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Lipan Apache History, Culture, Sacred Sites, Archaeological Resources, and Ecological Rights  
in the Lower Rio Grande, with respect to Cameron County  
and Titled Lands Held by Lipan Apache Lineal Descendents,  
in the case of Eloisa Garcia Tamez  
January 21, 2009

### Introduction:

Daniel Castro Romero, Jr. Chief, Lipan Apache Band of Texas and Margo Tamez, member, Lipan Apache lineal descendents of the El Calaboz Ranchería, are offering this report to the Court to support the legal process of assigning 'value' to the ancestral lands of Dr. Eloisa García Tamez. Dr. Tamez has indigenous ties to her inherited lands, ties which precede the San Pedro de Carricitos Land Grant, the United States, and Spanish conquest.

We intend for this narrative to be useful to the Court's analysis of numerous, complex claims of the Lipan Apache lineal descendents connected to lands currently threatened by the construction of the border wall. Lipan Apaches of traditional communities in numerous counties spread throughout South Texas, West Texas, New Mexico and California have been observing Dr. Tamez' case closely. We submit this document in order to express our concern and interest in highlighting areas related to impacts and consequences to Lipan Apache cultural and political rights in the region. The issues which we raise may overlap with the concerns of other tribal indigenous communities as well who may seek to protect cultural resources vital to the continuance of preserving Native American traditions along the Lower Rio Grande, where lands are threatened by the U.S. construction along the 70 mile strip. We have an interest in stopping the construction, to be properly consulted and to uphold the law. The laws waived by Secretary Michael Chertoff made it impossible for indigenous peoples to weigh in and to utilize federal laws which could actually protect significant archaeological, historical, cultural, religious, and ecological resources pertinent to Lipan Apache cultural, environmental, economic and social rights of Native American peoples.

We are submitting our valid concerns due to the fact that many indigenous families may not have had economic access and/or political fortitude to present this material.

### **1. History**

Lipan Apache families, communities and persons have historically inhabited the entire region of the Lower Rio Grande, on both sides of the Rio Grande River, prior to "First Contact" with European conquistadors and colonial settlers in the 16<sup>th</sup> century, and into the current year 2009. Lipan Apache today recognize the region as *Nde' shini' shimaa*, the traditional territory,

or homeland. Our documented and yet to be documented sacred sites and ceremonial grounds, burial grounds, archaeological resources, traditional plant foods, medicines and traditional mammalian foods, and our traditional agro-ecological forestry resources are inclusive to Lipan Apache cultural properties. These are necessary to preserve the culture of the Lipan Apache peoples, which is essential for the healthy functioning and survivance of our people. Preserving our culture is integral to the health and prosperity of the Texas-Mexico international community because indigenous people's histories contribute to the larger narrative and understanding of the diversity of beliefs, values, cultures, religions, languages, and practices which are the foundation of true democracy.

Traditionally, Lipan Apache villages, rancherías, and communities have existed on both sides of the Rio Grande River, with little to no physical or man-made barriers separating families from each other—for the majority of our existence as a people. The division of the region by the nation-states prior to and since 1848 has caused much degradation, destruction and endangerment to Lipan Apache peoples. The violent legacy of racism and persecution, hunt-downs, lynchings, burned fields, forced removals, and dispossessions experienced by our people, from the late 19<sup>th</sup> century into the early twentieth (1910-1916; 1935) continues to contour our peoples' identities as indigenous people in our own homeland. Lipan Apache peoples live, work, pray, and exist throughout the majority of South Texas and Texas-Mexico border counties. Our struggles against poverty, education and health care disparities, continue to define the way we persist to be recognized as the Native American, indigenous, Lipan Apache of the region. We exist in the shadow of a dominant culture which conflates indigenous people through racialized lenses. We continue to struggle for our peoples' rights to be treated with respect and dignity—in our own homeland. Lipan Apache Treaties, and other legal agreements, such as Land Grants, and customary collective titles of ranchería peoples, with the Spanish Empire and Mexican Government, identify the Lipan Apache as one of the regional tribes of the Lower Rio Grande Valley.<sup>1</sup>

The U.S. Army Corps of Engineers conducted an in-depth analysis, survey and inventory which provide clear identification of the Lipan Apache in the Lower Rio Grande, Cameron County, and the Coastal Bend. The U.S. Army Corps of Engineers' extensive report and acknowledgement of the historical and continuing efforts of the Lipan Apache relative to archaeological, ecological, environmental, and historical resources signifies a certain

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<sup>1</sup> Lipan Apache people are signatories on legal treaties, agreements and title-holder Land Grants affording our people the right to live on our lands under protection of the states. These include the following treaties: Mission Valero de Bexar, August 19, 1749 (Spain); Colonial del Nuevo Santander, March 15, 1791 (Spain); Alcaldes de las Villas de la Provincia Laredo, August 17, 1882 (Spain); Live Oak Point Treay, January 8, 1838 (Republic of Texas); Tehuacama Creek Treaty, October 9, 1844 (Republic of Texas; U.S. Government); San Saba Treaty, October 28, 1851 (U.S. Government). Land Grants: San Pedro de Carricitos 1761 (Spain), Confirmed as #336, Texas Land Office.

acknowledgement by the federal government of indigenous peoples' rights, interests and laws related to conducting surveys, assessments, construction, and historical claims to lands. The report conveys knowledge of the Lipan Apache peoples, families, and communities who are indigenous to the region of South Texas, Tamaulipas, and throughout much of the entire Texas-Mexico border region.

## References

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## **2. Culture**

Cultural and social ties of the Lipan Apache are inter woven with the Kickapoo, Ysleta del Sur Tigua Peoples, and criss-cross the Rio Grande river, north to south, as well as east to west. One of the most severe forms of destroying a people is through forced removal, deportation, and constructing physical architecture to impede or dissolve a people's culture and identity (such as prisons, barriers, borders, and walls). Separating and splitting families and cultures through state force and militarized force, in order to secure the U.S. border from terrorist attacks imposes an unjust, unnecessary and disproportionate burden upon traditional Lipan Apache lineal descendents and ranchería societies in El Calaboz as well as other traditional spaces of our members. As well, the burden placed upon group, such as the Tamez family, places a burden upon our Lipan Apache people in the Lower Rio Grande, and therefore, upon the Lipan Apache nation, which populates both sides of the U.S.-Mexico border. Although the U.S. law has attempted to seek "properties" from "individual land owners", the U.S. does not realize that Lipan Apache families in Land Grant areas do not define their lands as "individual" "real estate." Our lands have been held traditionally through centuries as communal spaces, and are passed from member to member through lineal ancestral ties to clans. The clan is the fundamental unit of Lipan Apache society, and land is organized and protected socially by groups.

Lipan Apache villages and lineal descendents in Mexico, such as in Matamoros, Valle Hermoso, Remolino, Zapata and those on the Texas, U.S. side, such as in El Calaboz, La Paloma, El Ranchito, (Cameron County) will be further impaired and disabled from all traditional modes of access to cultural exchanges if the wall is allowed to be built in the impacted areas. The wall has already had significant and harsh impacts on other Native American communities in Arizona and West Texas. To the indigenous peoples, whose social-political organization pre-date Texas and the United States, the wall will impose ever harsher restrictions on religious ties to ceremonial plants, ceremonies, languages, family heritages, matrilineal cultures. In numerous cases along the Texas-Mexico border, tribal peoples have demonstrated the negative consequences of the wall, which immediately led to a break down in tribal sovereignty, governance, rule of law, and caused damage to government-to-government relations between indigenous people and local counties, municipalities, and state government as a direct result of the destruction of grave sites, cultural resources, and religious properties, such as important species.<sup>2</sup>

In effect, our culture, which is the foundation of our way of life as an integral people—will be severely disrupted as our elders, such as Dr. Tamez, who are the embodiment of Lipan Apache ‘history-books’ are forced to surrender ancestral, sacred lands, burial grounds, culturally significant places, memories, and millennial histories—to the bulldozer and wrecking machines of a political project. We have grave concerns about the sacrifices of our peoplehood that the U.S. is demanding of lineal Lipan Apaches. In the case of Eloisa Garcia Tamez, an elder, a community leader, a matrilineal archive, an educator, a U.S. Army veteran, a nurse, a mother, a grandmother and a defender of the health of local peoples in the Lower Rio Grande, we are *distraught* about the long-term implications for the survivance of El Calaboz Ranchería if her lands are in any way disturbed by the wall. Her lands are Lipan Apache cultural resources for current and future research and scholarship in the region. Her lands gird up the integral relationship between Lipan Apaches of the Lower Rio Grande as historical and contemporary archives of knowledge—and the University of Texas and Southmost College, La Encantada Elementary School, and any future medical center and law school which are on the horizon of the Lower Rio Grande. Indigenous peoples, histories and knowledges have historically enjoyed a secure place in tribe-to-institution relationships in the areas of culture, history, law, and sciences.

## References

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<sup>2</sup> Ned Norris, Chairman, Tohono O’odham Nation, “Written Testimony of the Honorable Ned Norris, Jr., Chairman, Tohono O’odham Nation to the Subcommittee on Fisheries Wildlife and Oceans and Subcommittee on National Parks, Forests, and Public Lands of the House Committee on Natural Resources, April 28, 2008 Joint Oversight Hearing, “Walls and Waivers: Expedited Construction of the Southern Border Wall and the Collateral Impacts to Communities and the Environment.”

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Tamez, Margo. "Open Letter: Cameron County Commission," June 3, 2008. [Outlines the key violations of state, federal and international law against Lipan Apache lineal descendants in El Calaboz Ranchería, relative to Dr. Tamez' legal case and the implications of disproportionate burdens that Native American/indigenous communities are being forced to bear by the U.S. DHS as a result of demands to surrender ancestral lands of our family lines which pre-date the European colonization of the region.]

### **3. Archaeological**

Archaeological sites relevant to the Lipan Apache lineal families criss-cross the region and date back thousands of years along the binational border of the Lower Rio Grande. Submerged historical sites at the Falcon Reservoir in Starr and Zapata Counties and Lake Casa Blanca International State Park in Webb County, are a few examples. Historically, Texas submerged all known modern and historic sites like Ft. Lipantitlan State Historic Site in Nueces County, Lake Corpus Christi State Park in San Patricio, Jim Wells and Live Oak Counties and finally Choke Canyon in Live Oak County. Archaeological sites excavated in which the Lipan Apache artifacts and remains were identified were the DuPont Nylon Plant Blue Bayou Archaeological Site 41ZT94, Invista Nylon Plants, Buckeye Knoll 41VT98, San Lorenzo de la Santa Cruz 43RE0010, Mission del Nuestra Senora del Refugio 41VT79, Universal City 41BX1270.

Lipan Apache elders and council members have recently stepped up both federal and international legal advocacies to assert cultural rights, to repatriate archaeological resources and burial ground/human remains, and to litigate against state and federal agencies which impede, disrupt, and disavow the rights of indigenous peoples to practice our cultures and to defend the rights of our future generations express will to exist, to live, and to define our peoplehood through our own cultural, political and religious directives. These rights are guaranteed to Lipan Apaches through the Genocide Convention (1948), the American Convention on Human Rights (Pact of San José) (1969), and the United Nations Declaration on the Rights of Indigenous People (2007).

U.S. Army Corps of Engineers reports clearly indicate that Lipan Apache Band of Texas members are culturally and historically relevant tribal peoples to the region and should be consulted thoroughly through our tribal mechanisms and governance structures. The continued avoidance and obfuscation of Lipan Apache governing mechanisms is in violation of federal law and treaty rights.

### References

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Tamez, Margo. "Letter: Robert Anderson, Co-Chair, Barack Obama Department of Interior Transition Team," December 23, 2008. [Enumerates numerous articles which the U.S. DHS violated in regards to the cultural, ecological, biological, economic, social, and political rights of the Lipan Apache lineal descendents of El Calaboz Ranchería, South Texas, and requests direct oversight of Dr. Tamez' case by Native American legal advisors to President Barack Obama.]

### **4. Environment, development and El Calaboz Ranchería history of conflict**

The Rio Grande environmental impact of the wall on indigenous and Lipan Apache lineal descent families is only comparable to the unending violence which impoverished, low-income indigenous Mexican and indigenous U.S. families continue to experience as a result of hardships and suffering in the aftermath of the 2008 Hurricane Season. Towns, cities, villages, and lives were left mostly abandoned by the U.S. DHS and FEMA, discouraging an already battered, targeted, and surveilled Lower Rio Grande multitude. Along the path of the wall construction, colonias, rancherías, both ancient and contemporary, pleaded for a hand, for compassion, and for humanity, only to be disavowed by big government and an apathetic U.S. middle-class/mainstream. Destruction of agricultural, economic livelihoods, traditional and subsistence farming, goat herding, and cattle grazing techniques of indigenous peoples cannot be severed

from ‘environment’ defined as merely ‘plants’ or ‘avian’ creatures. Indigenous lifeways are fluid systems dependent upon the inter-connected strands of all living systems of the river, land and air, but which have been systematically impaired by man-made policies and exclusionary rules favoring industries and punishing the most exploited and politically vulnerable peoples.

In 1935, the year Dr. Tamez was born, her grandmother, aunties, and her mother—after giving birth to her on March 2, collectively confronted the U.S. Army Corps Engineers on March 3 when they encroached, invaded, and illegally forced the levee system upon the elders of El Calaboz, La Paloma and El Ranchito. In doing so, they did not consult, nor give Free and Prior Informed Consent to the indigenous land owners of the rancherías, and forever changed the traditional indigenous farming practices of the Lipan lineal descent peoples on both the Tamaulipas and the San Pedro de Carricitos sides – who were connected by blood, marriage, and land ties. When the U.S. Army Corps came into El Calaboz on March 3, Andrea Cavazos Garcia and the women of the community all demanded the U.S. to halt and desist. They demanded this due to the fact that the women knew the lands, water and plant systems better than all others. They knew that if the levee was positioned in such a way that the family members on the south of the levee would be flooded out permanently. The U.S. Army did not acknowledge this intricate family-bound knowledge system, and continued on their mission of destruction. This is considered one of several illegal encroachments and human rights violations by the women of our communities. To this day, the elders say that the families to the south were flooded out—in other words—they died by this harsh, inhumane and callous positioning of the levee by the U.S. Army. This levee, which so many of the elders have been distraught by, and the fact that the border wall is being designated for the levee—has had numerous harmful mental, psychological, spiritual, emotional and physical burdens for those who lived and remembered the ‘war’ of the levee, fought by the matrilineal women elders societies of our villages.

In addition, Dr. Támez recalls a critical event, relative to prior attempts by outsiders to expropriate indigenous lands in El Calaboz Ranchería, which formed a deep emotional scar on her as a young child. When she was barely a toddler, the U.S. Army Corp and local political boss’ will to construct the levee in her birth community was an extremely harsh and violent burden placed upon the poor, politically vulnerable elders of El Calaboz—who traditionally used the river for indigenous collective farming rights guaranteed to the ancestors through Spanish Crown law.

On one night, the families experienced a devastating ‘call’ which began with the horror of a vehicle driving through their humble living space, and loud shouting, screams, and terror ensuing. Dr. Támez recalled that she ran for fear of her life, outside, in the dark night, scrambling to one of the elder’s house to seek refuge and hid beneath a mattress. Although she was young, she still recalls the terror of the adults who were visited by violent men threatening them and in their threats they were exceedingly clear that they would not tolerate resistance to the political agenda to develop the land for agricultural uses by powerful groups. Dr. Támez recalled this significant moment during the increasingly hostile harassments by the Border Patrol

and DHS agents during 2007 and 2008, which reignited the trauma she and her family members experienced in the 1930's connected to the levee.

Thus, we feel that 'environment' cannot be removed or extricated from 'development' as the uneven and negative consequences of political development/security projects have enormous, interlocking, and cumulative impacts on those least empowered to combat it through other means than through the legal system, if they can access. We feel it is *critically* important that the U.S. Courts comprehend the larger contexts of racism, segregation, terrorism, and violence which the wall construction is re-igniting in the historically traumatized indigenous victims of an earlier period of genocide against the land grant people. Numerous connecting stories from indigenous peoples all along the Texas-Mexico border (Redford, Texas, Jumano-Apaches) confirm the violence surrounding the earlier construction of the levee, in the 1930s and 1970s. Not only is this an environmental racism concern for our Lipan Apache lineal descent people, it is a series of human rights violations that we are hoping to bring to your focus on at this time.

Entrenching the international border with a cement wall is like placing a pebble in the middle of a raging river.

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Garcia, Lydia Esparza, "Eyewitness to Indigenous Women's Social Organization Along the Lower Rio Grande, El Calaboz Ranchería, South Texas," Interview, August 2007. On file with Margo Tamez.

### **5. Botanical**

The Rio Grande environmental impact from the wall construction can only be further dramatized by illustrating a few examples of the inter-relatedness of plant and human co-existences. The destruction of plant, animal, and bird habits will impact the river's life-flow. Nationwide federally recognized tribes are concerned that the simplest and minute changes to the river's flow, wind drag, and other scientific factors will hamper the growth of the "peyote" (*Lophophora williamsii*) that has endured throughout the time. According to Daniel Castro Romero, Chair of the Lipan Apache Band Council, "this course of action will drastically affect the growth of one of the primary endangered, sacred medicinal plants of the Lipan Apache-



peyote. Additionally, the companion plants to the peyote—the carrizo, and river willow must also be spared to the greatest possible extent. Although the government may criminalize these plants as ‘noxious’ and ‘harboring terrorists’, these plants have provided an important function to traditional indigenous peoples for hundreds of years, as we know through our oral histories. The ability of the Lipan Apache to collect willow for our annual traditional puberty ceremonies, to collect pollen from sacred cattail, to utilize sacred carrizo for necessary rituals and beliefs, as well as for the construction of traditional jacales (plant, wood, mud houses), and to teach our future generations the use of these key plants to our Lipan Apache identity—is critical for our social and cultural life ways and traditions. These are cultural cornerstones which have not been taken into consideration from the local perspectives. Indigenous communities throughout the Lower Rio Grande with historical ties to the region must be consulted.”<sup>3</sup>

The traditional and scientific anti-diabetes knowledges of our traditional elders such as Dr. Tamez, and the extensive matrilineal clan relationships of the *gotal*—[extended families; *relativos de las rancherías tradicionales*] the matrilineal social structure of El Calaboz, La Paloma, and El Ranchito—the ‘sister’ villages of the region—is critical to our children’s, youth’s, and elders’ survivance during this harsh and repressive time. The plant knowledge of everyday life, using sacred medicines such as the golondrina, a special medicinal plant utilized by the indigenous peoples as well as relatives in their social networks, and passed down from mother to daughter, gives aid in the treatment of sores, scrapes, chemical burns, and other impacts from harsh working conditions which the Lipan were accustomed to in daily rituals of living along the river. Golondrina (“rattlesnake weed”, *E. albimarginata*, *E. fendleri*, *triligulata*, *golondrina*) is considered today an endangered species.

Dr. Tamez is one of the few surviving community members who has local, historical knowledge of how this endangered plant was used to cure serious diseases and illness among the Lipan Apache community members. Golondrina is associated with South Texas and West Texas’ most ancient cultures which have inhabited the Lower Rio Grande for over 10,000 years—into the present. Golondrina is a key plant which provides a glimpse into a much more complex ethnobotany of indigenous communities along the Lower Rio Grande which have been neglected by the academic community. Plant systems have been taught to generations through clan-kin lineal knowledge systems, which have been traditionally distributed and mobilized through shared, networked social systems (feasts, honorings, coming of age ceremonies, family organizational gatherings, sacred/holy days, birthdays, weddings, funerals, wakes)—in traditional spaces and places (jacales, rancherías, colonias, riverbank, levee, fields, forest, beaches). The forces of colonization and assimilation ruptured, fragmented and disfigured social relations through time.

Elders of high status are integral to the resilience and persistence of indigenous cultures gaining more respect and gaining recognition in Texas and the United States. Elders, such as Dr.

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<sup>3</sup> Daniel Castro Romero, Jr. Interview, January 22, 2009. On file with Margo Tamez.

Tamez, represent the resilience of the indigenous cultures, which have been heavily disturbed and disfigured through policies, practices and entrenched effects of assimilation and industrialization upon indigenous families and communities through time. Indicators of negative cultural and social impacts among native/indigenous communities of the Lower Rio Grande are well established in the fields of Sociology, Anthropology, Mexican-American Studies and American Indian Studies. Dr. Tamez repeatedly references the traditional uses of the mesquite pods among her community as an everyday health practice. Mesquite (*Prosopis glandulosa*) pods were chewed on by children, at the urging of parents and grandparents and other clan relatives for their health benefits. Tamez explains her standpoint,

“we used to climb up all the mesquite trees, and we learned how to choose the ripest ones, which were darker red and thick. Then we children chewed on them and enjoyed the sweet flavors. You see, we didn’t have ‘deserts’ then, as we were poor and we never knew that part of the Anglo culture, nor did we need to. Today, in modern medicine, we know how healthy and necessary these foods are for our indigenous people—and these types of foods in our immediate environments along the river are absolutely critical to our survivance as a people. We had everything we needed right here within our grasp—in the trees we had the mesquite pods and we ate them whenever we needed to. Nature was our grocery store and our pharmacy. We had everything we needed to be healthy. Today, even the wealthier people go to the curanderas / [traditional indigenous healers] to ask for the ‘right’ medicines for their ailments. The scientists today know much more –they know that traditional uses are extremely valuable and critical for community health. This is why I cannot allow for our places to be destroyed, or for the medicinal plants which ‘raised me’ to be destroyed. Shall we go into town and bulldoze or build a wall between the people and RITE AID, or H.E.B. or the fruit and vegetable road-side stand which Valley residents find beneficial to their balanced diets and menu planning for their families? I think not. Our traditional cultures have rights too and should be equally valued and respected.”<sup>4</sup>

Woodlands, including the honey mesquite, as well as ebony (*Pithecelobium*) and huisache (*Acacia farnesiana*) are included in the indigenous ethnobotanical knowledges and traditional uses along the Lower Rio Grande. Relevant to critically harsh economic recessions and depressions, indigenous peoples of the Lower Rio Grande have shown consistent usage of ancient and traditional forage-forestry practices consistent with sustainable agro-ecological practices among indigenous cultures throughout the Texas-Mexico and Arizona-Mexico border regions. The cultivation, care, knowledge of, and use of ebony and huisache for construction of jacales, sheds, houses, corrals, gardens, burial grounds, as well as for fuel for heat, cooking and bathing, are among the documented uses of local woods. Imposing harsh measures such as a wall through the critical resource areas of the communities along the Lower Rio Grande, in

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<sup>4</sup> Eloisa Tamez, telephone interview, January 22, 2009.

traditional and well-established Land Grant spaces, such as El Calaboz, would have detrimental impacts to an indigenous culture already under severe threat as a documented people, culture and community.

Additionally, Dr. Tamez reports daily uses of the anacua (*Ehretia anacua*) tree, for the important food source its nuts provided to the family's calorie intake. She states, "My father used to harvest the pods and nuts of the anacua tree and roast them. This was a delicious food for us, and he knew exactly when to harvest them at just the right time." According to Corinna Rupert and Tim Brush, Department of Biology, University of Texas-Pan American<sup>5</sup>, "historically, the Lower Rio Grande Valley consisted of forests of palms, mesquites, anacua, ebony and other subtropical, tropical and temperate zone trees.

Prior to European colonization, human disturbance in the valley was minimal, and large tracts of tall riparian forest lined the lower Rio Grande and old river channels. Since the 1920's riparian forests in Texas have been removed at an accelerated rate due to increased agricultural, municipal and recreational developments along the Rio Grande. Of the many bird species breeding in the Lower Rio Grande Valley, those requiring riparian habitat may have been the most impacted by habitat loss and deterioration over the past century.

Human modifications of the Rio Grande Valley, especially Falcon Dam, which was completed in 1953, resulted in less frequent to nonexistent flooding. This has caused the loss or severe deterioration of many riparian forests along the banks of the river from the dam to the Gulf of Mexico. Some of the riparian species such as the Summer Tanager, Gray-crowned Yellowthroat (*Geothlypis Poliocephala*), and the Yellow-breasted Chat (*Icteria virens*) have almost completely disappeared from the LRGV as breeders, while others such as the Red-billed Pigeon (*Patagioenas Flavirostris*), Rose-throated Becard (*Pachyramphus aglaiae*) and Tropical Parula persist in small numbers and have an uncertain future.

Similar events have been well documented along the middle Gila River and lower Colorado River in the southwestern U.S." This study of riparian-dependent birds includes the Plain Chachalaca (*Ortalis vetula*), and endangered species, which Dr. Tamez has seen numerous times on her riparian strip on the south side of the levee. According to Wayne R. Marion,

"the Plain Chachalaca (*Ortalis vetula mcalli*) is the only member of the family Cracidae in the United States, where it is native to four counties in the Lower Rio Grande Valley of Texas. The species' habitat of dense brushland and its shy, elusive nature make it difficult to observe in the wild. As a result, published information on the status of Texas chachalaca is meager. [...] Suitable habitat for Plain Chachalacas in the Lower Rio Grande Valley includes isolated tracts of dense brushy woodland on relatively mesic

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<sup>5</sup> Corinna Rupert and Tim Brush, "Habitat Use of Breeding Birds in Riparian Forest of the Lower Rio Grande Valley of Texas," *Bulletin of the Texas Ornithological Society*, Vol. 30, No.2, June 2006, 48-49.

sites. Vegetation in these areas consists predominantly of woody species, including granjeno (*Celtis pallid*), Texas sugarberry (*C. laevigata*), guayacan (*Porlieria angustifolia*), and huisache (*Acacia farnesiana*).

Other species often found in these woodlands include Texas ebony (*Pithecellobium flexicaule*), cedar elm (*Ulmus crassifolia*), honey mesquite (*Prosopis glandulosa*), and coma (*Bumelia lanuginosa*). Such habitats were rather widespread in earlier days in the Lower Rio Grande Valley and were inhabited by chachalacas in southeastern Hidalgo County, nearly all of Cameron County, southeastern Willacy County, and a narrow strip along the Rio Grande in Hidalgo, Starr, and Zapata Counties to San Ygnacio. [...] Suitable habitat, i.e. dense woodlands, has been severely reduced over much of the southern Texas range of this species. Expansion in agronomic production and residential development contributed largely to this reduction in habitat.”<sup>6</sup>

Marion’s field research supports Dr. Tamez’ historical and contemporary lived experiences which demonstrate the integral and intimate relationships between rare birds, woodland trees and botanicals along the river and riparian zones, and the value of indigenous peoples’ low impact, subtle and nuanced interaction within their own environments. These integral relationships, developed over generations, aid the proliferation of endangered life on their lands and the human factor in indigenous management systems of riparian zones along the construction path of the border wall require more extensive analysis through mechanisms which provide consultation and free and prior informed consent of Native American communities, and guarantees which protect their rights to religion, culture, environments, ecological practices and way of life.

Notwithstanding, international boundaries or walls, barbwire, and cement will upset the fragile and delicate life of the Rio Grande. The environmental impacts to avian, aquatic and mammalian lives will put the whole region at risk as a ‘kill zone’ when thousands of species yearn to locate water, mating habitats, spawning grounds, calving grounds, and their natural migrations for seasonal food sources. Places like the Bentsen-Rio Grande Valley State Park and the Resaca de la Palma State Park will be devastated by the loss of rich and vital life sources which are solely identified with the Lower Rio Grande region. The Rivers’ life provides habitat to the Summer Tanager, American Redstart, Yellow-Breasted Chat, Least Grebe, Black-Bellied Whistling Duck, Purple Gallinule, Olive Sparrow, Long-Billed Thrasher, Groove-Billed Ani, Altamira Oriole, Red-Crowned Parrots and Green Parakeets, along with all the Rio Grande Valley specialties. This is a huge and devastating loss for the human lives now and into the future generations who will not comprehend the cultural or political basis for severing them from one of the last remaining integral natural resource.

## References

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<sup>6</sup> Wayne R. Marion, “Status of the Plain Chachalaca in South Texas,” *The Wilson Bulletin*, Vol. 86, No. 3, September 1974, 200-205.

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## **6. Religious**

The Rio Grande has been home to the Lipan Apache since time immemorial. This section must include all of the above items. Why? The Lipan Apache are a religious people who have had endured throughout time with prayer, medicine, and the life of the river. The river makes us who we are as a people. The international wall only places a barrier to our culture, our religion, our way of life, our livelihoods, and our future generations--no different than the Wall of Berlin which separated the intact cultures, religions, and lives of millions of Germans for decades and which afflicted the practices of integral world religions in Europe. By constructing a wall through indigenous people's last places, at the fringes of a hostile mainstream 'America', and at the international border between two nation-states which cannot deliver unto the region a peaceable solution, rather than a militarized kill zone, the U.S. DHS is carrying out genocide policies and extermination orders which the Lipan Apache experienced in all previous epochs of our contact with European societies.

### Reference

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### Conclusion:

We sincerely hope that this brief introduction will support the difficult process which is pending before the federal court. It is our sincere prayer and wish that the Court will give serious consideration to the indigenous peoples' principles which differentiate Dr. Tamez' case from an inadequate "private property"/"real estate" framework. Distinguished Research Scholar and the Executive Director of the Indian Law Program at the Sandra Day O'Connor College of Law (Arizona State University) posits "interests of Native groups cannot be accurately understood or assessed within our legal system unless we attempt to understand the different normative conceptions of property, ownership, and privacy that exist for these groups. [...] Anglo-American intellectual property law provides a poor fit for indigenous peoples' concerns about protecting [...] cultural resources, in part because the suppositions about knowledge are culturally quite different for Native peoples."<sup>7</sup>

We pray for a productive and positive outcome which will benefit the Lipan Apache and other similarly impacted indigenous peoples along the Texas-Mexico border, who are requesting the halt of any further wall construction until the rule of law and inclusive, unharmed, and democratic order is re-established.

Sincerely,

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<sup>7</sup> Rebecca Tsosie, "Cultural Challenges to Biotechnology: Native American Genetic Resources and the Concept of Human Harm," *Journal of Law & Ethics*, Genetics and Group Rights, Fall 2007, 396-411.