Kelly McDowell <[kelly\\_mcdowell@fws.gov](mailto:kelly_mcdowell@fws.gov)>, Beth Ullenberg <[beth\\_ullenberg@fws.gov](mailto:beth_ullenberg@fws.gov)>

Hi Beth, just received a call from Meredith Manning, a reporter with WFAA (Dallas ABC station). WFAA is beginning a new program, Verify, where they are helping people trackdown/verify answers to their questions. They are currently working on the following question - "Is it possible to build a border wall across the U.S. Border?" Meredith has contacted us because they are traveling to South Texas starting tomorrow and would like to visit Laguna Atascosa NWR. They would like to talk with the refuge about potential environmental impacts of a wall (she mentioned ocelot) the morning of August 25th. She said they are not looking for any political spin on this just what it might mean for the species/environment at/near the refuge. Please advise how you would like me to respond. Lesli

--

**PLEASE NOTE UPDATED PHONE #**

Lesli A. Gray  
U.S. Fish and Wildlife Service  
Public Affairs Specialist  
972-439-4542  
[lesli\\_gray@fws.gov](mailto:lesli_gray@fws.gov)  
[www.fws.gov/southwest](http://www.fws.gov/southwest)

--

*Beth Britt*  
*U.S. Fish and Wildlife Service, Southwest Region*  
*External Affairs*  
*d 505.248.6285*  
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[beth\\_britt@fws.gov](mailto:beth_britt@fws.gov)  
[www.fws.gov/southwest](http://www.fws.gov/southwest)

*Arizona | New Mexico | Oklahoma | Texas*

--

Best,  
Vanessa C. Kauffman  
Division of Public Affairs  
U.S. Fish and Wildlife Service  
5275 Leesburg Pike, MS: EA  
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571-319-6342 (cell)  
[vanessa\\_kauffman@fws.gov](mailto:vanessa_kauffman@fws.gov)  
Visit us online at: <http://www.fws.gov>

--

Gavin Shire  
Chief of Public Affairs  
U.S. Fish and Wildlife Service  
MS: EA  
5275 Leesburg Pike  
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703-358-2649 (o)  
703-346-9123 (c)  
[gavin\\_shire@fws.gov](mailto:gavin_shire@fws.gov)

--

*Beth Britt*  
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*External Affairs*  
*d 505.248.6285*  
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*Arizona | New Mexico | Oklahoma | Texas*

--

Jessica Kershaw  
Senior Adviser & Press Secretary  
U.S. Dept of the Interior  
@DOIPressSec  
202-208-6416

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Jessica Kershaw  
Senior Adviser & Press Secretary  
U.S. Dept of the Interior  
@DOIPressSec  
202-208-6416

4/12/2018

DEPARTMENT OF THE INTERIOR Mail - Re: Media Inquiry - Border interview question

HIDALGO COUNTY, TEXAS |  
TO |  
UNITED STATES OF AMERICA |

Easement  
Dated: November 1, 1938  
Filed: November 1, 1938  
Recorded: Vol. 448 p 48B  
Deed Records, Hidalgo  
County, Texas.

EASEMENT DEED FROM COUNTY TO UNITED STATES OF AMERICA  
(Levees)

STATE OF TEXAS |  
COUNTY OF HIDALGO |

71-H

THAT Hidalgo County, Texas, acting herein by and through its County, Judge, in pursuance of and hereunto duly authorized by resolution of the Commissioners' Court of said County and the acts of 1934, 43rd Legislature of Texas, Fourth Called Session, page 71, Chapter 29, for and in consideration of the sum of One (\$1.00) Dollar to it in hand paid, receipt of which is hereby acknowledged and confessed, and the works projected by the United States of America on the Lower Rio Grande, as authorized by the Act of the Seventy-fourth Congress, Public No. 286, approved August 19, 1935, (49 Stat. 660) and Acts amendatory thereof and supplementary thereto, HAS GRANTED, SOLD AND CONVEYED, and by these presents DOES HEREBY GRANT, SELL AND CONVEY unto the United States of America, and its assigns, the perpetual right and easement to enter and re-enter in and upon the lands and premises hereinafter described for the purpose of constructing, operating, and maintaining suitable levees, together with the right and easement to enter and re-enter in and upon the lands and premises hereinafter described for the purpose of constructing, operating, and maintaining suitable levees, together with the right to use so much of said land for borrow in connection therewith, and the right to construct and maintain thereon suitable roadways, fences, gates, cattle guards, telephone lines, ramps and road crossings or other structures in connection with the operation and maintenance of said levees, as Grantee and its assigns may from time to time deem necessary, on the respective tracts hereinafter described as follows, to-wit:

Being two tracts of land containing 1.35 acres and 32.99 acres in Los Torritos and Santa Ana Grants, Hidalgo County, Texas, being out of that part lying south of the north right of way line of Lateral "A" of Hidalgo County Water Improvement District No. 2, of Lot 3 in Block 3, Lot 13 in Block 7, Lots 11, 12, 13, 14, 15 and 16 in Block 8 and Lots 9, 15 and 16 in Block 9 as shown on map of Alamo Land and Sugar Company lands in Porcion 72, recorded in Volume 1, pages 25-26 of the Map Records of Hidalgo County, Texas. Said 1.35 acre and 32.99 acre tracts each being more particularly described as follows:

1299  
1/11  
1/11  
First Tract, Levee: Beginning at the northwest corner of said Lot 3, Block 3; thence along the west line of said Lot 3, South 8° 45' West, 109.3 feet; thence South 81° 14' East, 358.2 feet; thence North 81° 33' East, 371.0 feet to a point on the north line of said Lot 3; thence along said north line, North 81° 17' West, 712.6 feet to the point of beginning, containing 1.35 acres, more or less.

Second Tract, Levee: Beginning at a point on the east line of said Lot 15, Block 9, said point being South 8° 45' West, 2091.0 feet from the northeast corner of Lot 10, Block 9 as shown on said map of Alamo Land and Sugar Company lands and also being North 66° 10' West, 8639.8 feet from IBC RP No. 24; thence along the center line of the south levee of Lateral "A" of Hidalgo County Water Improvement District No. 2, North 68° 02' West, 1340.5 feet, North 58° 17' West, 1453.0 feet, North 81° 20' West, 1526.2 feet, North 88° 51' West, 102.2 feet, South 88° 29' West, 506.1 feet, North 81° 26' West, 480.2 feet, South 88° 42' West, 85.9 feet, South 81° 46' West, 1302.6 feet, South 74° 29' West, 87.8 feet, South 71° 21' West, 645.6 feet, South 82° 18' West, 110.1 feet, South 89° 41' West, 1478.8 feet and South 79° 50' West, 465.6 feet to a point on the west line of said Lot 13, Block 7, said point being South 8° 45' West, 2466.6 feet from the northwest corner of Lot 12, Block 7 as shown on said map of Alamo Land and Sugar Company lands; thence along said west line, South 8° 45' West, 158.6 feet; thence North 79° 50' East, 504.0 feet; thence North 89° 41' East, 1475.6 feet; thence North 82° 18' East, 134.2 feet; thence North 71° 21' East, 655.9 feet; thence North 74° 29' East, 74.1 feet; thence North 81° 46' East, 1282.7 feet; thence North 88° 42' East, 63.9 feet; thence South 81° 26' East, 481.8 feet; thence North 88° 29' East, 517.2 feet; thence South 88° 51' East, 88.9 feet; thence South 81° 20' East, 1484.5 feet; thence South 58° 17' East, 1435.2 feet; thence South 68° 02' East, 1388.5 feet to a point on the east line of said Lot 15, Block 9; thence along said east line, North 8° 45' East, 154.1 feet to the point of beginning, containing 32.99 acres, more or less.

71 H Correct as to engineering date 3/10/37 E.L.R.

TO HAVE AND TO HOLD said rights of way and easement above described unto the United State of America, and its assigns, for the purposes aforesaid, forever.

And Grantor further covenants that it has the full right and power to convey the estate herein granted; that the same is free from all liens and encumbrances; and that Grantor further warrants quiet and peaceable possession of the estate herein granted, and will defend the title thereto against any and all claimants.

IN TESTIMONY WHEREOF, Hidalgo County, Texas, has caused its name to be hereunto subscribed by its County Judge, as aforesaid, and its seal hereto affixed thks the 1st day of November, 1938.

(Seal)

ATTEST:

O.D. Kirkland, County Clerk

Hidalgo County, Texas

By: Oliver C. Aldrich, County Judge

THE STATE OF TEXAS |  
COUNTY OF HIDALGO |

Before me, the undersigned authority, a Notary Public in and for Hidalgo County, Texas, on this day personally appeared Oliver C. Aldrich, County Judge of Hidalgo County, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the free act and deed of said county and for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 1st day of November, A.D. 1938.

Robt. E. Kirkpatrick

(Seal)

A Notary Public in and for Hidalgo County, Texas.

THE STATE OF TEXAS, }  
COUNTY OF HIDALGO. }

The Fidelity Abstract & Title Company, of Edinburg, Texas, does hereby certify that the foregoing..... ninety-eight ..... (..... 98.) pages numbered from 1 to..... 98..... inclusive, contain a full, true and correct abstract of all the instruments of record or on file in the office of the County Clerk of Hidalgo County, Texas, covering the period of time from..... February 27, 1915 at 5 P.M......

.....  
.....  
to ..... February 5, 1940 at 5 P.M...... affecting the title to the land described in the caption at page one hereof and that, except as herein shown, there appears nothing on record or filed in the office of the County Clerk of said County, affecting the title to the said real estate.

In testimony whereof The Fidelity Abstract & Title Company, by order of its Board of Directors, has caused this certificate to be signed and the corporate seal of said Company hereto attached by its President and attested by its secretary.

Done at Edinburg, Texas, this 5th day of February, A. D. 1940.

FIDELITY ABSTRACT & TITLE COMPANY

Attest:

W. H. Gentry  
.....  
Secretary.

By J. H. ...  
.....  
President.



Hidalgo County, Texas |  
Vs |  
Santa Ana Groves, Corp. et al |

Final Judgment, (C.C.)  
Dated: Oct. 31, 1938,  
Filed: Nov. 2, 1938,  
Recorded: Vol. 447 p 361  
Deed Records, Hidalgo  
County, Texas.

No. 4968

PROCEEDINGS FOR THE CONDEMNATION OF RIGHT OF WAY IN THE  
COUNTY COURT OF HIDALGO COUNTY, TEXAS

HIDALGO COUNTY, TEXAS  
VS.  
SANTA ANA GROVES, CORP. ET AL

FINAL JUDGMENT

BE IT REMEMBERED, that on this the 31st day of October, A.D. 1938, at a regular term of the County Court of Hidalgo County, Texas, the above numbered and entitled cause came on to be heard in its regular order upon the docket, and specially came on to be heard and considered the appeal from the award of the Special Commissioners, which award was heretofore duly filed with the County Judge of Hidalgo County, Texas, on the 9th day of May, A.D. 1938, and exceptions there to duly filed by Santa Ana Groves Corporation on the 16th day of May, A.D. 1938, thereupon came Hidalgo County, Texas, by its attorneys of record, and defendants Santa Ana Groves Corporation; The First National Bank of Chicago Illinois, and Eva Olson Zimmerer, J.F. Ewers, Ralph Lyngaas and Myrlin O. Johnson, independent executors and testamentary trustees of the estate of Morgan Olson, deceased, by their attorneys of record; and the defendants Southland Development Company; Alamo Land and Sugar Company; Slovene National Benefit Society; Taylor Lumber Company; Phoenix Mutual Life Insurance Company; and Ben Freudenstein, Receiver of Merchants National Bank of Brownsville, Texas, though having been duly cited to appear and answer herein, in accordance with the law, made no appearance and filed no answer; thereupon all parties before the court announced ready for trial, and a jury having been waived the parties, by their attorneys, submitted the matter in controversy, as well of fact as of law, to the court, and it appearing to the court that a written statement was filed with the County Judge of Hidalgo County, Texas, by petitioner Hidalgo County, Texas, on the 4th day of April, A.D. 1938, wherein said petitioner prayed for condemnation of the following described property for the purposes of providing rights-of-way to establish, locate, erect, construct, maintain and keep in repair, levees, borrow pits, roads and floodways to control the flood waters of the Rio Grande River, said land being located in Hidalgo County, Texas, and more particularly described as follows, to-wit:

Being two tracts of land containing 1.35 acres and 32.99 acres in Los Torritos and Santa Ana Grants, Hidalgo County, Texas, being out of that part lying south of the north right of way line of Later-al "A" of Hidalgo County Water Improvement District No. 2, of Lot 3 in Block 3, Lot 13, in Block 7, Lots 11, 12, 13, 14, 15, and 16 in Block 8 and Lots 9, 15 and 16 in Block 9 as shown on map of Alamo Land and Sugar Company Lands in Porcion 72, recorded in Volume 1, pages 25-26 of the Map Records of Hidalgo County, Texas, said 1.35 acre and 32.99 acre tracts each being more particularly described as follows:

First Tract, Levee: Beginning at the northwest corner of said Lot 3, Block 3; thence along the west line of said Lot 3, South 8° 45' West, 109.3 feet; thence South 81° 14' East, 358.2 feet; thence North 81° 17' West, 712.6 feet to the point of beginning, containing 1.35 acres, more or less.

Second Tract, Levee: Beginning at a point on the east line of said Lot 15, Block 9, said point being South 8° 45' West, 2091.0 feet from the northeast corner of Lot 10, Block 9 as shown on said map of Alamo Land and Sugar Company lands and also being North 66° 10' West, 8639.8 feet from IBC RP No. 24; thence along the center line of the South levee of Lateral "A" of Hidalgo County Water Improvement District No. 2, North 68° 02' West 1340.5 feet, North 58° 17' West, 1453.0 feet, North 81° 20' West, 1526.2 feet, North 88° 51' West 102.2 feet, South 88° 29' West, 506.1 feet, North 81° 26' West, 480.2 feet, South 88° 42' West, 85.9 feet, South 81° 46' West, 1302.6 feet, South 74° 29' West, 87.8 feet, South 71° 21' West, 645.6 feet, South 82° 18' West, 110.1 feet, South 89° 41' West, 1478.8 feet and South 79° 50' West, 465.6 feet to a point on the west line of said Lot 13, Block 7, said point being South 8° 45' West, 2466.6 feet from the northwest corner of Lot 12, Block 7 as shown on said map of Alamo Land and Sugar Company lands; thence along said west line, South 8° 45' West, 158.6 feet; thence North 79° 50' East, 504.0 feet; thence North 89° 41' East, 1475.6 feet; thence North 82° 18' East, 134.2 feet; thence North 71° 21' East, 655.9 feet; thence North 74° 29' East, 74.1 feet; thence North 81° 46' East, 1282.7 feet; thence North 88° 42' East, 63.9 feet; thence South 81° 26' East, 481.8 feet; thence North 88° 29' East, 517.2 feet; thence South 88° 51' East, 88.9 feet; thence South 88° 20' East, 1484.5 feet; thence South 58° 17' East, 1435.2 feet; thence South 68° 02' East, 1388.5 feet to a point on the east line of said Lot 15, Block 9; thence along said east line, North 8° 45' East, 154.1 feet to the point of beginning, containing 32.99 acres, more or less. 71 H Correct as to engineering data 3/10/37 ELR

And it further appearing to the court from the record herein, that upon the consideration of the above petition and statement and forth upon its filing, to-wit, on the 4th day of April, A.D. 1938, the County Judge of Hidalgo County, Texas, duly appointed R.L. McDonald, W.H. Maynew and R.B. Harper, three disinterested freeholders of Hidalgo County, Texas, as Special Commissioners to assess the damages occasioned by defendants by virtue of such condemnation; and it further appearing that such commissioners met on the 9th day of April, A.D. 1938, and took the oath required by law and thereupon appointed the date and time for hearing the parties of such condemnation, and gave and caused to be served notices thereof as required by law, and after due hearing, rendered the decision in the following words and figures:

NO. 4968

HIDALGO COUNTY, TEXAS		IN THE COUNTY COURT
VS		OF
SANTA ANA GROVES CORPORATION, ET AL		HIDALGO COUNTY, TEXAS.

9. "On this the 9th day of May, A.D. 1938, came on for hearing before the undersigned, R.B. Harper, W.H. Maynew and R.L. McDonald, Special Commissioners and disinterested freeholders of Hidalgo County, Texas, appointed by the County Judge of Hidalgo County, Texas, upon the application of Hidalgo County, Texas, filed with said County Judge on the 4 day of April, A.D. 1938, to condemn a certain right of way over the following described land, to-wit:

"Being two tracts of land containing 1.35 acres and 32.99 acres in Los Torritos and Santa Ana Grants, Hidalgo County, Texas, being out of that part lying south of the north right of way line of Lateral "A" of Hidalgo County Water Improvement District No. 2, of Lot 3 in Block 3, Lot 13, in Block 7, Lots 11,12,13,14,15 and 16 in Block 8 and Lots 9,15 and 16 in Block 9 as shown on map of Alamo Land and Sugar Company lands in Porcion 72, recorded in Volume 1, pages 25-26 of the Map Records of Hidalgo County, Texas. Said 1.35 acre and 32.99 acre tracts each being more particularly described as follows:

"First Tract Levee: Beginning at the northwest corner of said Lot 3, Block 3; thence along the west line of said Lot 3, South 8° 45' West, 109.3 feet; thence South 81° 14' East, 358.2 feet; thence North 81° 33' East, 371.0 feet to a point on the north line of said Lot 3; thence along said north line, North 81° 17' West, 712.6 feet to the point of beginning, containing 1.35 acres, more or less.

"Second Tract, Levee: Beginning at a point on the east line of said Lot 15, Block 9, said point being South 8° 45' West, 2091.0 feet from the northeast corner of Lot 10, Block 9 as shown on said map of Alamo Land and Sugar Company lands and also being North 66° 10' West, 8639.8 feet from IBC RP No. 24; thence along the center line of the south levee of Lateral "A" of Hidalgo County Water Improvement District No. 2, North 68° 02' West, 1340.5 feet, North 58° 17' West 1453.0 feet, North 81° 20' West, 1526.2 feet, North 88° 51' West, 102.2 feet, South 88° 29' West, 506.1 feet, north 81° 26' West, 480.2 feet, South 88° 42' West, 85.9 feet, South 81° 46' West, 1302.6 feet, South 74° 29' West, 87.8 feet, South 71° 21' West, 645.6 feet, South 82° 18' West, 110.1 feet, South 89° 41' West, 1478.8 feet and South 79° 50' West, 465.6 feet to a point on the west line of said Lot 13, Block 7, said point being South 8° 45' West, 2466.6 feet from the northwest corner of Lot 12, Block 7, as shown on said map of Alamo Land and Sugar Company lands; thence along said west line, South 8° 45' West, 158.6 feet; thence North 79° 50' East, 504.0 feet; thence North 89° 41' East, 1475.6 feet; thence North 82° 18' East, 134.2 feet; thence North 71° 21' East 655.9 feet; thence North 74° 29' East, 74.1 feet; thence North 81° 46' East, 1282.7 feet; thence North 88° 42' East, 63.9 feet; thence South 81° 26' East, 481.8 feet; thence North 88° 29' East, 517.2 feet; thence South 88° 51' East, 1435.2 feet; thence South 68° 02' East, 1388.5 feet to a point on the east line of said Lot 15, Block 9; thence along said east line, North 8° 45' East, 154.1 feet to the point of beginning, containing 32.99 acres, more or less.

"Said cause being numbered 4968 and styled Hidalgo County, Texas, vs. Santa Ana Groves Corporation, et al, and said parties being shown in Plaintiff's Original Petition on file herein, reference to which is here made, and each of said parties having been duly notified of the time and place of meeting as required by law, and after fully hearing the parties that the appointed time and place and all the evidence as to damages which will be sustained by said parties, by reason of such condemnation, we assess the damages for the condemnation of such right of way in the sum of \$1125.00; we assess the damages to the balance of the land belonging to defendants on account of the condemnation of such right of way in the sum of \$ None, and the said Plaintiff shall pay all costs of this proceeding.

"Witness our hands this the 9th day of May, A.D. 1938.

R.L. McDonald (signed)  
R.B. Harper (signed)  
W.H. Mayhew (signed)  
Special Commissioners."

And it further appearing to the court from the record herein and the court here now finds that the jurisdictional facts stated in the above and foregoing decision are true and correct and that said decision, together with all other papers connected with these proceedings, were filed by said Commissioners with the County Judge of Hidalgo County, Texas, on the 9th day of May, A.D. 1938, and are now on file among the original papers in this cause;

And it further appearing to the Court from the record herein that objections to said award and decision of the Commissioners were duly filed with the County Judge of Hidalgo County, Texas by Santa Ana Groves Corporation within the time prescribed by law, and each of the above named parties have been duly cited or have appeared in person or by counsel, as heretofore indicated, and the Court having tried said cause de novo in the manner required by law and having heard all of the pleadings, evidence and arguments of counsel, is of the opinion and find that Hidalgo County, Texas has a lawful right to condemn said easement and that public necessity exists for the condemnation of said easement, and that the damage occasioned by such condemnation is the total sum of One Thousand one hundred twenty-five (\$1,125.00) dollars.

It is therefore, ORDERED, ADJUDGED AND DECREED by the Court that the decision of the Commissioners be, and the same is hereby ordered recorded in the minutes of this Court, and it is further ordered, adjudged and decreed by the Court that the petitioner, Hidalgo County, Texas, have judgment condemning easement over and across the above described land and premises for the purpose of establishing, locating, erecting, constructing, maintaining, reconstructing, and keeping in repair, levees, barrow pits, roads and floodways to control the flood waters of the Rio Grande River against the defendants herein; and that said Hidalgo County, Texas recover an easement over and across said property from defendants, and the same is hereby divested out of each of the said defendants named herein, and is hereby vested in said petitioner, Hidalgo County, Texas.

It is further ORDERED, ADJUDGED AND DECREED by the Court that such condemnation of right of way and easement over and across the land actually taken by said Hidalgo County, Texas, and being 32.99 acres, more or less, as above described, together with the consequential injuries and damages as may result to the remainder of the whole tract of which 32.99 acres forms a part, from the manner on which said easement is exercised and/or the purposes for which is condemned be, and the same is hereby adjudged and decreed to be the sum of one thousand one hundred twenty-five (\$1,125.00) Dollars, and the petitioner Hidalgo County, Texas, is hereby ORDERED, DIRECTED, AUTHORIZED AND EMPOWERED to pay and deliver the said sum of one thousand one hundred twenty-five (\$1,125.00) Dollars to the Clerk of this Court for the use and benefit of the defendants in full satisfaction of said judgment and award.

It is further ORDERED, ADJUDGED AND DECREED by the Court that Hidalgo County, Texas pay all cost of this proceeding.

The Court further finds that the defendant, The First National Bank of Chicago is the owner and holder of a valid and subsisting first lien on that part of the property hereinabove described owned by the Santa Ana Groves, Corporation, and that said lien is in excess of the award herein; and it further appearing to the Court that by

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agreement between Strickland, Ewers, and Wilkins and L.L. Gragg, attorneys for the defendants, Santa Ana Groves Corporation, and Amberg, Ott, Dahlin and Livingston, attorneys for the defendant, The First National Bank of Chicago, that the total sum of damages awarded herein shall be paid over and delivered to the defendant, The First National Bank of Chicago, as a credit upon the lien against the land hereinabove described, belonging to the Santa Ana Groves Corporation, it is therefore ORDERED, ADJUDGED AND DECREED by the Court that the Clerk of this Court be, and he is authorized and instructed to pay said sum of one thousand one hundred twenty-five (\$1,125.00) Dollars to the said defendant, The First National Bank of Chicago.

It is further ORDERED by the Court that all writs which may be required to enforce the judgment of this Court, including Writ of Possession, be issued by the Clerk of this Court.

Oliver C Aldrich  
County Judge of Hidalgo County, Texas.

Received of Hidalgo County, Texas, the sum of one thousand one hundred twenty-five (\$1,125.00)-dollars for the benefit of defendants in cause number 4968, in the County Court of Hidalgo County, Texas, styled Hidalgo County, Texas vs. Santa Ana Groves Corporation, et al. and to be disbursed in compliance with judgment in said cause.

O.D. KIRKLAND, COUNTY CLERK,  
OF HIDALGO COUNTY, TEXAS.  
O.D. KIRKLAND,

Nov 1st, 1938

Hidalgo County Water Improvement  
District No. 2

to

Hidalgo County, Texas.

LEVEE EASEMENT

Dated: Aug. 14th, 1937.

Filed: Aug. 16th, 1937.

Recorded: Vol. 434 pg 62

Deed Records, Hidalgo

County, Texas.

- - - -

Levee Easement

Right of Way File

No. 71-H, 86-H, 87-H,

88-H, 89-H, Hidalgo County

STATE OF TEXAS )  
COUNTY OF HIDALGO )

KNOW ALL MEN BY THESE PRESENTS:

That Hidalgo County Water Improvement District No. 2, a corporation, acting herein by and through Peder Nielsen, its President, duly authorized by resolution of its Board of Directors, of Hidalgo County, Texas, for and in consideration of the sum of One (\$1.00) Dollar and other good and valuable considerations to it in hand paid by the County of Hidalgo, Texas, the receipt of which is hereby acknowledged and confessed, HAVE GRANTED, SOLD, AND CONVEYED, and by these presents DO HEREBY GRANT, SELL, AND CONVEY unto the County of Hidalgo, Texas, its successors and assigns, the perpetual right and easement to enter and re-enter in and upon the lands and premises hereinafter described for the purpose of constructing, operating, and maintaining suitable levees, together with the right to use so much of said land for borrow in connection therewith, and the right to construct and maintain thereon suitable roadways, fences, gates, cattle guards, telephone lines, ramps, and road crossings or other structures in connection with the operation and maintenance of said levees, as Grantee and its assigns may from time to time deem necessary; such lands being described as follows, to-wit:

Being two tracts of land containing 1.35 acres and 32.99 acres in Los Torritos and Santa Ana Grants, Hidalgo County, Texas, being out of that part lying south of the north right of way line of Lateral "A" of Hidalgo County Water Improvement District No. 2, of Lot 3 in Block 3, Lot 13 in Block 7, Lots 11, 12, 13, 14, 15 and 16 in Block 8 and Lots 9, 15 and 16 in Block 9 as shown on map of Alamo Land and Sugar Company lands in Porcion 72, recorded in Volume 1, pages 25-26 of the Map Records of Hidalgo County, Texas. Said 1.35 acre and 32.99 acre tracts each being more particularly described as follows:

First Tract, Levee: Beginning at the northwest corner of said Lot 3, Block 3; thence along the west line of said lot 3, South 8° 45' West, 109.3 feet; thence South 81° 14' East, 358.2 feet; thence North 81° 33' East, 3711.0 feet to a point on the north line of said Lot 3; thence along said north line, North 81° 17' West, 712.6 feet to the point of beginning, containing 1.35 acres, more or less.

Second Tract, Levee: Beginning at a point on the east line of said Lot 15, Block 9, said point being South 8° 45' West, 2091.0 feet from the northeast corner of Lot 10, Block 9 as shown on said map of Alamo Land and Sugar Company lands and also being North 66° 10' West, 8639.8 feet from IBC RP No. 24; thence along the center line of the South levee of Lateral "A" of Hidalgo County Water Improvement District No. 2, North 68° 02' West, 1340.5 feet, North 58° 17' West, 1453.0 feet, North 81° 20' West, 1526.2 feet, North

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1.35  
32.99  
34.34

25.08  
1.22  
23.73

88° 51' West, 102.2 feet, South 88° 29' West, 506.1 feet, North 81° 26' West, 480.2 feet, South 88° 42' West, 85.9 feet, South 81° 46' West, 1302.6 feet, South 74° 29' West, 87.8 feet, South 71° 21' West, 645.6 feet, South 82° 18' West, 110.1 feet, South 89° 41' West, 1478.8 feet and South 79° 50' West, 465.6 feet to point on the west line of said Lot 13, Block 7, said point being South 8° 45' West, 2466.6 feet from the northwest corner of Lot 12, Block 7 as shown on said map of Alamo Land and Sugar Company lands; thence along said west line, South 8° 45' West, 158.6 feet; thence North 79° 50' East, 504.0 feet; thence North 89° 41' East, 1475.6 feet; thence North 82° 18' East, 134.2 feet; thence North 71° 21' East, 655.9 feet; thence North 74° 29' East, 74.1 feet; thence North 81° 46' East, 1282.7 feet; thence North 88° 42' East, 63.9 feet; thence South 81° 26' East, 481.8 feet; thence North 88° 29' East, 517.2 feet; thence South 88° 51' East, 88.9 feet; thence South 81° 20' East, 1484.5 feet; thence South 58° 17' East, 1435.2 feet; thence South 68° 02' East, 1388.5 feet to a point on the east line of said lot 15, Block 9; thence along said east line, North 8° 45' East, 154.1 feet to the point of beginning, containing 32.99 acres, more or less. 71 H Correct as to engineering data 3/10/37 E. L. R.

(HERE FOLLOW OTHER TRACTS NOT PERTINENT TO THIS ABSTRACT)

TO HAVE AND TO HOLD the rights of way and easements above described unto the County of Hidalgo, Texas, its successors and assigns in trust for flood control purposes forever. And as a part of the consideration aforesaid, the Grantor does hereby remise and forever release and discharge the Grantee, and its assigns, of and from any and all manner of claims, demands, liabilities, acts, and payments for or by reason of any damages to the real estate of said Grantor adjoining the above described land which Grantor has or may or could at any time have on or against the Grantee and its assigns, by reason of the use of the rights of way and easements herein conveyed for the proposed improvement of the Lower Rio Grande Flood Control system, and such release and waiver shall be a covenant running with the land.

WITNESS Hidalgo County Water Improvement District No. 2 this 14th day of Aug, 1937.

Hidalgo County Water Improvement  
 District No. 2  
 By: Peder Nielsen  
 Its President.

(SEAL)  
 ATTEST:  
 E.H. Reichert  
 Secretary.

THE STATE OF TEXAS )  
 COUNTY OF HIDALGO. )

BEFORE ME, the undersigned authority, on this day personally appeared Peder Nielsen, President of Hidalgo County Water Improvement District No. 2 a corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the free act and deed of said corporation as President thereof, and for the purpose and consideration therein expressed.

Given under my hand and seal of office this 14 day of August, 1937.

(Seal)  
 Mamie L. Best  
 Notary Public in and for Hidalgo County, Texas.

# Official Statement



August 13, 2017

## U.S. Fish and Wildlife Service Statement on “Border Wall”

*“The Department of the Interior (DOI) is one of several federal agencies that U.S. Customs and Border Protection (CBP) has engaged with to implement the President’s Executive Order (EO) 13767 - Border Security and Immigration Enforcement Improvements. CBP has included DOI in initial discussions regarding the implementation of the EO in south Texas.”*

For all border specific inquiries, please contact U.S. Customs and Border Protection’s Office of Public Affairs at [cbpmidiarelations@cbp.dhs.gov](mailto:cbpmidiarelations@cbp.dhs.gov).



# United States Department of the Interior



FISH AND WILDLIFE SERVICE

Post Office Box 1306  
Albuquerque, New Mexico 87103

In Reply Refer To:  
FWS/R2/NWRS/Coastal TX/066633

OCT 13 2017

(b) (6), (b) (7)(C)

Real Estate and Environmental Branch Chief  
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)(b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)(b) (6), (b) (7)(C)

Dear (b) (6), (b) (7)(C)

Thank you for your letter dated August 25, 2017, regarding U.S. Customs and Border Protection's (CBP) proposed border infrastructure in South Texas which includes the installation of 35 gates in existing border fence gaps, 32 miles of bollard wall, and 28 miles of levee wall. The U.S. Fish and Wildlife Service (Service) reviewed your letter and is providing our initial concerns related to Federally listed species, other Federal trust resources, and Santa Ana and Lower Rio Grande Valley National Wildlife Refuges (NWR). Once there is a spatially explicit proposed action, assuming no waiver is issued by Department of Homeland Security, we can provide a formal response and coordination under applicable Federal laws, including the National Environmental Policy Act, National Wildlife Refuge System (Refuge System) Improvement Act, Migratory Bird Treaty Act, and Endangered Species Act.

Over the past several years, there has been a substantial increase in coordination between the Service, CBP, and the U.S. Border Patrol Rio Grande Valley Sector along the Texas border. The Service appreciates the excellent communication and information sharing that has occurred and looks forward to maintaining this relationship into the future.

The Refuge System lands in the Lower Rio Grande Valley are considered to be one of the most biodiverse in the continental United States. In general, our concerns are similar to those discussed during initial border wall/fence construction in 2008. The Service will continue to work with CBP on the proposed activities, with a focus on ensuring impacts to Santa Ana and Lower Rio Grande Valley NWRs are analyzed and minimized, to the extent possible.

### *Socio-economic & Visitor Impacts*

The Service is specifically concerned with potential tourism and visitor impacts on the affected NWRs. Ongoing efforts by the Service, the state of Texas, private landowners, and non-profit organizations have helped create a wildlife corridor linking numerous isolated habitat fragments in the Lower Rio Grande Valley. These efforts have helped produce habitats that are harboring unique species of plants and animals, making the area a destination for ecotourists.

The economics of Lower Rio Grande Valley wildlife and habitat diversity are important to the international border region, as over 150,000 tourists contribute approximately \$10.8 million annually to the regional economy. The Santa Ana NWR is the most accessible public land for residents of Hidalgo County and approximately 70 percent of visitors come from outside of the local area. Visitors participating in outdoor recreational activities economically benefit the local community.

Construction of the border wall, as proposed, will likely affect visitation and the quality of visitor experience to the affected NWRs. Construction of the border wall along the levee will separate the Santa Ana NWR visitor center and all administrative facilities (equipment storage, residences, parking lots, etc.) from the rest of the refuge (99 percent of refuge lands). The proposal could result in visitors entering and exiting Santa Ana NWR through a large gate, similar to going through a security checkpoint. This could result in a reduction in visitation due to a perceived unsafe and unwelcoming atmosphere, which in turn could impact local economies.

### Enforcement Zones

Construction of a 150-foot enforcement zone will directly remove habitat used by threatened and/or endangered species and other wildlife in the area. The enforcement zone will also create barriers and restrict wildlife movement, especially for species such as ocelots, which require dense brush to travel through. The Service recommends minimizing this zone, as operations allow, especially in and near thick thornscrub and walking trails. We also recommend calculating the direct habitat loss of the 150-foot enforcement zone based on a vegetation and endangered species survey. The proposed cleared enforcement zone in Hidalgo County will directly remove approximately 170 acres of habitat from Lower Rio Grande Valley and Santa Ana NWRs reducing the ability to meet refuge purposes and impacting the visitor experience. The Service recommends leaving vegetated areas near entrances and exits to public use areas to mitigate the potential impacts to the visiting public and quality of their experience.

### Lighting

Increased lighting at night, along the wall, will likely have negative impacts on ocelot, jaguarundi and other nocturnal species by making them more susceptible to predation. The Service recommends down shielding lights to focus away from thornscrub habitat and shining lights only within the enforcement zone. The Service recommends CBP continue to analyze the effects of lighting to nocturnal wildlife and work with the Service to minimize impacts.

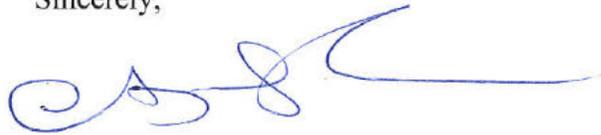
### All Weather Roads

The Service recommends the width of all roads created or maintained by CBP be measured and recorded using Geographic Information System (GPS) coordinates and integrated into the CBP

GPS database. The Service suggests maintenance actions not increase the width of the roadbed or the amount of disturbed area beyond the roadbed. The all-weather road within the enforcement zone is capable of high speed use, causing concern for public safety and increased wildlife mortality. The Service requests coordination to address speeding issues, especially near high visitor use areas.

The Service's comments in this letter are based upon general information we have been given to date. The Service may change these comments and opinions depending on more specific information regarding the border wall that we expect will be provided by CBP in the future. We appreciate the opportunity to provide informal comments and look forward to continued coordination on the proposed project. Please feel free to contact me at 505-248-6282 if I can be of further assistance.

Sincerely,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Regional Director

cc: Field Supervisor, Texas Coastal Ecological Services Field Office, Houston, Texas  
Refuge Manager, South Texas National Wildlife Refuge Complex, Alamo, Texas  
Inter-agency Borderlands Coordinator, Department of Interior Washington, D.C.  
EA-ARD