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PARADISE LOST

The Rio Grande Valley in south Texas is one of this nation's most biologically rich areas—home to our largest remaining stand of sabal palms, rare ocelots, and bird species found nowhere else. So why would the United States be planning to build a wall that would do little to stop illegal immigration, do a lot to harm wildlife, and effectively cede much of this land to Mexico?

By Ted Williams

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In September 2006 Congress responded to national outrage about our grossly porous southern border by voting in The Secure Fence Act. The law mandates the Department of Homeland Security (DHS) to construct 854 miles of double-layered fence along 35 percent of our southern border, from San Diego, California, to Brownsville, Texas, complete with roads, clearings, stadium-style lighting, sensors, cameras, and radar—a 21st century Maginot Line designed to repel the invading army of illegals. The Congressional Research Service reports that building the fence and maintaining it for 20 years will cost \$49 billion. But there are other, greater costs.

Last April I visited the Rio Grande Valley in south Texas, where I followed the future path of the fence from Brownsville, near the Gulf of Mexico, to Alamo, 60 miles to the west. When I brought up the subject with environmental leaders, educators, birders, wildlife officials, farm advocates, private landowners, or politicians, the response was always the same—visceral outrage. “Something there is that doesn’t love a wall,” as Robert Frost observed in his poem “Mending Wall.”

Part of that “something” are the wild animals that depend on the Rio Grande for water and on the thin habitat corridors that thread through these borderlands for food, cover, and genetic viability. Although 95 percent of the valley is cropland, it is still one of the most biologically diverse areas in our nation.

Four climatic zones converge here. The temperate zone brings in species not seen farther south—northern mockingbirds and sugar hackberry, for example. The Chihuahuan Desert supplies species not seen to the east, such as thorny plants, cactus wrens, and pyrrhoxias. The Gulf Coast contributes shorebirds and wading birds, and the subtropics provide species that don’t occur to the north, such as brown jays, red-crowned parrots, green parakeets, hook-billed kites, and clay-colored robins. The U.S. Fish and Wildlife Service has identified 11 distinct habitats in the valley. One reason they meet in south Texas is that there are no barriers for hundreds of miles. But that may be about to change.

My first stop was the 557-acre Sabal Palm Audubon Center, tucked against the Rio Grande in Brownsville. The center, a Global Important Bird Area, is visited annually by about 10,000 people who pump \$6.9 million into one of the nation’s poorest communities. Each year Audubon educational programs bring nature to about 3,000 children who otherwise wouldn’t encounter it.

The center is part of an intense, 30-year cooperative effort by the Fish and Wildlife Service, Audubon Texas, Frontera Audubon, the Sierra Club, The Nature Conservancy, Friends of the Wildlife Corridor, the Texas Parks and Wildlife Department, Pronatura Noreste (a Mexican NGO), and the Mexican states of Nuevo Leon and Tamaulipas to set up a linear system of wildlife corridors to the river and between countries.

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Thirty feet from the center's parking lot I began seeing birds you won't find anywhere much north of here. Pheasantlike plain chachalacas dipped and bobbed along branches and pathways, drowning out human conversation with their raucous calls. Green jays flashed their spectacular plumage. Couch's kingbirds hawked insects. And hidden in the dense foliage of willows, mesquite, and acacias, kiskadees shouted their names. The center's manager, Jimmy Paz, led me through a lush understory of such natives as Turk's cap, coral bean, castor bean, David's milkberry, and Barbados cherry growing beneath a canopy of huisache, guamuchil, great lead trees, and Texas ebony. We found buff-bellied hummingbirds, white-tipped doves, ladder-backed woodpeckers, a gray hawk, a Swainson's hawk, a pair of white-tailed kites, and Altamira orioles.

The *esteros*—oxbow ponds discarded like empty wine bottles by the reeling river—held coots, pintails, blue-winged teal, mottled ducks, and least grebes so tiny they looked like windowsill gewgaws. Red-eared sliders glistened on floating logs, and solitary sandpipers and northern water thrushes patrolled mudflats. Gray-crowned yellowthroats had been extirpated in the United States, but three years ago they showed up again, and now they nest here. Yellow-green vireos, almost extirpated, now nest here, too. Surviving in this oasis of native habitat is America's largest remaining stand of sabal palms, trees that, before the riverboat industry razed them for wharf pilings, cloaked the valley and gave the river its first name, Rio de las Palmas. Ocelots and jaguarundis have been seen here, and Paz has found jaguar tracks.

Ocelots, the only one of these critically endangered species for which there is decent data, are probably the most abundant of the three. They used to range through Texas and into Arkansas and Louisiana; now the U.S. population, confined to a thin band along the river, is thought to number no more than 100. By cutting off gene flow and thereby causing inbreeding, the fence will almost certainly eliminate all three cats north of the border, reducing our nation's native cat species by half. Local cougars and bobcats will suffer grievously but survive. Canada lynx, found only in our northern states, will, of course, be unaffected—unless Congress decides to seal off the Canadian border, too.

Paz shrugged when I asked him where the fence would go. "They won't tell us, but we think just north of our property," he said. Later Audubon Texas executive director Anne Brown added this: "One of our huge frustrations has been lack of consultation and lack of any formal process to voice our concerns. That affects how we do our planning and budgeting. From what we've heard, we'll have to close. We can't figure a way to keep it open, because we'll be cut off from the rest of the United States. Will we be insured? Will we receive city services? We can't let Ernie [the caretaker] live here anymore." The sanctuary and its unique plants and wildlife will be taken from the American people, and what survives will be, for all intents and purposes, ceded to Mexico.

A mile east of the Sabal Palm Audubon Center is The Nature Conservancy's 1,034-acre Southmost Preserve, part of the same system of wildlife corridors. Here TNC's Max Pons and Sonia Najera showed me some of the valley's last Montezuma cypress. The preserve also sustains the nation's second largest stand of sabal palms. Because the seed-filled fruit is relished by coyotes, the resourceful Pons propagates these trees by collecting coyote scats and planting the seeds he extracts from them.

A merlin flashed over our heads, and bobwhite quail exploded from roadside brush. Many native plants at the Sabal Palm Audubon Center and in the valley's three national wildlife refuges depend on irrigation. The pumps, which often clog with debris and stop working during electrical surges, need to be checked around the clock, but managers won't be able to do that if the fence goes up, because they won't be living there. Perhaps the pumps won't even be needed. "DHS may just clear all this land so they can see everything," Pons declared. Most locals expect it to do exactly that, but getting information on the project from the DHS is like soliciting driving directions from a Vermont farmer.

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With Wayne Bartholomew, director of Weslaco, Texas-based Frontera Audubon, I canoed the Rio Grande along the 2,088-acre Santa Ana National Wildlife Refuge's southern boundary, enjoying some of the planet's best birding. Among many other species, we had ringed kingfishers, green kingfishers, a groove-billed ani, and a pair of barn owls that studied us from their bank cavity, then obligingly flew over our heads. We even did our thing for national security by spooking nine swimmers five feet from U.S. soil and sending them back to Mexico like Mark Spitz.

Later we hiked in the shade of Spanish moss, draped like gray tinsel from the refuge's cedar elms and Rio Grande ash. In the esteros, dozens of scissor-tailed flycatchers, fresh in from Mexico, swarmed around willows. Not a minute passed in which at least one golden-fronted woodpecker did not call or bob over our heads. From the lookout tower we watched a pair of Harris's hawks orbiting over their two white chicks 20 feet below us, and gazed out over a vast riparian forest marred only by the soot-stained junction of Reynosa, Mexico, and Hildago and McAllen, Texas, far to the southwest. There, where wildlife has already been cut off and illegal immigrants easily blend with crowds, a border fence might make sense.

Next day we explored the 90,000-acre Lower Rio Grande Valley National Wildlife Refuge. The refuge, created expressly to facilitate wildlife movement, is a string of 115 wildlife corridors to the river and Mexico, spanning 275 river miles and sustaining at least 83 species of mammals, 484 of birds, 115 of reptiles and amphibians, 300 of butterflies, and 1,200 of plants—all for an investment of about \$100 million. The service has been authorized to acquire an additional 42,500 acres, but now that may not happen.

The fence project will destroy most of the refuge's function—cutting off wildlife from water and food, blocking gene flow, removing wide swaths of vegetation, increasing traffic and other human disturbance with access roads, drenching surviving habitat with light pollution, and creating a no-man's land (two miles wide in places) that will be unsafe and inaccessible for managers and the public.

On the levee we drove from corridor to corridor, past a dead sea of river-irrigated corn, onions, and sugarcane devoid of wildlife save flocks of great-tailed grackles and red-winged blackbirds that blew across it like incinerator smoke. These are native species, but because they eat crops they occur here in alien profusion.

In the esteros, links in the refuge, we encountered birds and plants excluded by agriculture. Dowitchers, sandpipers, stilts, and herons stalked rooty shoals, while Couch's kingbirds and kiskadees worked the high foliage. When we came abreast of the 100-acre estero called Monterrey Banco, I parked the rental car, and we walked along the northern perimeter, glassing birds and kicking dust into a desiccating wind.

Monterrey Banco, explained Bartholomew, is a good example of what the Fish and Wildlife Service and its partners have done in the valley and what the DHS will undo unless Congress or the new administration intercedes. The estero, one of the first pieces the service acquired, had been part of the dead sea. In assessing the environmental impacts of the fence project, the DHS has essentially written off ag land, proclaiming that it has no value for wildlife. But with restoration projects like Monterrey Banco, the service has given the lie to this assertion.

The fence will seal two-thirds of this tract. "We actually have a video of a coyote trotting out of the farm field and crossing the levee into the brush," says Nancy Brown, outreach manager for the valley's national wildlife refuges. "It's not going to be able to do that because there's going to be a 16-foot wall there. At one end is a house with dogs; at the other, a pumping station. If you're an ocelot or coyote or whatever, you have two options—go where there are dogs or human activity."

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Brown, who declines to comment on the fence other than to voice her agency's professional concerns, is typical of local Fish and Wildlife Service personnel. They take seriously their mandate to protect and restore wildlife, and they have responded to the threat from the DHS with courage and integrity. This, alas, is in sharp contrast to their bosses in the Albuquerque regional office, who, they inform me, ordered them to circumvent the law.

It is unlawful for the agency to permit activities on refuges that the National Wildlife Refuge System Improvement Act of 1997 does not define as "compatible." No way is it legal to plunk down a wildlife barrier in the middle of refuges designed for wildlife movement. So the director of the valley's refuge complex, Ken Merritt, advised the DHS that its engineering survey crew would not be permitted on refuge property.

"That's when it hit the fan," he told me. "It was really disheartening to me. Immediately above me, my chief of refuges and my refuge supervisor were real supportive. But the pressure from the regional directorship was just terrible. They wanted me to flip it and call the surveys 'appropriate.' I refused, because this was illegal. Things got ugly. DHS was having trouble with private landowners. But the refuges were government property; it saw them as low-hanging fruit."

An argument ensued between service brass in Albuquerque and Washington, explained Merritt—not about how best to meet their moral and legal obligations to protect and restore wildlife but about how best to roll over for the DHS. The regional office wanted to call the surveys "appropriate." The Washington office, rightly fearing that this wouldn't hold up in court, overruled it and asked DHS Secretary Michael Chertoff to waive environmental laws, including the National Wildlife Refuge System Administration Act, the Endangered Species Act, the Clean Water Act, and the National Environmental Policy Act, under unprecedented, czarlike powers bequeathed to him by Congress in 2005. Merritt, who continued to give the regional office "answers it didn't want to hear," as he puts it, was stripped of his authority last December. Under his inspired leadership the service had been restoring valley habitat at the rate of 800 to 1,000 acres a year. But in January 2008, Merritt quit. Then, on April 1, Chertoff invoked environmental waivers in Texas, New Mexico, Arizona, and California, having already done so in parts of the last two states.

About half the fence is already in place in the other states, and Border Patrol agents, who keep testing it, go under, over, or through it in three to four minutes. Mayor Chad Foster of Eagle Pass, Texas, president of the Texas Border Coalition (a group of elected officials fighting the project), reports that seasoned agents, requesting anonymity, have told him the fence is hopelessly ineffective. In many areas nothing will prevent illegal immigrants from driving a truck alongside the fence, scrambling up onto the roof, jumping over the top three feet, and shinnying down the other side. Despite a triple layer of fence at San Diego, illegal crossings there increased 7 percent between 2006 and 2007. The 854 miles of fence, meandering along hills and rivers, is supposed to seal off 698 miles of the 1,989-mile border, rendering it as effective as a 100-foot herring seine with a 65-foot hole in it. Congress and the Bush administration have to know the fence does not and cannot work. So why the mad rush to build it?

Answering that question best is John McClung, president of the Texas Produce Association—a trade group representing fruit and vegetable growers whose land will be seized, devalued, and cut off from the United States. "This is not a proposal intended to prevent illegal immigration," McClung says. "It is a proposal intended to allow a handful of dead-end ideologues in Congress to go back to their constituencies and say, 'Look. We've done something.' "

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The onions were ripe in south Texas, and I asked McClung if he knew what percentage of pickers I'd seen were illegal immigrants. "In the Rio Grande Valley and nationally, it's 70 percent for field workers," he said. This economic incentive for a porous border may have something to do with why the DHS locks up all illegal immigrants it catches except Mexican nationals, whom it transports back to their homeland. Prior to December 12, 2006, this catch-and-release policy applied to illegals from other countries, too, although they were given a slip of paper and instructed to report to a judge within 30 days. Of course, they didn't, and the document became a passport north. Once the DHS started locking up these illegal immigrants, apprehensions in south Texas declined 34 percent. If Mexican nationals who enter illegally faced the same sanctions, the decline could be even more dramatic and, coupled with the increase in Border Patrol agents, which has also helped, there wouldn't even be make-believe justification for the fence.

The fence has outraged Mexico, which has worked just as hard as the United States to establish wildlife corridors. Adrián Fernández Bremauntz, president of Mexico's National Institute of Ecology, calls it "an anachronism with medieval evocations, set forth as a solution that evades dialogue and obstructs the possibility that the two countries may design and jointly 'build' other measures that fulfill two perfectly compatible objectives: the United States' desire to better protect its borders and Mexico's wish to preserve its valuable shared ecosystems."

"I have just as many friends in Piedras [Mexico] as in Eagle Pass," Mayor Foster told me. "We grew up together. I'm in Piedras at least once a day. Putting a wall up between brothers does not have a positive connotation. You have a kitchen sink with the pipes broken. Instead of us fixing the pipes, which is immigration reform, we just keep sending in mops."

At a park by the river I caught up with one of Foster's fellow Texas Border Coalition members—Brownsville Mayor Pat Ahumada. "We should be building alliances, not walls," he remarked. "This fence will destroy thousands and thousands of acres. It's going to be a disaster for Brownsville. We have nature preserves here that pump about \$125 million annually into our economy. It's a beautiful area, a treasure. The politicians know it won't work; they're trying to appease middle America."

Despite its heroic work and strong advocacy for wildlife, the Texas Border Coalition doesn't quite get it when it comes to habitat, and the group is vulnerable to federal seduction, occasionally advocating alternatives to the fence that are even more deadly to wildlife. The coalition, for example, describes the 22-mile cement wall approved for Hidalgo County as a "win-win" because the DHS will toss levee repair into the deal. (At least a fence can be taken down.) And Ahumada touts the plan for a section of "virtual fence" by which a new dam on the Rio Grande will (in addition to providing more irrigation for his constituents) widen the river by 300 feet, back it up for 42 miles, and drown thousands of acres of wetlands and riparian forest.

Still, the fence project is less a done deal than you might suppose, at least in south Texas. For one thing, the law empowering a non-elected official (Chertoff) to summarily vacate other laws (36 in this case) may be unconstitutional. By passing that law Congress has frightened even itself and, as a result, has denied fence funds to the DHS until the agency properly consults with local officials and landowners. At this writing the DHS has made little to no effort to do this, though before Congress intervened the agency was falsely claiming that it had held more than 100 public meetings. Only two have been open to the public, and at these attendees were talked at and ordered not to ask questions. On May 16, 2008, the Texas Border Coalition filed a lawsuit against the DHS for this and other failures.

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What's more, now that Chertoff has waived the National Environmental Policy Act, his agency won't release any of the comments on the draft environmental-impact statement (EIS).

Defenders of Wildlife and the Sierra Club are petitioning the U.S. Supreme Court for a ruling on the constitutionality of the waiver law. And in support of that petition, the chair of the Committee on Homeland Security, Representative Bennie Thompson (D-MS), and 13 other representatives have filed an amicus curiae brief. Meanwhile, Representative Raúl Grijalva (D-AZ) and 36 cosponsors have introduced H.R. 2593, the Borderlands Conservation and Security Act, which would require the DHS to comply with federal laws and give the public a voice in how, where, and whether the border fence is built.

Finally, the fence project has clearly been jeopardized by the haste, lawlessness, and arrogance with which the Bush administration has pushed it on people whose lives it will impoverish. Consider the environmental review under way in south Texas before Chertoff shut it down. According to a high-ranking Fish and Wildlife Service official who asked not to be identified and who called the draft EIS "horrifying" and "appalling," a lawful document would have taken at least two years. A DHS contractor, e2M, applied to do refuge surveys on September 16, 2007, then—without waiting for or getting approval and supposedly having fully evaluated natural and cultural resources without having set foot on refuge land—hatched the document in November.

"Surveyors," reads the draft EIS, "walked the entire length of the proposed project corridor for each tactical infrastructure section, and examined in more detail areas containing unique species compositions of habitat that might be conducive to sensitive species." Either this is an untruth or they violated government regulations, because Ken Merritt had denied them access. The draft EIS goes on and on about how the fence will "reduce the flow of . . . terrorists, and terrorist weapons into the United States." But because no terrorists or terrorist weapons have ever entered from Mexico, such reduction is impossible.

Even the powerful, arch-conservative property-rights community is lining up against the fence, and for once it's not on the wrong side of an environmental issue. When property owners and communities, following the lead of the Fish and Wildlife Service, have declined to allow surveyors on their land, the DHS has hauled them into court.

The fence, claims the DHS, needs to go through refuges, sanctuaries, farms, college campuses, city parks, and front yards. But, reports the *Texas Observer*, it will end abruptly at the 6,000-acre Mission, Texas, gated golf community of Dallas billionaire Ray L. Hunt, a close friend of George W. Bush who just donated \$35 million to help build his presidential library.

All blame, however, cannot be assigned to the administration. It was, after all, Congress that gave us this ruinously expensive non-solution purely to cover its butt. Voting in The Secure Fence Act were 283 representatives and 80 senators (including John McCain, Hillary Clinton, and Barack Obama).

Our legislators and the White House would have done well to heed these other lines from Frost's poem: "Before I built a wall I'd ask to know / What I was walling in or walling out / And to whom I was like to give offence." But they evinced not the slightest curiosity, and instead of solving a serious problem, they have given us another.

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WHAT YOU CAN DO

You can send the Bush administration a strong message by joining thousands of other wildlife advocates in signing our online petition to save the unique ecosystems of south Texas. [Click here](#) for details. Urge your representative to support Representative Raúl Grijalva's Borderlands Conservation and Security Act (H.R. 2593). For current information on the fence, visit [No Border Wall](#) and [The Rio Grande Guardian](#).