

Department of Homeland Security

November 6, 2018

The Honorable Kirstjen M. Nielsen  
Secretary of Homeland Security

245 Murray Lane SW  
Washington, D.C. 20528

Copy Sent Certified Mail and Via Email: DHSSecretary@hq.dhs

Dear Secretary Nielson:

The undersigned organizations are writing to express serious concern over the Department of Homeland Security's implementation of the President's Executive Order 13767 in the environmentally-sensitive conservation areas of Lower Rio Grande Valley National Wildlife Refuge, Santa Ana National Wildlife Refuge, Sabal Palm Sanctuary, Bentsen-Rio Grande Valley State Park and National Butterfly Center, Big Bend National Park, Big Bend Ranch State Park, and Black Gap Wildlife Management Area, and to declare our steadfast opposition to the damage a border wall across these parts of Texas would cause to birds, other wildlife and their habitats.

These parks and refuges were created not just to protect the natural beauty of precious Texas ecosystems, but to safeguard habitat critical to flora and fauna whose existence relies on a landscape largely converted to farmland and development. According to the North American Butterfly Association (NABA), the Lower Rio Grande Valley of Texas has the most diverse butterfly and bird fauna of any area of the United States.

These nature preserves provide essential economic activity in Texas. According to a 2011 Texas A&M University [study](#), nature tourism (primarily birding) contributes \$463 million annually to the local economy. Located near several birding hotspots, the Alamo Inn B&B, for example, hosts more than 1,200 visitors a year. "Ninety-five percent of our guests are birders," says innkeeper and guide Keith Hackland, who adds that his bird-loving visitors so far have come from 40 different countries and every U.S. state.

A [DHS letter](#) of October 10, 2018 indicates, "DHS remains committed to environmental stewardship. DHS has been consulting, and intends to continue doing so, with stakeholders including federal and state resource agencies and affected landowners. Such consultation facilitates DHS's assessment of potential impacts and informs its efforts to minimize, to the extent possible, potential impacts to the environment, wildlife, and cultural and historic resources."

However, the contrary act of exercising the [waiver authority](#) in Section 102 (c) of IIRIRA thus far on nine occasions to avoid compliance with laws such as those listed below, as well as disregarding existing Memorandum's of Understanding (MOU's) with Mexico, indicates otherwise:

- National Environmental Policy Act
- Endangered Species Act
- Clean Water Act
- National Historic Preservation Act
- Migratory Bird Treaty Act
- Clean Air Act
- Archaeological Resources Protection Act
- Safe Drinking Water Act
- Noise Control Act
- Solid Waste Disposal Act

- Comprehensive Environmental Response, Compensation, and Liability Act
- Archaeological and Historic Preservation Act
- Antiquities Act
- Historic Sites, Buildings, and Antiquities Act
- Wild and Scenic Rivers Act
- Farmland Protection Policy Act
- Coastal Zone Management Act
- Wilderness Act
- Federal Land Policy and Management Act
- National Wildlife Refuge System Administration Act
- Fish and Wildlife Act of 1956
- Fish and Wildlife Coordination Act
- Administrative Procedure Act
- National Park Service Organic Act
- National Park Service General Authorities Act
- National Parks and Recreation Act of 1978
- Rivers and Harbors Act of 1899
- Eagle Protection Act
- Native American Graves Protection and Repatriation Act
- American Indian Religious Freedom Act
- Religious Freedom Restoration Act
- National Forest Management Act of 1976
- Multiple Use and Sustained Yield Act of 1960
- Federal Grants and Cooperative Agreements Act of 1977

The undersigned groups urge that the environmental waivers be withdrawn, and that [wall construction be halted](#) in areas that threaten birds and other wildlife in favor of better high tech alternatives. It is crucial DHS prevent unintended impacts to an already fragile wildlife ecosystem of the States' wildlife parks and reserves.

We are concerned that the proposed Border Wall and its associated levees, additional structures, fencing, roads, lighting, cameras, and sensors pose an unacceptably high risk to flora and fauna. This concern is shared by conservation groups on both sides of the border, biologists, federal, state and local representatives, as well as by citizens.

In the [Lower Rio Grande Valley](#) farming and urbanization has consumed more than 96% of the valley's native habitat. To protect, restore and create corridors between isolated remnants of the region's dwindling forests and scrublands, the [Lower Rio Grande Valley](#) National Wildlife Refuge was created in 1979. Today, 3 percent of the region's Tamaulipan thornscrub forests remain intact and even less of its riparian forests.

In 1988, the U.S. Fish and Wildlife Service (FWS) added Monterrey Banco to the refuge and, for the past three decades, FWS staff have worked to bring native vegetation back to what once was agricultural land. Animals followed the plants. Biologists have recorded more than 110 wildlife species in the tract, including the [Texas indigo snake](#) and [Texas tortoise](#), both listed by the state as threatened.

According to an internal FWS memo dated March 2011, the barrier already in place has indeed hurt wildlife. Its construction, along with clearings beside it, destroyed and [fragmented habitat](#). While a levee had long stood at the same location (the wall was built on top of it), "wildlife can get over a gently sloping levee but not a sheer vertical wall," says Jim Chapman, vice president of the nonprofit [Friends of the Wildlife Corridor](#).

The wall's effects on borderland wildlife also would be wide-ranging. "Barriers like border walls can interfere with the ability of animals to meet their daily needs, make seasonal migrations or disperse to new areas," says National Wildlife Federation Chief Scientist [Bruce Stein](#). "In addition, the capacity of many species to survive in the face of warming temperatures will hinge on their ability to move unimpeded to follow shifts in climate."

According to a 2016 FWS analysis, more than 100 federally listed endangered species, from obscure plants to black-footed ferrets, could be impacted by a completed wall. ESA listed and birds of conservation concern in the border region include Bald Eagle, Black-capped Vireo, Cactus Ferruginous Pygmy Owl, California Condor, California Least Tern, Coastal California Gnatcatcher, Golden Eagle, Least Bell's Vireo, Least Tern, Masked Bobwhite (Quail), Mexican Spotted Owl, Northern Aplomado Falcon, Piping Plover, Red-Crowned Parrot, Southwestern Willow Flycatcher, Western Snowy Plover, Yellow-Billed Cuckoo, and Yuma Clapper Rail.

Particularly problematic for wildlife is the way the wall blocks movement between the few patches that can support them. Animals whose range barely juts into the U.S. may find themselves cut off from relatives, prospective mates, and suitable empty territories. Many terrestrial animals can't get around or over the fence, and are more vulnerable to predators on its access roads. [While birds might seem to have an easier time](#) going over the fence, research has shown that many forest birds are extremely reluctant to cross gaps of unfamiliar or open habitat.

In the publication, *Frontiers in Ecology and the Environment*, University of Texas at Austin biologists, indicate "expanding the physical barriers along the southern border of the U.S. will have substantial negative effects on wild species and natural ecosystems." Those effects range from habitat fragmentation and loss (between 4.8 and 7.3 acres lost per mile of new wall) to ecosystem degradation due to "edge effects" (from pollution, floodlights, traffic and changes in water drainage, for example).

The [Bentsen-Rio Grande Valley State Park](#), which includes part of the World Birding Center, hosts several threatened species and is one of the nation's top bird-watching destinations. The park drew nearly 30,000 visitors in 2016 and, as with other state parks, tourism has been growing by about 5 percent annually.

An October 2017 memo from Texas Parks and Wildlife Department Executive Director, Carter Smith to Paul Enriquez, the Border Patrol's real estate and environmental branch chief, states that if the federal government builds the proposed border fence as currently contemplated and without modification through [Bentsen-Rio Grande Valley State Park](#), it "would certainly call into question whether TPWD could continue to safely operate the property as a state park, and thereby possibly causing the site to [revert back to the original Grantors? heirs.](#)"

Big Bend, Texas' largest National Park, hosts three separate ecosystems - the river, mountains and desert - and is home to more than 1,300 species of plants and an array of birds, bats, butterflies, reptiles, and mammals like mountain lions, and big-horn sheep, according to Park Ranger, Jennette Jurado. Big Bend is also home to Mexican black bear, which migrate back and forth over the border. A border wall could interfere with the bear's migratory patterns between Mexico and Texas, abruptly ending this ecological success story. "If there's a wall, we really wouldn't have black bears in West Texas," said Louis Harveson, director of the Borderlands Research Institute at Sul Ross State University in nearby Alpine.

Big Bend's wildlife biologist, Raymond Skiles, has indicated the park's full-time residents, mountain lion, black bear, bighorn sheep and the rare white-nosed coati, range back and forth across the Rio Grande to forage and keep their gene pools healthy. In the arid environment, they need to be able to [get to the river](#). "The Rio Grande is also the park's most important water source for animals," he says. "It's as simple as that." At Sabal Palm Sanctuary, which exists in the

US on the Mexico side of the border wall, the wall has proven to interfere with wildlife movement since ground dwellers like the endangered Ferruginous Pygmy-owl rarely flies more than 13 feet above the ground.

Thank you for your consideration of our views. Our coalition will be watching DHS's actions taken to secure the border where the parks and sanctuaries are affected, while working with local, state and national elected officials and citizens to protect these areas.

Sincerely,

Steve Holmer

Vice President of Policy

American Bird Conservancy

American Bird Conservancy is a 501(c) (3) not-for-profit membership organization whose mission is to conserve native birds and their habitats throughout the Americas ([www.abcbirds.org](http://www.abcbirds.org)). ABC acts by safeguarding species, conserving and restoring habitats, and reducing threats, while building capacity in the bird conservation movement.