



BLM memo warns of damage by fence

Environmentalists see political ammo in San Pedro fight

By Howard Fischer
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PHOENIX — Federal officials warned last September that the design of border barriers through the San Pedro Riparian National Conservation Area would cause environmental damage, documents obtained by foes of the project say.

A memo from the Bureau of Land Management, which oversees the site, concludes putting barriers in the floodway could result in the buildup of debris that would impair the flow of water and change the flow of the river, especially during the rainy season.

“The timing and intensity of seasonal flood flows in the San Pedro River are essential for maintaining riparian function as well as recharging the alluvial aquifer,” the document obtained by the Sierra Club, Defenders of Wildlife and the Center for Biological Diversity says.

The memo warns that, even with promises by the Border Patrol to maintain the fence and clean up debris, it “could inadvertently act as a flood control structure altering natural flood characteristics.”

Yet when U.S. Homeland Security Secretary Michael Chertoff decided the following month to proceed

with the fence — and exempt its construction from environmental regulations — he concluded the project “would not result in significant impacts to the environment.”

Chertoff said that view was shared by BLM, contrary to what the memo says.

Sierra Club lobbyist Sandy Bahr conceded the memo and a companion document may be legally meaningless in trying to stop the pedestrian fence and vehicle barriers. Chertoff’s decision to use his power to waive environmental rules means he is free to do what he wants.

Still, she called the action “unconscionable.”

But Robin Silver of the Center for Biological Diversity said the documents ultimately could help environmental groups win the political battle.

He said once members of Congress see how environmental concerns were ignored in this case they might be willing to rescind the waiver authority they gave Chertoff’s agency in 2005.

“These people are callous,” Silver said, essentially creating what would be a dam in the middle of the river. “They’re without concern for the environment.”

Bahr said the documents could provide legal fodder to remove the fence in the future if the U.S. Supreme Court sides with the Sierra Club and Defenders of Wildlife, finding the decision by Congress giving Chertoff that power is unconstitutional.

Either action could pave the way to remove the barriers — and what Silver said he believes would be restoration of the river.

Veronica Nurs Valdes, a spokeswoman for Homeland Security, said the agency takes environmental protection seriously and often adjusts designs to accommodate concerns.

But the agency has a responsibility to the American people to meet their demand for border security, she said.

The spat centers around a two-mile stretch of the border along the southern edge of the conservation area.

A federal judge in October temporarily blocked further work, saying there seemed to be a rush to complete the project with only minimal review.

Rather than wait for the outcome of the case, Chertoff used his power to say the project need not comply with the Endangered Species Act or 19 other federal laws.

And the judge threw out subsequent challenges to the validity of that law.

It remains unclear whether the new documents provide enough impetus to push Congress to repeal the 2005 law.

Rep. Raúl Grijalva, D-Tucson, already is a co-sponsor of legislation to require the government to “develop a border protection policy” that also supports the needs of federal lands, including parks and property, like the San Pedro conservation area, which is under the control of the BLM.

That measure also would repeal the power of the Homeland Security chief to waive other laws to construct border fencing. But its list of 21 co-sponsors does not include Rep. Gabrielle Giffords, D-Ariz., in whose district the river is located.

In October, when Chertoff waived environmental rules for the San Pedro project, Giffords said she does not support repeal of that authority.

Press aide C.J. Karamargin said Giffords believes border security is “a top concern” in Arizona and she believes federal officials “should have the tools they need to do the job.”

Earlier this month, though, Chertoff used his power again to waive environmental rules for more than 225 miles of new border projects.

Giffords labeled that action “outrageous” but has not publicly changed her position on the law.

Valdes said the barriers will be built “with as minimal an impact to the environment as possible.” And the plan, at this point, calls for the vehicle barriers in the middle of the river to be removable to minimize affecting its flow.

Bahr was unimpressed.

“It’s a joke,” she said. “Like they’re going to anticipate when it’s going to flood and they’re going to go out and remove them.”

Even if the barriers in the river do come down, she said that creates another problem. It will funnel all the illegal border crossings into the most environmentally sensitive areas.

Valdes said that already is happening. She said the result of thousands of immigrants using the area “creates illegal roads which divert the normal flow of water and rob native plant cover of the moisture it depends on to survive.”

And that, Valdes said, doesn’t even consider the trash and human waste left behind.

Bahr acknowledged her group does not want new fences and barriers along the border. She said people who want into this country will use ladders to climb over them or torches to cut through them.

Silver said the ultimate goal, at least in this case, is to force removal of all barriers in the San Pedro — one hopes before they cause irreparable damage.

“The river is dynamic,” he said. Silver said there is evidence that ecosystems can heal themselves, and there is evidence of that in this river itself.

“When we took the cows out of the San Pedro, then the trees blossomed,” he said.

And Silver said even Fossil Creek in Northern Arizona is recovering after the removal of a dam that was there for nearly 100 years.