

STATEMENT OF

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BEFORE THE

**HOUSE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS
SUBCOMMITTEE ON FISH, WILDLIFE AND OCEANS**

REGARDING

**WALLS AND WAIVERS: EXPEDITED CONSTRUCTION OF THE SOUTHERN
BORDER WALL AND COLLATERAL IMPACTS TO COMMUNITIES AND THE
ENVIRONMENT**

MONDAY, APRIL 28, 2008

**UNIVERSITY OF TEXAS-BROWNSVILLE
SCIENCE, ENGINEERING AND TECHNOLOGY BUILDING LECTURE HALL
80 FORT BROWN STREET
BROWNSVILLE, TEXAS**

CHAIRWOMAN BORDALLO, CHAIRMAN GRIJALVA, AND DISTINGUISHED

MEMBERS: My name is Ronald Vitiello, and I am the Chief Patrol Agent of the Border Patrol's Rio Grande Valley Sector. I am honored to appear on behalf of the U. S. Border Patrol to discuss our responsibilities, operations, and National Strategy.

U.S. Customs and Border Protection (CBP) is responsible for protecting more than 4,000 miles of border with Canada, 1,900 miles of border with Mexico, and 2,627 miles of coastal border to include the island of Puerto Rico. The U.S. Border Patrol is the sole entity responsible for securing our Nation's borders between the official ports of entry and bases its operation on the Border Patrol National Strategy. To that end, our objectives are to apprehend terrorists, and terrorist weapons illegally entering the United States; to deter entries through improved enforcement; detect, apprehend and deter smugglers of humans, drugs, and other contraband; and to improve the quality of life in border communities. The Border Patrol uses a combination of efforts in achieving our goal. The Border Patrol depends on a 'defense in depth' posture, utilizing agents in the field, interior immigration checkpoints, and coordinated enforcement operations, as well as partnerships with other federal and state law enforcement agencies.

During Fiscal Year (FY) 2007 alone, Border Patrol agents apprehended 876,704 persons (858,638 on the southwest border) attempting to enter the United States illegally, including human smugglers, drug traffickers, and illegal aliens, and seized 1,859,299 pounds of marijuana and 14,242 pounds of cocaine. As of April 20, 2008, in FY2008, the Border Patrol has arrested 422,433 illegal aliens (411,329 on the southwest border) and seized 952,847 pounds of marijuana and 6,625 pounds of cocaine. In my area of responsibility, the Rio Grande Valley Sector, in FY2008 alone we have apprehended 42,004 illegal aliens and seized 189,377 pounds of marijuana and 3,461 pounds of cocaine.

Securing our Nation's diverse border terrain is an important and complex task that cannot be resolved by a single solution alone. To secure each unique mile of the border requires a balance of personnel, technology, and tactical infrastructure (such as roads, pedestrian and vehicle fencing, and lights) that is tailored to each specific environment. The installation of fencing has proven to be an effective tool to slow, redirect, and deter illegal entries, especially in certain areas where personnel and technology alone cannot sufficiently secure the border.

For example, in an urban environment, an illegal entrant can be across the border and into the community in a matter of minutes, sometimes seconds. In this environment, fencing provides a critical barrier. In a rural environment agents have more time to bring an illegal incursion to the proper resolution, making it more likely that vehicles will be used as a conveyance for getting from the point of entry to staging areas and community infrastructure that supports them. In this environment, vehicle fence can be utilized to prevent vehicles from entering and limit the speed and carrying capability of illegal entrants, along with sensor and surveillance technology to detect and track illegal entrants on foot. Remote areas may be completely uninhabited with no roads at or near the border. It could take someone hours or even days to be able to cross the border and get to a road or community infrastructure. Vehicle fence could be applied to remote areas where a vehicle could travel cross-country.

The effectiveness of tactical infrastructure can be seen in the 14-mile congressionally mandated fence in San Diego, California, which, in combination with increased personnel and technology, has proved effective in reducing the number of apprehensions made in the San Diego Sector. Over a 12 year period between 1992 and 2004, overall apprehensions made in the San Diego Sector declined by 76 percent. The Imperial Beach and Chula Vista Stations, whose areas of responsibilities fall within the 14-mile project area, combined for 361,125 apprehensions

in 1992. By 2004, total apprehensions in these two stations dropped to 19,038 as a result of the increase in fencing, manpower, and technology.

In the Yuma Sector during the same 12 year period, apprehensions increased by 591 percent. More recently, however, no sector has seen a bigger decrease in apprehensions and vehicle drive-throughs. With the addition of tactical infrastructure and increased staffing over the past two years, apprehensions in the Yuma Sector in FY2007 decreased by 68 percent and are down 76 percent to date in FY2008. Vehicle drive-through traffic within the Barry M. Goldwater Range (BMGR) decreased from 694 in FY2006 to 251 in FY2007 and 150 in FY2008 (all statistics covering only the timeframe between October 1 and April 3 of the given fiscal year). Vehicle drive-through activity elsewhere within the Yuma Sector during the same time period decreased from 423 in FY2006 to 145 in FY2007 and 0 in FY2008.

In fact, Congress recognized that tactical infrastructure is critical to securing the Nation's borders by mandating that the Department of Homeland Security (DHS) "achieve and maintain" operational control of the border and requiring DHS to construct – in the most expeditious manner possible – the infrastructure necessary to deter and prevent illegal entry. DHS is responding to this mandate and installing fencing, barriers, roads, lighting, cameras, and sensors on hundreds of miles of the southwest border. DHS will have 670 miles of pedestrian and vehicle fencing completed by the end of December 2008. These priority miles of fencing are to be constructed in areas where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States.

Operational assessments by the local Border Patrol agents and Chiefs – based on illegal cross-border activity and the Border Patrol's extensive field experience – identified multiple locations where fencing would most effectively enhance border security. These operational

assessments identified approximately 370 miles of pedestrian fencing. In Rio Grande Valley Sector, I identified approximately 70 miles of border on which pedestrian fencing is operationally necessary to gain effective control of the border, and my fellow Sector Chiefs performed these same assessments in their areas of operation.

In addition to the Border Patrol's operational assessments, several other factors contribute to decisions to construct tactical infrastructure in certain locations, including engineering assessments, which include the cost to construct; environmental assessments; and input from state and local stakeholders, including landowners. Each of these steps is a standard element of the planning process that enables us to make informed decisions in deploying the right mix of tactical infrastructure.

As noted earlier, to meet our operational goals, DHS is committed to building a total of 370 miles of pedestrian fence and 300 miles of vehicle fence along the southwest border by the end of December 2008. In a letter to Secretary Chertoff on March 20, 2008, Associate Deputy Secretary of the Interior James Cason informed him that while Department of the Interior (DOI) managers were attempting to facilitate the construction of border infrastructure on federal land, they had come to realize DOI could not accommodate approval of some tactical infrastructure projects based on legal obligations.

Given these obstacles and the ambitious timeline for a project of this scope and scale, on April 1, 2008, Secretary Chertoff determined that it was necessary to utilize the authority given to him by Congress to waive any legal requirements he determined necessary to ensure the expeditious construction of infrastructure needed to secure the border. Absent the Secretary's use of the waiver authority, it would not be possible to achieve the objectives set forth. The first waiver applies to certain environmental and land management laws for various project areas

along the southwest border, encompassing roughly 470 total miles. The waiver will facilitate additional pedestrian and vehicle fence construction, towers, sensors, cameras, detection equipment, and roads in the vicinity of the border. The second waiver was signed for the levee-border barrier project in Hidalgo County, Texas. This roughly 22-mile project will strengthen flood protection in the area while providing the Border Patrol with important tactical infrastructure. In addition to environmental and land management laws, this waiver addresses other legal and administrative impediments to completing this project by the end of the calendar year.

In planning for a project of this magnitude, DHS cannot anticipate every potential legal impediment that may arise during construction. Accordingly, each law listed in the waivers was either an immediate impediment to expeditious construction or was determined to be a potential source of administrative delay or litigation. As Secretary Chertoff stated in his April 1, 2008, press release concerning the waiver, “criminal activity at the border does not stop for endless debate or protracted litigation.”

However, the Secretary’s decision to invoke his waiver authority does not mean that CBP has turned its back on environmental stewardship or continued consultation with stakeholders who will be directly affected by the construction of new border infrastructure. We will continue to coordinate closely with the federal land managers to ensure impacts to the environment, wildlife, and cultural and historic artifacts are minimized to the fullest extent practicable.

As an example of our commitment to the environment, U.S. Fish and Wildlife Service (USFWS) representatives participated in the first comprehensive review of the proposed fence alignment in the Rio Grande Valley in September 2007. USFWS provided comments on each fence section and made suggestions, where necessary, relative to fence realignments that would

substantially reduce potential impacts to threatened and endangered species, or would impact components of the Lower Rio Grande Valley National Wildlife Refuge and nature reserves in the region. Throughout the planning process, the USFWS has continued to provide advice on the fence types and alignment of the fence project segments, including input regarding incorporating cat passages into the fence in specific areas that have the potential to serve as movement corridors for the ocelot and jaguarondi.

It is important to note that the flow of illegal pedestrian and vehicle traffic across the border not only jeopardizes our ability to secure our borders, but it has also caused severe and profound impacts to the environment. For example, illegal roads divert the normal flow of water and rob native plant cover of the moisture it depends on to survive. Illegal entrants also leave trash and high concentrations of human waste, which impact wildlife, vegetation, and water quality. Numerous wildfires caused by campfires of illegal entrants have caused a significant threat to human safety and the lands along the border, as well as increased impacts to soil, vegetation, cultural sites, and other sensitive resources. We believe that efforts to stem illegal cross border activity in certain areas of high traffic will result in an improvement to the environment and increase the public's ability to enjoy it as a resource.

In addition to our commitment to responsible environmental stewardship, CBP continues to solicit and respond to the needs of state, local, and tribal governments, other agencies of the federal government, and local residents. CBP has gone to great lengths to obtain public input throughout our planning efforts regarding the construction of fence along the southwest border. CBP has engaged in extensive discussions about the placement of fencing with state and local stakeholders, including repeated consultations with landowners. CBP has contacted more than

600 different landowners, hosted 11 public open houses, held 15 publicly-advertised town hall meetings, and conducted 84 meetings with state and local officials and public groups.

As a result of these outreach efforts, there are many instances where we were able to make modifications to our original plans to accommodate landowner/community concerns while still meeting our operational needs. For example, we made numerous alignment changes to the Rio Grande Valley segments to limit impacts to the USFWS National Wildlife Refuge areas, a bird watching observation facility in the City of Roma, and negate the need to relocate approximately 30 residences. The fence alignment at the Roma Port of Entry (POE) was initially proposed to be on top of a 30-foot bluff. During our site visit in September, it was determined that placing the fence at the top of the bluff would impact historical buildings and bring about constructability issues. Based on these findings, Border Patrol, U.S. Army Corps of Engineers, and USFWS came to a compromise to construct the fence at the bottom of the bluff, where it would still provide operational utility. We will continue to consult with our state and local stakeholders, including landowners, to ensure that our investments effectively balance border security with the diverse needs of those that live in border communities.

The Border Patrol's objective is nothing less than securing operational control of the border. We recognize the challenges of doing so, as we have dealt with them for many years. Challenges continue to lie ahead and the need for a comprehensive enforcement approach remains. Our national strategy gives us the means by which to achieve our ambitious goal. We face these challenges every day with vigilance, dedication to service, and integrity as we work to strengthen national security and protect America and its citizens. I would like to thank you for the opportunity to present this testimony today and for your support of CBP and DHS. I would be pleased to respond to any questions that you might have at this time.