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Written Testimony "Walls and Waivers: Expedited Construction of the Southern Border Wall and collateral Impacts to Communities and the Environment."

My testimony is based on my knowledge and experience as a wildlife biologist and refuge manager with the U.S. Fish and Wildlife Service during the last 30 years as well as my B.S. degree in wildlife management from Humboldt State University. Specifically, I held positions of Deputy Project Leader (4 years) and Project Leader (7 years) for the South Texas Refuge Complex. As Project Leader I oversaw the operations and management of Santa Ana, Lower Rio Grande Valley, and Laguna Atascosa National Wildlife Refuges. My duties during my 11 years in the Lower Rio Grande Valley included close coordination with Border Patrol and the Department of Homeland Security and more recently I took the lead for National Wildlife Refuges in Texas in U.S. Fish and Wildlife Service in negotiations with DHS on the construction of the Border Fence.

The U.S Fish and Wildlife Service was first made aware of permanent border fencing in the Valley in April of 2007 when newspaper articles appeared chronicling the contacts local border patrol agents were making in and around Roma, Texas. This was followed by contacts made by FWS to the Rio Grande Headquarters for information on this potential fence. As a result of this inquiry carried out by FWS, a meeting was held at Santa Ana National Wildlife Refuge with Border Patrol and Army Corps of Engineers representatives. During this meeting the plans for a border fence were confirmed and the Lower Rio Grande Valley National Wildlife Refuge was put on notice that DHS intended to build miles of fence on the Refuge. Further, DHS indicated that the refuge was targeted because it was thought that it would be easier to build the fence on property already owned by the Federal Government. During this meeting, preliminary maps were provided to the FWS which could not be shared with outsiders. Though at the time, and continuing for many months, it was DHS's official position that no decisions had been made regarding fence locations.

Many months passed with few (largely unproductive and uninformative) meetings between FWS and DHS and ACOE until September when the FWS was invited to a meeting at the Harlingen Border Patrol Headquarters to meet with DHS and their consultants (E2M) who were tasked with conducting biological, cultural, and engineering surveys on private land and refuge lands to gather information for the DEIS for the border fence. This marked the first time that FWS Refuges were informed that surveys would be requested on refuge lands. Surveys were conducted on private lands beginning in October 2007 and Refuge lands in December 2007. Public meetings aimed at gathering public comments on the DEIS were conducted at various locations in the Valley in December 2007.

The narrative and chronology of events described above aptly illustrates the DHS's unrealistic schedule and concern for carrying out a proper evaluation of the environmental effects of the proposed border wall. Without proactive efforts on the part of FWS it is unclear whether the FWS would have been notified of this pending action until well into the summer months. This is ironic since DHS apparently put many of its "eggs" in the refuge basket counting on the ease of accessing and constructing a border fence on a National Wildlife Refuge. The content and tone of DHS throughout this process could only be described as having no special consideration for the fact that a major action (permanent fence) was proposed to be place on one of this nation's

most “special places”. Further, the DEIS prepared for DHS is founded on very superficial biological surveys of private and Refuge lands which constitute a totally inadequate “gathering of the facts” to evaluate such a major construction project.

The Lower Rio Grande Valley National Wildlife Refuge was established in 1980 after extensive investigations and research and was promoted by a large and very diverse public who recognized the importance of the Refuge, both nationally and internationally. Also known as the “wildlife corridor”, the Refuge was established and designed to perform in concert with hundreds of private landowners, conservation organizations, and municipalities as well as Mexico to create a viable migration corridor for south Texas wildlife. So far, over 70 million dollars of Land and Water Conservation Funds (Federal) has been expended to acquire lands within the Refuge. Millions have also been spent to restore native habitat along the river. A major reason for the establishment of the refuge and corridor was to serve as habitat and a migration corridor for the endangered ocelot and jaguarondi (cats). Within the south Texas Refuges and adjacent private lands are a total of 18 endangered or threatened plant and animal species. Largely confined to the wildlife corridor in south Texas, this area is home to over 500 species of birds, 300 species of butterflies, and 1,200 species of plants. It is one of the most biologically diverse regions of the U.S.

A driving force for scientists and the public alike in the establishment of the Lower Rio Grande Valley National Wildlife Refuge was the historical loss of native habitat. Over 95 percent of the native brush in the Valley has been cleared and over 98 percent of the river edge forest has been cleared. This leaves a very narrow ribbon of wildlife habitat that is critical to thousands of wildlife species. Though the footprint of a border fence is somewhat unclear at this time, it is clear that significant wildlife habitat will be cleared to construct and maintain the fence. Further clearing of wildlife habitat further jeopardizes the existence of south Texas wildlife populations that are already “on the brink” due to historical land clearing. Clearing of additional wildlife habitat on the refuge and private lands adjacent to the Rio Grande is not analogous to clearing habitat on the border with Canada. Thousands of square miles of uninterrupted wildlife habitat remain on our northern border.

The narrow wildlife corridor that currently exists along the river serves as a critical stopover for millions of migrating birds traveling from North America to South America. Situated between the Gulf of Mexico in the east and the deserts of the west, this narrow strip of habitat serves migrating birds from two flyways which funnel through the Rio Grande Valley. A real life example of this is the spring migration of broad-winged hawks. In April of each year, tens of thousands of hawks and falcons settle in on the nearby Santa Ana National Wildlife Refuge for nightly rests before rising on thermals to travel thousands of non-stop miles to northern breeding areas. Satellite maps confirm that vast areas north of the wildlife corridor in the U.S. and south into Mexico have been cleared for agriculture, business and municipalities. There is no visible alternative for millions of migrating birds seeking rest and food. Additional habitat losses through the construction of a border fence will likely result in further losses of a declining migratory bird population.

The proposed fence will also impact endangered species like the ocelot and jaguarondi by serving as a barrier to travel for these endangered cats. Current estimates range from 70-100 ocelots remaining in the U.S. Barriers to travel will impact the ocelot’s ability to travel from Mexico into the U.S. and within the U.S. An important factor in the health of the ocelot population is its genetic viability. Due to low numbers and current restrictions to movement, the ocelot population is showing signs of genetic inbreeding. Inbreeding often affects the health of individual cats by increasing their susceptibility to disease. Border fencing constructed as part

of the International Boundary and Water Commission Levees would not allow any passage for terrestrial wildlife like the ocelot and jaguarondi. Northern movement from the wildlife corridor to areas such as Laguna Atascosa National Wildlife Refuge and southern movement from Laguna Atascosa through the wildlife corridor into Mexico are critical to the continued existence of these cats.

Proposed fences placed adjacent to the Rio Grande on private lands and federal lands will impact a wide variety of terrestrial wildlife in Starr County. Starr County is located on the west side of the wildlife corridor/refuge and is characterized by almost desert conditions. Many of these species including white-tailed deer and javelina are dependent on the river for water and would be effectively blocked or would have to expend additional energy to reach the river or alternative water sources.

The Lower Rio Grande Valley is unique in many ways and a major geographic feature is the Rio Grande. From the Falcon Reservoir in the west to the Gulf of Mexico the river and adjacent Lower Rio Grande Valley National Wildlife Refuge/wildlife corridor is a convoluted river course cover 275 river miles. Due to the nature of the river, it is possible to enter the U.S. from Mexico from the north. Flood control treaties with Mexico require that much of the proposed border fence be place on or north of the IBWC levees. This creates an area of “no man’s land” between the fence and the international border. Thus, the areas south of the fence will still have to be patrolled as usual by Border Patrol since leaving these areas unattended will result in a virtual “take” by criminals from Mexico. Subsequently, the fence provides little or no relief in manpower requirements for security purposes.

Because of the fence placement along IBWC levees which leave vast areas of the U.S. behind the fence, the Lower Rio Grande Valley National Wildlife Refuge is faced with new concerns related to safety and security. Significant questions remain for refuge managers under this scenario. It is unlikely that the refuge can continue to operate safely south of the fence to carry-out its responsibilities for protection, operations and management. The Refuge’s fire division will not be able to safely respond to wildfires south of the fence on refuge and private lands to extinguish hundreds of wildfires each year due to limited escape routes. Without additional refuge law enforcement capacity, it is likely that these areas will turn into “no management” zones and significant damage will occur to wildlife and wildlife habitat.

The waiver invoked by Secretary Chertoff on April 1, 2008 waiving 28 Federal Acts including the National Environmental Policy Act and the Endangered Species Act is additional evidence of an agency in crisis. Thoughtfulness, logic, and (really) listening to the public it serves have given way to the overpowering mandate of building hundreds of miles of fence by a legislative deadline. The National Environmental Policy Act was intended used to fully evaluate the impacts of a project to the environment and provide the best course of action for all (including national security). Instead, unneeded and unwarranted impacts will be borne by communities and the environment at a heavy cost (fiscal). Eleven years of managing thousands of acres of land within the Lower Rio Grande Valley National Wildlife Refuge and coordinating Border Patrol activities on those lands lead me to believe that there are viable alternatives to the border fence as proposed by DHS that would eliminate or lessen the impacts to special places like the Lower Rio Grande Valley National Wildlife Refuge, wildlife corridor and communities in the Valley.