9/12/17



Cartography, Waiver Comparisons, Photos: Kenneth D. Madsen Associate Professor of Geography The Ohio State University at Newark madsen.34@osu.edu



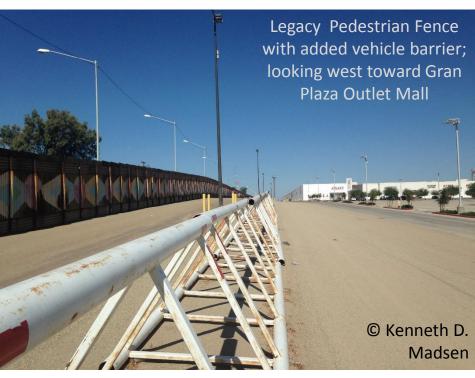


called for the installation of additional Resources Protection Act of 1988 (16 improving the existing patrol road will fencing, barriers, roads, lighting, U.S.C. 4301 et seq.), the Safe Drinking improve Border Patrol's operational cameras, and sensors on the southwest Water Act (42 U.S.C. 300f et seq.), the efficiency and, in turn, further deter and border. Finally, in section 102(c) of Noise Control Act (42 U.S.C. 4901 et prevent illegal crossings. IIRIRA, Congress granted to the seq.), the Solid Waste Disposal Act, as Secretary of Homeland Security the Section 2 amended by the Resource Conservation authority to waive all legal requirements I determine that the following area in and Recovery Act (42 U.S.C. 6901 et the vicinity of the United States border, seq.), the Comprehensive Environmental that I, in my sole discretion, determine necessary to ensure the expeditious located in the State of California within Response, Compensation, and Liability construction of barriers and roads Act (42 U.S.C. 9601 *et seq.*), the he United States Border Patrol's El authorized by section 102 of IIRIRA. Archaeological and Historic Centro Sector is an area of high illegal Preservation Act (Pub. L. 86–523, as Determination and Waiver entry (the "Project Area"): Starting at amended, repealed, or replaced by the Calexico West Land Port of Entry Public Law 113-287 (Dec. 19, 2014) and extending approximately three The United States Border Patrol's El (formerly codified at 16 U.S.C. 469 et miles westward. There is presently a need to construct seq., now codified at 54 U.S.C. 312502 Centro Sector is an area of high illegal et seq.)), the Antiquities Act (formerly entry. In fiscal year 2016 alone, the physical barriers and roads in the codified at 16 U.S.C. 431 *et seq.*, now United States Border Patrol (''Border vicinity of the border of the United codified 54 U.S.C. 320301 et seq.), the Patrol'') apprehended over 19,000 illegal States to deter illegal crossings in the Historic Sites, Buildings, and aliens and seized approximately 2,900 Project Area. In order to ensure the pounds of marijuana and approximately expeditious construction of the barriers Antiquities Act (formerly codified at 16 U.S.C. 461 et seq., now codified at 54 126 pounds of cocaine. Since the and roads in the Project Area, I have U.S.C. 3201-320303 & 320101-320106) creation of DHS, and through the determined that it is necessary that I the Farmland Protection Policy Act (7 construction of border infrastructure exercise the authority that is vested in U.S.C. 4201 et seq.), the Federal Land and other operational improvements, me by section 102(c) of the IIRIRA as the Border Patrol has been able to make amended. Policy and Management Act (Pub. L. Accordingly, pursuant to section 94–579 (43 U.S.C. 1701 *et seq.*)), section significant gains in border security within the El Centro Sector; however, 102(c) of IIRIRA, I hereby waive in their 10 of the Reclamation Project Act of entirety, with respect to the 1939 (53 Stat. 1196, as amended by 64 more work needs to be done. The El construction of roads and physical Stat. 463 (43 U.S.C. 387)), National Fish Centro Sector remains an area of high barriers (including, but not limited to, and Wildlife Act of 1956 (Pub. L. 84– illegal entry for which there is an accessing the Project Area, creating and 1024 (16 U.S.C. 742a, et seq.)), the Fish immediate need to construct border and Wildlife Coordination Act (Pub. L. barriers and roads. using staging areas, the conduct of Fo begin to meet the need for earthwork, excavation, fill, and site 73–121 (16 U.S.C. 661 *et seq.*)), the enhanced border infrastructure in the El preparation, and installation and Administrative Procedure Act (5 U.S.C. Centro Sector, DHS will take immediate upkeep of physical barriers, roads, 551 et seq.) the Rivers and Harbors Ac supporting elements, drainage, erosion of 1899 (33 U.S.C. 403), the Eagle action to replace existing primary fencing. Fence replacement in the El controls, and safety features) in the Protection Act (16 U.S.C. 668 et seq.), Centro Sector is among DHS's highest Project Area, the following statutes, the Native American Graves Protection priority border security requirements. including all federal, state, or other and Repatriation Act (25 U.S.C. 3001 et

Department of Homeland Security Waiver Acting DHS Secretary Duke * Calexico, CA *



- cover 102 out of 167 miles of California's border with Mexico (61%)
- * "legacy" fences were those constructed before the Secure Fence Act of 2006; fence types as mapped here are based on data from the Department of Homeland Security as of October 2013; the pedestrian fence east of the Calexico Port of Entry appears to have been replaced
- since this time * PF70 = primary (pedestrian) fence relatively easy and pre-planned fencing
- put up shortly after the Secure Fence Act passed * pedestrian barriers are generally found
- close to urban areas and relatively accessible rural locations; all fencing mapped here is pedestrian fencing
- * vehicle barriers generally require less disturbance and allow greater passage of wildlife; this fence type tends to be found in more rural locations; the nearest segment to Calexico is 11.5 miles west of the POE
- * CBP frequently "voluntarily" complied with waived laws under the Obama
- Administration * all photos here are from June 2017



Legacy Pedestrian Fence; behind Gran Plaza Outlet Mall; opposite Calle Manzanill

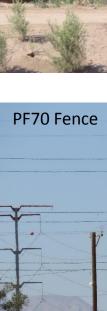


Legacy Pedestrian Fence; behind Gran Plaza Outlet Ma ~

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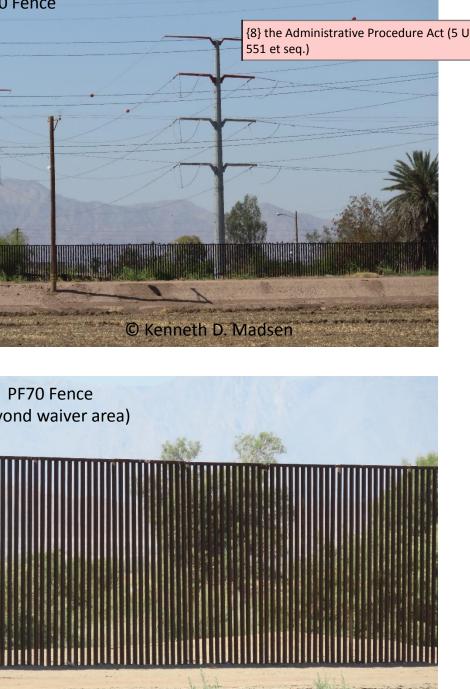
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7} the Military Lands Withdrawal Act of 1999 Pub. L. 106-65, 113 Stat. 885 (Oct. 5, 1999)) {8} the Sikes Act (16 U.S.C. 670 et seq.)

551 et seq.)

PF70 Fence (beyond waiver area); as

shown here much of the fencing west of

Calexico parallels the All American Canal

551 et seq.)

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27} the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6303-

551 et seq.)

.S.C. 403)

Act (42 U.S.C. 1996)

U.S.C. 2000bb)

amended, repealed, or replaced by Pub. L. amended, repealed, or replaced by Public Law 113–287 (Dec. 19, 2014) (formerly codified at 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 et seq., now codified at 54 U.S.C. 16 U.S.C. 470 et seq., now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 et seq.)) 100101 note and 54 U.S.C. 300101 et seq.)) [6] the Migratory Bird Conservation Act (16 {6} the Migratory Bird Conservation Act (16 the Paleontological Resources Preservation {9} the Paleontological Resources Preservation the Federal Cave Resources Protection {10} the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 et seq.) {14} the Comprehensive Environmental {15} the Archaeological and Historic repealed, or replaced by Pub. L. 113–287 (Dec. repealed, or replaced by Public Law 113–287 19, 2014) (formerly codified at 16 U.S.C. 469 et (Dec. 19, 2014) (formerly codified at 16 U.S.C. seq., now codified at 54 U.S.C. 312502 et 469 et seq., now codified at 54 U.S.C. 312502 16 U.S.C. 431 et sea., now codified 54 U.S.C. 16 U.S.C. 431 et sea., now codified 54 U.S.C {18} the Historic Sites, Buildings, and {17} the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. Antiquities Act (formerly codified at 16 U.S.C. 461 et seq., now codified at 54 U.S.C. 3201– 461 et seq., now codified at 54 U.S.C. 3201– {16} the Farmland Protection Policy Act (7 {20} the Farmland Protection Policy Act (7 {18} the Farmland Protection Policy Act (7

ntroduced on Oct. 6, 2000)

{8} the Administrative Procedure Act (5 U.S.C. {3} the Administrative Procedure Act (5 U.S.C. {3} the Administrative Procedure Act (5 U.S.C. {23} the Administrative Procedure Act (5 U.S.C. {24} the Administrative Procedure Act (5 U.S.C. {23} the Administrative Procedure Act (5 U.S.C. {24} the Administrative Procedure Act (5 U.S.C. {23} the Administrative Procedure Act (5 U.S.C. {24} the Administrative Procedure Act (5 U.S.C. {23} the Administrative Procedure Act (5 U.S.C. {24} the Administrative Procedure 551 et seq.) 551 et seq.) 24} the Otay Mountain Wilderness Act of [31] the Otay Mountain Wilderness Act of 1999 (Pub. L. 106-145) 1999 (Pub. L. 106–145) 5} Sections 102(29) and 103 of Title I of the {32} sections 102(29) and 103 of Title I of the lifornia Desert Protection Act (Pub. L. 103- California Desert Protection Act (Pub. L. 103-133), 50 Stat. 1827 26} the National Park Service Organic Act Pub. L. 64-235, 16 U.S.C. 1, 2-4) 27} the National Park Service General uthorities Act (Pub. L. 91-383, 16 U.S.C. la-1 28} Sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Pub. L. 95-625) {29} Sections 301(a)-(f) of the Arizona Desert Wilderness Act (Pub. L. 101-628) 2} the Rivers and Harbors Act of 1899 (33 {30} the Rivers and Harbors Act of 1899 (33 U.S.C. 403) 13 the Eagle Protection Act (16 U.S.C. 668 et {31} the Eagle Protection Act (16 U.S.C. 668 et **{24} the Native American Graves Protection {32} the Native American Graves Protection** and Repatriation Act (25 U.S.C. 3001 et seq.) and Repatriation Act (25 U.S.C. 3001 et seq.) 25} the American Indian Religious Freedom {33} the American Indian Religious Freedom Act (42 U.S.C. 1996) **{26} the Religious Freedom Restoration Act (42 {34} the Religious Freedom Restoration Act (42** U.S.C. 2000bb) 35} the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.)

36} and the Multiple Use and Sustained Yield

Act of 1960 (16 U.S.C. 528-531)

(33) the Rivers and Harbors Act of 1899 (33	{24} the Rivers and Harbors Act of 1899 (33
U.S.C. 403)	U.S.C. 403)
{34} the Eagle Protection Act (16 U.S.C. 668 et seq.)	{25} the Eagle Protection Act (16 U.S.C. 668 et seq.)
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551 et seq.)