A Border Fence Will Not Deter Illegal Immigration

"Migrants intent on crossing the border will repeatedly try to do so—often successfully—no matter the obstacles in their way."

Melanie Mason is a journalist who has written for The New Republic. In the following viewpoint from that news source, Mason argues that a border fence along the U.S.-Mexico border will not stop illegal aliens because most immigrants use legal ports to enter America. She states that the proposed fencing project is extremely expensive, can be damaging to the environment, and will fail to deter those immigrants who are intent on entering the country.

In this political season immigration is the issue that everyone’s taking pains not to discuss. The presidential candidates are merely paying the same lip service to border security. Congress has all but abandoned comprehensive immigration reform, and the [George W.] Bush administration continues to pile all their immigration-policy eggs in the border-security basket. But that doesn't mean nothing is happening. Homeland Security [DHS] head Michael Chertoff, in an April [2008] trip to the U.S.-Mexico border, made clear his determination that 670 miles of border fence, already under construction in Arizona and California, be completed by the end of the year. The border fence project has faced embarrassments—illegal immigrants employed to build the wall, a "Virtual Fence" project that cannot distinguish humans and vehicles from livestock and bushes—but those setbacks pale in comparison to its fundamental flaws. Below [are] six simple reasons a fence spanning the U.S.-Mexico border is bad policy.

**It Does Not Work**

Most experts say that physical fencing would not drastically decrease the number of illegal immigrants entering the country. The Pew Hispanic Center estimates that as much as 40-50 percent of the U.S.’s unauthorized migrant population entered the country through legal ports of entry, either with nonimmigrant visas that subsequently expired (known as "overstayers") or by using a Border Crossing Card that allows for short visits to the border region. A fence spanning the border would not prevent their entry to the country. And there is little evidence that a fence would be a successful deterrent to other would-be border-crossers. In a survey done by Wayne Cornelius, director of the Center for Comparative Immigration Studies at UC San Diego, 90 percent of respondents who intended to migrate to the United States were aware that border crossing was "very dangerous," but this failed to discourage them from their plans.

Apprehensions by the border patrol do little to dissuade repeat border-crossing attempts. In Cornelius' survey of migrants from the Mexican state of Oaxaca, 48 percent were apprehended on their most recent trip to the border. 96 percent of those migrants were able to enter eventually. Migrants intent on crossing the border will repeatedly try to do so—often successfully—no matter the obstacles in their way.

**It Exacerbates the Problem**

Prior to the increase in border enforcement, many unauthorized migrants from Mexico followed a circulatory migration pattern, where mostly male migrants would spend part of the year in the United States, performing seasonal jobs or short-term work. They would often return for holidays, and their families tended to remain in Mexico. As border crossings have become more difficult, the rate of return among unauthorized migrants has decreased. Audrey Singer, an immigration expert with the Brookings Institution, explains that "more men are staying, women are coming and families are consolidating on this side of the border." Also compounding this consolidation within the U.S. is the increased use of smugglers to facilitate border crossings. From 2005-2007, 80 percent of undocumented migrants used smugglers, known as "coyotes," to help them across the border, according to Cornelius. With coyotes’ fees at several thousand dollars and growing,
migrants are unlikely to make circular trips across the border using coyotes and are therefore more inclined to stay in the U.S. permanently. Douglas Massey, professor of sociology at Princeton University, sums it up: "The ultimate effect of the border fence policy is to increase the size [of the undocumented population] and to make it more permanent."

**It Is Inhumane**

Major border enforcement operations have focused on urban areas, where border crossers have only a short distance to traverse. With increased enforcement, people have, according to Singer, abandoned these "institutionalized crossing patterns" and moved to places with "harsher climate, harsher terrain, and a greater likelihood of injury and death." Deaths along the border have increased substantially since the mid-1990s—500 fatalities in 2007 alone. According to Cornelius, "women and children are overrepresented in fatalities, in proportion to their numbers among clandestine entrants. In several recent years, about 18 percent of the fatalities have been women and minors under 18."

**It Is Enormously Costly**

Though the exact figure is a matter of some dispute, there's no disagreement that a fence would be a tremendous expense. The Congressional Budget Office predicts $3 million per mile in construction cost. The Department of Homeland Security estimates that the San Diego portion of the fence alone would cost $127 million for a length of 14 miles, roughly $9 million per mile. Factoring in repairs and maintenance, the Congressional Research Service estimates that a 25-year life span of a 700-mile fence (far short of the entire 1,952-mile border) would cost up to $49 billion.

**It Is Environmentally Damaging**

The border region is an environmentally sensitive area, providing for numerous imperiled species. The fence proposed by the Secure Fence Act of 2006 would cross multiple protected federal lands. Biologists worry that jaguars, extremely rare in the United States, would see their cross-border migration patterns disrupted, threatening their survival. To see how a fence may negatively affect environmentally valuable land, one needs only look to the state of limbo facing the Sabal Palm Audubon Center in Brownsville, Texas. If DHS has its way, a border fence constructed to the north of this bird sanctuary would essentially cede the land to Mexico, upsetting conservationists and ecotourism promoters alike. Michael Chertoff's recent waiver of more than 30 environmental and land-management laws means that DHS will not have to examine in detail the fence's effects on wildlife, water quality, and vegetation prior to construction.

**It Is Legally Dubious**

Chertoff's ability to waive those laws is derived from a 2005 law passed by Congress that allowed the Secretary of Homeland Security to waive "all legal requirements" in order to speed up the construction [of] the fence. The bill sharply limits judicial review to a single District judge; any appeal from that ruling can only go to the Supreme Court at the Court's discretion. The Supreme Court recently declined to hear a challenge from the Sierra Club and Defenders of Wildlife. Both organizations, along with *New York Times* columnist Adam Liptak, argue that Congress's voluntary delegation powers to the executive branch threatens the basic Constitutional principle of separation of powers. Oliver Bernstein, a spokesman for Sierra Club, told the *Los Angeles Times* that the Supreme Court's hands-off approach "leaves one man—the secretary of the Homeland Security—with the extraordinary power to ignore any and all of the laws designed to protect the American people, our lands and our natural resources."
So, if not a fence, then what? Most experts on all sides of the immigration debate agree that the border fence is a political band-aid for a larger policy problem. Mark Krikorian of the restrictionist Center for Immigration Studies believes that “politicians tend to over-emphasize the importance of fencing.” Cecilia Muñoz, of the Hispanic advocacy group National Council of La Raza calls the fence a “monument to Congress’s efforts to look like they’re doing something.” The enforcement-first approach of the Bush administration does nothing to deal with the 12 million undocumented immigrants already in this country, or American employers’ demand for cheap immigrant labor, or the lack of a legal path for entry for future immigrants. Ways of dealing with this demand can—and should—be debated, but let's cease to delude ourselves that this fence offers the answer.
A Border Fence Will Reduce Illegal Crossings of the U.S.-Mexico Border

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The U.S. Border Patrol, part of the Department of Homeland Security, is responsible for monitoring U.S. borders and apprehending those that would seek to enter the United States illegally. Along the nation's southern border, Border Patrol agents seize thousands of illegal aliens every year and deter many more from making the crossing from Mexico into the United States. One of the most important tools the Border Patrol has in carrying out its mission is the miles of pedestrian and vehicle fencing that stretches across several major points of entry. To aid the Border Patrol and ensure that it can fulfill its mandate, the government should expedite the extension of border fences to cut off other crossing sites. Taking into account the environmental impact and the concerns of local residents, the construction of new fences can be accomplished to meet Border Patrol objectives without jeopardizing the resources and natural beauty of these border regions.

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 goals. 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.

Various Methods Are Needed to Secure the Borders

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 [Arizona] 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 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.

**The Border Fence Has Congressional Support**

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.
The Department of Homeland Security's Commitment

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 [DHS] Secretary [Michael] 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."

Minimizing Environmental Impact

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.

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.

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.

Listening to Local Inhabitants

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.

The Border Patrol's objective is nothing less than securing operational control of the border. 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.