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## Texas Border Leaders Considering Legal Action to Stop Border Wall

*by Guest*

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[The following piece is reprinted with permission from the Rio Grande Guardian in McAllen, Texas. This is a compilation of articles published on May 4 and June 19, both written by Steve Taylor]

Texas border political and business leaders and landowners are considering legal action to stop the Department of Homeland Security from building 153 miles of fencing along the Rio Grande. Mike Allen, vice chairman of the Texas Border Coalition (TBC), said he had been asked to coordinate a series of meetings on the issue by Eagle Pass Mayor Chad Foster and McAllen Mayor Richard Cortez. Foster chairs the TBC. "We are working to get the legislation changed to give the Department of Homeland Security (DHS) more flexibility, and we are considering a court challenge," Allen told the Guardian. "The wall is an affront to Mexico and it will harm our trading relations. We have to consider legal options."

The TBC will not make a final decision on whether to proceed with the lawsuit until its next meeting, which has yet to be scheduled. The issue has taken on even greater urgency with the failure of the US Congress to approve a new immigration-reform law in 2007. The Senate proposed a new reform package in May (see SourceMex, 2007-05-23), but the initiative failed in late June. The defeat likely means the issue will not be brought back for Senate debate before the 2008 presidential election.

The TBC wanted Congress to act on immigration reform because failure to do so leaves the status quo intact. The status quo for US-Mexico border communities means the much-derided Secure Fence Act stays in place. The act, which is part of the H.R. 6061 approved in 2006, calls on the DHS to build 700 miles of two-layered fencing on the southern border within 18 months (see SourceMex, 2006-10-11). "Our challenge is to slow the fence-building down," Foster said. "The Secure Fence Act deals with the symptom. It does not attack the disease itself....We are not giving up the fight in opposition to the border wall."

Under the act, 176 miles of fencing would be constructed between Laredo and Brownsville; 51 miles of fencing between Del Rio and Eagle Pass; 88 miles of fencing between El Paso and Columbus, New Mexico; 361 miles of fencing between Calexico, California, and Douglas, Arizona; and 22 miles of fencing at Tecate, California. Congress appropriated US\$1.2 billion for the project, nowhere enough money to build the entire fence.

Allen's comments came on the same day that DHS sent a letter to elected officials in 17 border cities and 18 border-county sheriffs. The letter, signed by US Customs and Border Protections (CBP) Commissioner W. Ralph Basham and DHS Assistant Secretary for Intergovernmental Programs Anne P. Petra, said that a confidential map showing where border fencing would go was just a starting point for dialogue. In their letter, Basham and Petra point to an April 20 e-mail regarding

construction of fencing in Texas. "We are concerned that the language in this e-mail did not adequately represent DHS's approach to this issue and therefore has raised many questions and concerns among its recipients," Basham and Petera wrote.

The letter said DHS was intent on honoring Homeland Security Secretary Michael Chertoff's commitment to work with border leaders to address relevant fencing issues. "Taking into account the provisions of the Secure Fence Act as well as initial analyses conducted by Border Patrol staff, US Customs and Border Protection developed a list of potential fencing locations," the DHS letter states. "From this information, maps were drafted to serve as a starting point for a dialogue with state and local officials, landowners, and other local stakeholders. No final decisions have been made on where all of the fencing will be constructed."

In a joint statement, US Sens. Kay Bailey Hutchison (R-TX) and John Cornyn (R-TX) said they were pleased DHS had reached out to border communities. "We are pleased that DHS listened to our requests for local input on implementation of the Secure Fence Act. America's borders must be secured, and no one understands that better than the people who live along the border," said the two Texas Republicans. "That is why it is imperative to involve local leaders and to respect private property rights." Allen said DHS was "caught between a rock and a hard place" because it was mandated to build a fence. "The real issue is the fence itself. Talk to Border Patrol and they will tell you that walls don't make arrests, personnel do. If an illegal immigrant can swim a river they can climb a fence," Allen said.

Allen said he was getting lots of calls from individuals and groups in Arizona and California opposed to a border wall. "We have to coordinate our approach in Texas. I do not know where the Border Trade Alliance is on this issue yet but there are many groups lining up to oppose the wall," he said. Allen said an example of the "absurdity" of a border wall was the fact that state Rep. Ryan Guillen (D-Rio Grande City) would likely find his Roma district office blocked off on the "Mexican side" of the fence, were it to be built. "There will be a lot more absurdities like that," he said.

Meanwhile, Texas state Sen. Eddie Lucio (D-Brownsville) has called on state leaders to hold a summit on the border so that local citizens, experts, border legislators, and business groups can voice concerns and express alternative ideas to the border fence. Lucio, chair of the Texas Senate Committee on International Relations and Trade, met privately about the border-wall proposal with Lt. Gov. David Dewhurst, state Sen. Judith Zaffirini (D-Laredo), and TBC in early May. "The opportunity to voice opinions was denied after US Department of Homeland Security Secretary Michael Chertoff reneged on a promise to the border locals to seek their opinions before even thinking about building the wall," Lucio wrote in an op-ed.

US members of Congress who represent districts along the Texas-Mexico border have also lashed out against the fence. "Our border communities depend on cross border trade," said Rep. Solomon Ortiz (D-TX), who co-chairs the Congressional Border Caucus. "Building the wall will only serve to divide our community, damage our relationship with our neighbors to the south, and detrimentally impact our economy," Ortiz said after a meeting with DHS officials. Rep. Henry Cuellar (D-TX) is pushing for a study to assess the impact the proposed border wall would have on the environment.

"Customs and Border Protection Commissioner Ralph Basham has assured me that environmental-impact studies will be performed prior to making a decision on building a fence," Cuellar said.

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