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## COURT URGED NOT TO LOOSEN BORDER SECURITY BASED ON ENVIRONMENTAL CONCERNS

*(Defenders of Wildlife v. Meissner)*

The Washington Legal Foundation (WLF) this week urged the U.S. District Court for the District of Columbia to reject a lawsuit that seeks to derail efforts to tighten security along the U.S.-Mexico border based on alleged environmental concerns.

In a brief filed in *Defenders of Wildlife v. Meissner*, WLF argued that securing the borders against the flood of illegal aliens is too important a mission to allow it to be sidetracked by minor environmental concerns.

"Immigration matters historically have been the province of Congress and the Executive Branch," said WLF Chief Counsel Richard Samp after filing WLF's brief. "The Immigration and Naturalization Service [INS] has determined that the measures it has adopted are necessary to secure our borders; the courts have no basis for second-guessing that determination," Samp said.

The lawsuit is a challenge brought by a coalition of environmental groups against Operation Rio Grande, the name assigned by the INS's Border Patrol to its stepped-up enforcement effort along the 300-mile stretch of the U.S.-Mexico border nearest the Gulf of Mexico. Operation Rio Grande entails significant increases in Border Patrol personnel along the Rio Grande River, flood lights throughout the area to deter night-time crossings of the river, and construction of new access roads.

The plaintiffs argue that two endangered species that live in the South Texas area, the ocelot and the jaguarundi, are being harmed by Operation Rio Grande. They contend that night-lighting scares away those animals, which only travel at night. Although ocelots and jaguarundi have *never* been spotted in the areas that are now being floodlit, the plaintiffs contend that the lighting harms the animals by limiting the number of new places to which they might choose to travel. The plaintiffs contend that the INS has violated both the Endangered Species Act and the National Environmental Policy Act by failing to complete studies on possible harms to the animals before putting Operation Rio Grande in

place.

In its brief filed in the case, WLF argued that federal courts have virtually no authority to interfere with federal programs touching on aliens and immigration. WLF argued that courts may have authority to order the INS to conduct required environmental studies, but that they are not permitted to block ongoing programs pending completion of those studies. WLF also argued that any environmental gains that might be achieved if Operation Rio Grande were blocked would be far outweighed by the damage to our national security and the integrity of the nation's borders.

WLF filed its brief on behalf of itself, the Allied Educational Foundation, and U.S. Representative Lamar Smith of Texas. Representative Smith is Chairman of the House Judiciary Committee's Subcommittee on Immigration and Claims, which oversees all border enforcement efforts.

WLF is a public interest law and policy center with supporters in all fifty states. WLF devotes a substantial portion of its resources to promoting America's security and ensuring that strong measures are taken to deter illegal immigration.

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