

April 28, 2008: "Walls and Waivers: Expedited Construction of the Southern Border Wall and the Collateral Impacts on Communities and the Environment."

My name is Betty Pérez. I am an active member of the coalition, No Border Wall. Thank you Chairman Grijalva and Chairwoman Bordallo for organizing this field hearing, and thank you all for actually coming down to the border to listen to what our community has to say about the border wall.

Secretary Michael Chertoff and the DHS are either out of touch or misleading the nation in saying that residents along the border have had this opportunity to be heard many times before. The handful of open house meetings they held, left people frustrated and angry that their questions were not answered and that their opinions could only be written or given to a stenographer. These meetings were not opportunities for public input or dialogue; they were rigid forums where DHS did not listen or respond to legitimate concerns. Now even that input we are told will not be gathered and released because of Mr. Chertoff's abuse of the REAL-ID Act waivers.

I'll venture to say that if you get out and actually talk to the 3 million people who live along the Texas border and who are being directly affected by this intrusive wall, you will find that overwhelmingly, they are against it. Those who are for it have loud, angry voices, and those are the ones being heard in Washington. Mostly folks down here will say that the wall is a big waste of money, there's serious doubt we can stop the Bush Administration from rolling over our wishes to stop it, and that someone's getting richer because of it.

I'll sum up who the No Border Wall group is with words written by one of the No Border Wall founders, Scott Nicol: "NO BORDER WALL is a grassroots coalition of groups and individuals united in our belief that a border wall will not stop illegal immigration or smuggling and will not make the United States any safer. A border wall tells the world that we are a fearful nation, not a strong and confident nation, and that we are unable to address difficult issues in an intelligent and meaningful way. It will do irreparable harm to our borderlands and our country as a whole."

The coalition consists of people coming from a lot of different perspectives and backgrounds. There are people who really care about the Rio Grande Valley's environment and who don't want to see it scarred; there are social activists and clergy who believe that we are treating desperate Mexican people inhumanely; there are farmers and ranchers who mostly want to get water to their crops and their cattle and easily access their land; there are business professionals worried about the affects a wall will have on the economy of an already impoverished area. There are people in this group that think this wall is plain and blatant racism; those that just love this area and don't want to see our unique culture ruined by a wall; those that are afraid the border is becoming more and more militarized; and those that are dismayed at the way the government is trampling upon our Constitutional rights.

I should tell you now why we use the word *wall*. When I hear the word *fence* I think of the barbed wire fences that separate properties and pastures. Even the cows can get through those if the grass is a lot greener on the other side. Or I think of the cedar fence around my mother's yard. It's easy to get past a fence, not so easy to get past a wall. And that's what has been proposed here by the Bush Administration—a wall that illegal immigrants and terrorists can get through by going over it or under it or around it—but that terrestrial wildlife will not be able to pass. You can't change what a bad thing inherently is by giving it a sweeter name. It's not a fence and it's not just a levee with its river side made of 2' thick and 18' high cement. It's a wall. Why is Secretary Chertoff building it? The appropriations bill passed last December removed the requirement that Mr. Chertoff build walls in our area. But he's doing it anyway.

When I think of a wall, I think of the one being built between Israel and Palestine, and of the ongoing violence on the border between those warring countries. Or I think of the wall between East and West Berlin, and how that monstrosity once separated the German people. Or I think of the Wall of China that isolated that country from the rest of the world for centuries. We don't want a war zone here in the Valley. We don't want to make enemies of our Mexican friends and neighbors, and we don't think the United States should isolate itself from the rest of the world.

Other than this new hat I wear called activist, I wear a few other hats in giving my testimony today—I'm a landowner and manage my family's cattle ranch and dry land farm, which thankfully is fourteen miles north of the border and not directly affected by the wall. I helped organize a canoe touring enterprise on the Rio Grande when I was director of the Friends of the Wildlife Corridor, and can proudly wear the hat of a paddler now. I'm a Valley native of Mexican descent and have roots in the Rio Grande Valley that go back centuries on both my parents' sides

As a rancher, farm owner and native plants grower, I strongly relate to those who are in danger of being cut off from their water source by a wall. I worry about our cattle and crops, because it has been 6 months since we've had a decent rain. Much of the water that our cattle and the wildlife drink on our land is drawn up by windmills. Our farm land is at the mercy of rain; we don't have irrigation. The native plants we grow are watered from rain water that we collect off our roofs. To put it another way, water is not taken for granted in these parts. We measure rainfall by the hundredth of an inch after all. So if farmers and ranchers along the river have a difficult time getting to their water in 100-degree heat, you know why most of them are against the construction of this wall.

There are a lot of people like me in the Valley who can talk long and proudly about their deep roots here. Although the ranch my family owns now was bought in the 30's by my maternal grandfather, my roots in the Valley go back into Mexico and to the Texas land grants of the 1700's on both my maternal and paternal sides. There are Valley people who still own family land going back centuries. All of you have no doubt heard about Dr. Eloise Tamez' struggle to keep what family land she has in El Calaboz or of the citizens of Granjeno, who have already lost some of their land to the levee system. It's hard to hold onto land through hard times, high taxes, drought, and eminent domain. But the

longer you do, the more the land becomes part of who you are. It is wrong for our government to seize it and tear it in two for a wall that won't work.

At heart though, and maybe partly because of these other hats I wear, I'm an environmentalist. I got involved in actively protesting the wall, because I am an environmentalist. We have something quite unique here in the Valley that I strongly feel needs to be protected and enhanced. Because of our location on the Central Flyway for migratory birds, in an area that includes coastal habitats, riparian habitats, semi-arid and semi-tropical habitats, we have an incredible biodiversity of birds, butterflies and plants. We have rare species of cats that most of us dream of seeing. We have a beautiful river, a getaway, a recreational relief from the heat, the dust and the busy metropolis that most of the Valley has become. The river should be promoted for its recreational and health benefits and not made inaccessible. This is an area that has few such recreational opportunities and a population that has a large incidence of diabetes, due to poor eating habits and little exercise.

And the river is the basis of a wonderful dream for many of us—the completion of 275 miles of greenbelt running along the Rio Grande, on the Mexican side too, from the Gulf of Mexico to Falcon Reservoir. This wildlife corridor would extend across the river, and down the wetlands of the Gulf Coast. It wouldn't stop at Falcon either, this corridor for wildlife has the potential to expand into the nearby mountains of Mexico, and even down into Central America, keeping endangered and non-endangered species alive and healthy. It wouldn't stop at our flood control levees, which were not intended to stop wildlife, or illegal immigrants and terrorists for that matter, but would reach into the tiny islands of brush on the north side of the levees that need to be connected to the river system.

The levee-wall being proposed by some local representatives is a bad idea. It will be just as bad for the environment as the original fence proposals. It is absolutely impenetrable to terrestrial animals—a true wall even though local representatives have characterized it by saying we will no longer have the wall in some areas due to get it. Furthermore, with Chertoff's latest waivers, specifically for the levee-wall, no environmental impact studies will have to be made for it. The idea is being rushed along with no proper studies of its safety. And it is bound to insure that the Mexican side of the river with levees two-feet high in some places is what ends up getting potential flood waters from a hurricane.

When I had the time to volunteer for the Friends of the Wildlife Corridor, I lobbied in DC two times to get Congress to appropriate money so that land along the river, mostly farmland, could be bought at good prices from willing sellers and turned into the corridor. We were relatively successful. Nearly \$90 million dollars into the project, the Lower Rio Grande Valley National Wildlife Refuge is over half-completed. And now Congress has voted to bulldoze through hundreds of those hard-earned acres. When 95% of native brush is already gone in the Lower Rio Grande Valley, then each acre cleared is significant.

Ecotourists from all over the world generate more than \$125 million dollars for local economies, which is very significant for counties with an average annual median

household income of ~\$15,000. Birders come here to see birds reaching their northern limits here in the Valley; that are found nowhere else in the U.S. They come to see “million dollar birds” like the brown jay, the green kingfisher, the great kiskadee and the green jay. They come to get rare glimpses of the red-billed pigeon and gray hawk, two birds that need the large trees that grow along the river to roost and nest in. In Starr County these trees, some of them hundreds of years old, will be bulldozed right next to the river.

How will these tourists access the best birding areas? Will refuge managers let staff or work and fire crews go between the walls and the river?—probably not; it won’t be safe. How will the 300 fires that start in the wildlife corridor every year be brought under control? Will Sabal Palm Grove and Southmost Preserve have to be closed because they are on the river side of the levees?—probably; it won’t be safe.

No Border Wall is asking Congress for a moratorium on the border wall. I quote from our moratorium letter: “We are deeply troubled by the headlong rush to build walls along the United States’ southern border without meaningful consideration of the walls’ negative impacts on border communities and the environment, and without evidence that such walls will enhance national security or curtail illegal immigration and smuggling. The border wall is a monumental project that will severely impact the entire 1,954-mile southern border and the 11 million US citizens who live along it. A moratorium will allow time to assess the value of border walls in the overall national security strategy, and ensure that we do not needlessly sacrifice the social, economic and environmental health of our border region.” I am including our moratorium letter at the end of this written testimony.

We in No Border Wall have been concerned enough about the building of this wall to try and do something about it, to exercise our democratic rights, to call and write letters to our representatives, organize rallies against it, and try to get the word out to the rest of the nation that something awful is happening down on the Rio Grande. Thank you again for this opportunity to hear our voices.

### Call for a Moratorium

Dear Representative,

We urge you to enact an immediate moratorium on border wall construction. We are deeply troubled by the headlong rush to build walls along the United States’ southern border without meaningful consideration of the walls’ negative impacts on border communities and the environment, and without evidence that such walls will enhance national security or curtail illegal immigration and smuggling. The border wall is a monumental project that will severely impact the entire 1,954-mile southern border and the 11 million US citizens who live along it. A moratorium will allow time to assess the value of border walls in the overall national security strategy, and ensure that we do not needlessly sacrifice the social, economic and environmental health of our border region.

There are numerous problems with the border wall project and the way it has been implemented thus far:

The Department of Homeland Security has yet to develop a coherent border strategy: Rather than evaluating the relative effectiveness of a border wall versus other security measures such as more boots on the ground, DHS begins with the conclusion that border walls must be built. Even though construction is due to begin immediately, DHS still claims that they have not yet determined the border walls' final route. The Draft Environmental Impact Statements and Environmental Assessments written for the border wall lack key information that is required by federal law, including final maps and design specifications. In addition, alternatives that were rejected outright in the draft environmental studies, such as building the walls into the flood control levee system, are being hastily revived and pursued. Critical questions regarding the levee-walls' impacts on public safety, on private and public property, and on wildlife remain unanswered.

The border wall does not appear to be based on operational needs: According to the Border Patrol's own statistics, illegal crossing of the southern border decreased significantly between 2006 and 2007, including a 34% decrease in the Rio Grande Valley Sector and a 46% decrease in the Del Rio Sector. Both Texas sectors are slated to get walls despite this reduction and in spite of intense local opposition. By contrast, the heavily fortified San Diego Sector, where a triple-layer wall divides the border, saw a 7% increase in illegal crossing, suggesting that walls are not a meaningful deterrent for undocumented crossers. Indeed, a June 2007 Congressional Research Service report concluded that the walls in San Diego had "no discernible impact" on the number of people entering the U.S. illegally. The Border Patrol has also stated repeatedly that a wall only slows crossers down by a few minutes, rather than stopping them.

According to Secretary Chertoff, there is no imminent threat along the southern border: While DHS has frequently referred to the threat of "terrorists and terrorist weapons" crossing the southern border in order to justify the breakneck speed of border wall construction, Secretary Chertoff has admitted that no potential terrorists have ever been apprehended on the southern border. In February he told the *New York Daily News*, "I don't see any imminent threat" of terrorists infiltrating from Mexico. Yet DHS has fast-tracked the border wall project and expects to complete 370 miles by December of this year. In the absence of an imminent threat this deadline appears to be an arbitrary and politically-motivated date timed to coincide with the end of the Bush Administration's period in office.

Border residents are not protected by the rule of law: Section 102 of the Real ID Act of 2005 gives Secretary Chertoff the power to waive all laws in order to build border walls. Such power concentrated in the hands of a single unelected official undermines democratic processes and places border residents under an undue burden, denying them the same legal protections guaranteed to all other United States citizens. Secretary Chertoff has issued 5 Real ID Act waivers to date, the most recent one setting aside 36 federal laws along the entire southern border. Secretary Chertoff can, and has, used

waivers as trump cards in the face of legal challenges, waiving the very laws that were the basis of successful lawsuits. This has had a chilling effect on those individuals and entities that have legitimate cases against DHS and has permitted the agency to disregard public safety, environmental protection, and humanitarian concerns. The only conceivable reason for DHS to waive laws is because they know that their actions will break them.

The wall could have permanent adverse impacts on border communities: When the border wall project is complete, walls will slice through municipal and private property, federally protected natural areas, state parks, and even a university campus. Homes will be bulldozed, and farmers and ranchers may be unable to access portions of their property. Along the Rio Grande, access to the river for municipal, agricultural, and recreational uses will be disrupted. In the hurricane-prone Lower Rio Grande Valley of South Texas, the border wall is planned to be constructed on or near the flood control levees that parallel the river. A similar levee-wall is also planned for Presidio, Texas near Big Bend National Park. No studies have yet been published that describe what impact the wall would have on flooding or on the integrity of these levee systems, and DHS has announced that in order to speed construction no further studies will be done.

The negative impacts of the border wall will fall disproportionately on poor and minority citizens: Although there are many vibrant local economies along the border, approximately one-quarter of the population in the counties along the border live at or below the poverty line. This is more than double the national poverty rate. In addition, most of the counties in the border region have majority-minority populations. Given these demographics, the potential social, economic, and environmental damage caused by border walls could be magnified and will certainly affect poor and minority communities disproportionately. Nevertheless, DHS has failed to adequately examine environmental justice issues.

Existing walls have created a humanitarian crisis in the Southwestern desert: DHS has continued to operate under the false assumption that the harsh conditions of the desert are a deterrent for people seeking entry into the U.S. The reality is that as DHS builds walls in populated areas, desperation drives more people into remote desert areas where hundreds die from dehydration and exposure. The General Accounting Office found that as walls went up between 1995 and 2005, the number of people who died attempting to enter the U.S. doubled.

Border walls threaten protected natural lands and already endangered species: Nearly one-third of the 1,954 mile U.S.-Mexico border lies within public and tribal lands, including hundreds of miles within the National Park system. Spectacular wildlife, including both terrestrial species and resident and migratory birds, rely upon protected public lands along the border. Many endangered species including the jaguar, ocelot and the jaguarundi are dependent on border habitats for survival. Border walls will fragment habitat and isolate species currently at risk, undermining decades of conservation efforts. Walls between Mexico and Arizona will end the hope that the jaguar, which has only recently returned to the U.S., will reestablish itself.

Constructing border walls damages our relationship with Mexico: Mexico is our neighbor and our largest trading partner, but Mexicans, from the president on down, see the border wall as an unprovoked insult. Building walls on the Mexican border, while leaving the Canadian border wide open, is interpreted by many as racist. In addition, the wall may also be in violation of a number of treaties with Mexico, including a 1970 treaty which stipulates that neither the U.S. nor Mexico can erect any structure that would result in a shift in the Rio Grande and therefore change the international boundary between the two countries.

It is irresponsible to erect more walls without a complete understanding of what the long-term consequences will be. A moratorium will allow time for a non-partisan organization such as the General Accounting Office to review both the impacts of the walls that have already been built and the foreseeable impacts of proposed walls. The information gleaned from such a careful examination will allow our nation to better evaluate whether building walls is in fact the best way to address the complex issues of immigration and national security. DHS's blind rush to break ground and build fences, without regard for impacts or likelihood of success makes a Congressional moratorium on border wall construction imperative.