

March 11, 2019

Dear Representative:

The undersigned organizations write to express our support for and encourage you to cosponsor three bills related to restoring bedrock legal protections and landowners' rights on the border. The bills are H.R. 1232, the "Rescinding DHS' Waiver Authority for Border Wall Act", H.R. 1233, the "Borderlands Taking Defense Fund Act", and H.R. 1234, the "Preventing the Taking of Americans' Land to Build Trump's Wall Act".

The *Rescinding DHS' Waiver Authority for Border Wall Act* (H.R. 1232) would repeal the authority of the Secretary of the Department of Homeland Security (DHS) to waive "all laws" to build the border wall, a controversial authority with dangerous precedent routinely abused by the Trump Administration. Multiple waivers already issued by DHS, covering approximately 654 miles of the border, have cast aside nearly fifty federal laws comprising bedrock legal protections taken for granted everywhere else in America, including environmental and historic preservation laws like the Endangered Species Act, laws that protect our environment like the Clean Water and Clean Air Acts, laws protecting religious freedom and Native American gravesites, and important protections governing the work of federal agencies like the Administrative Procedure Act. The waiver authority has allowed DHS to skip important critical environmental assessments and public processes, jeopardizing border communities, wildlife, and the environment. There is every indication that more waivers will be enacted to rush wall construction with similarly destructive consequences and disregard for public accountability and input. Border communities, public lands and wildlife deserve the same protections, clean air and clean water as the rest of the country.

The following two bills seek to protect the rights of private property owners along the border, including farmers, ranchers, and families who have occupied their land for generations.

In Texas, the majority of land along the border is privately owned, so the federal government has resorted to condemnation lawsuits against hundreds of landowners in many of the poorest communities in America to take land for the border wall by force. Because the Rio Grande River zigs and zags erratically, the government has often elected to condemn land along the flood-control levee system running roughly parallel to the river in many Texas border communities. Significantly, border wall construction in this way threatens to "wall off" all land between the levees and the river. This land is not negligible, and includes homes, businesses, farms, ranches and ecologically sensitive wildlife corridors. Beyond land used for the border wall itself, the federal government also plans a dystopian "enforcement zone" spanning 150 feet from the border wall towards the international boundary. In this space, all vegetation and structures would be cleared and demolished to make way for all-weather roads, 24/7 lighting, sensors, and other Border Patrol operations.

In case after case, DHS has completely discounted the hardships that the border wall will bring to border landowners, such as the devaluation of contiguous property and land left after the taking, problems accessing land and homes behind a 36-foot wall, impacts on livelihood after the wall makes farming, ranching, and maintaining renters difficult, and the importance of a cultural heritage without walls for generations.

The *Borderlands Takings Defense Fund Act* (H.R. 1233), seeks to protect the rights of low-income landowners whose homes, ranches and fields are at risk of seizure by the federal government for wall construction. In Texas, border towns and cities have some of the lowest median incomes nationwide. This legislation will establish a fund that could be used to both educate property owners regarding their rights to legal support and to assist low-income property owners in confronting the threat of condemnation.

The *Preventing the Taking of Americans' Land to Build Trump's Wall Act* (H.R. 1234), would alter the statutory scheme currently being used to seize private land so that the federal government could not take property and begin building border walls before completing eminent domain lawsuits in court. The law would prevent the government from gaining possession or title to property or from altering private property in any way until just compensation has been determined by a federal court, thus affording every landowner the due process they deserve. This measure reflects not only fairness and common sense, but represents how most Americans think eminent domain works.

Instead, in the context of building border barriers the federal government has abused an obscure condemnation statute to seize hundreds of parcels of land soon after filing lawsuits against unsuspecting, often low-income landowners. Under current law, the government can get physical possession of the land while the issue of “just compensation” for the landowner winds its way through the courts, a process that can take months or years. Cases have remained pending for as long as ten years, with helpless landowners seeing their property seized and border walls built on their former land without ever seeing a dime in compensation.

We urge you to cosponsor and support these important bills to restore core legal protections on the border and protect border communities, wildlife, the environment, public lands and private property owners.

Sincerely,

American Civil Liberties Union (ACLU)  
Bold Alliance  
Border Action Network  
Borderlands Restoration Network  
Center for Biological Diversity  
Coalition for Humane Immigrant Rights (CHIRLA)  
Defenders of Wildlife  
Earthjustice

Endangered Species Coalition  
Environmental Protection Information Center  
Friends of the Sonoran Desert  
Fuerza del valle  
Great Old Broads for Wilderness  
Hispanic Federation  
Howling For Wolves  
Immigration Hub  
Klamath Forest Alliance  
La Union del Pueblo Entero (LUPE)  
Latin America Working Group  
National Immigration Law Center  
National Network for Immigrant and Refugee Rights  
NM CAFE  
Rio Grande International Study Center  
Sierra Club  
Southern Border Communities Coalition  
Southwest Environmental Center  
St. Mark's Presbyterian Church (Tucson, Arizona)  
Texas Civil Rights Project  
WildEarth Guardians  
Wildlands Network