

1 DROR LADIN*
 NOOR ZAFAR*
 2 JONATHAN HAFETZ*
 HINA SHAMSI*
 3 OMAR C. JADWAT*
 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
 4 125 Broad Street, 18th Floor
 New York, NY 10004
 5 Tel: (212) 549-2660
 dladin@aclu.org
 6 nzafar@aclu.org
 jhafetz@aclu.org
 7 hshamsi@aclu.org
 ojadwat@aclu.org
 8 *Admitted pro hac vice

9 CECILLIA D. WANG (SBN 187782)
 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
 10 39 Drumm Street
 San Francisco, CA 94111
 11 Tel: (415) 343-0770
 cwang@aclu.org

12 *Attorneys for Plaintiffs* (Additional counsel listed on following page)

13
 14 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
 15 **SAN FRANCISCO-OAKLAND DIVISION**

16 SIERRA CLUB and SOUTHERN BORDER
COMMUNITIES COALITION,

17 *Plaintiffs,*

18 v.

19 DONALD J. TRUMP, President of the United
 20 States, in his official capacity; MARK T. ESPER,
 Secretary of Defense, in his official capacity;
 21 KEVIN K MCALEENAN, Acting Secretary of
 Homeland Security, in his official capacity; and
 22 STEVEN MNUCHIN, Secretary of the Treasury,
 in his official capacity,

23 *Defendants.*

Case No.: 4:19-cv-00892-HSG

**SUPPLEMENTAL REQUEST FOR
 JUDICIAL NOTICE IN SUPPORT OF
 PLAINTIFFS' REPLY AND
 OPPOSITION TO DEFENDANTS'
 CROSS-MOTION FOR PARTIAL
 SUMMARY JUDGMENT**

Date: Nov. 20, 2019
 Time: 10:00 AM
 Judge: Honorable Haywood S. Gilliam, Jr.
 Dept: Oakland
 Date Filed: Nov. 1, 2019

1 Additional counsel for Plaintiffs:

2 SANJAY NARAYAN (SBN 183227)**
3 GLORIA D. SMITH (SBN 200824)**
4 SIERRA CLUB ENVIRONMENTAL LAW PROGRAM
5 2101 Webster Street, Suite 1300
6 Oakland, CA 94612
7 Tel: (415) 977-5772
8 sanjay.narayan@sierraclub.org
9 gloria.smith@sierraclub.org
10 **Counsel for Plaintiff SIERRA CLUB

11 MOLLIE M. LEE (SBN 251404)
12 AMERICAN CIVIL LIBERTIES UNION
13 FOUNDATION OF NORTHERN CALIFORNIA, INC.
14 39 Drumm Street
15 San Francisco, CA 94111
16 Tel: (415) 621-2493
17 Fax: (415) 255-8437
18 mlee@aclunc.org

19 DAVID DONATTI*
20 ANDRE I. SEGURA (SBN 247681)
21 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
22 OF TEXAS
23 P.O. Box 8306
24 Houston, TX 77288
25 Tel: (713) 325-7011
26 Fax: (713) 942-8966
27 ddonatti@aclutx.org
28 asegura@aclutx.org
*Admitted pro hac vice

REQUEST FOR JUDICIAL NOTICE

Plaintiff Sierra Club and Plaintiff Southern Border Communities Coalition (together, “Plaintiffs”) hereby respectfully request, pursuant to Federal Rule of Evidence 201, that the Court take judicial notice of the following materials in support of Plaintiffs’ Reply and Opposition to Defendants’ Cross-Motion for Partial Summary Judgment.

1. Attached hereto as **Exhibit 1** is a true and correct copy of an *Associated Press* article, reprinted on *abc15.com*, titled “Photos show Pentagon-funded border construction near Yuma,” dated September 11, 2019, and available at: <https://www.abc15.com/news/region-central-southern-az/yuma/photos-show-pentagon-funded-border-construction-near-yuma>.

* * *

The above article is judicially noticeable because the statements and images it contains “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2); *see also Cty. of Santa Clara v. Trump (“Santa Clara II”)*, 267 F. Supp. 3d 1201, 1216–18, nn.7–11 (N.D. Cal. 2017) (taking judicial notice of defendants’ public statements, government memoranda and letters, and information on government websites), *appeal dismissed as moot sub nom. City & Cty. of San Francisco v. Trump*, No. 17-16886, 2018 WL 1401847 (9th Cir. Jan. 4, 2018); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (court may take judicial notice of “matters of public record” not subject to reasonable dispute). The Court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(c)(2).

Dated: November 1, 2019

Respectfully submitted,

Sanjay Narayan (SBN 183227)**
Gloria D. Smith (SBN 200824)**
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612
Tel: (415) 977-5772
sanjay.narayan@sierraclub.org
gloria.smith@sierraclub.org

/s/ Dror Ladin
Dror Ladin*
Noor Zafar*
Hina Shamsi*
Omar C. Jadwat*
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Tel: (212) 549-2660
Fax: (212) 549-2564

1 Mollie M. Lee (SBN 251404)
2 American Civil Liberties Union Foundation of
3 Northern California, Inc.
4 39 Drumm Street
5 San Francisco, CA 94111
6 Tel: (415) 621-2493
7 Fax: (415) 255-8437
8 mlee@aclunc.org

9 David Donatti*
10 Andre I. Segura (SBN 247681)
11 American Civil Liberties Union Foundation
12 of Texas
13 P.O. Box 8306
14 Houston, TX 77288
15 Tel: (713) 325-7011
16 Fax: (713) 942-8966
17 ddonatti@aclutx.org
18 asegura@aclutx.org

nzafar@aclu.org
dladin@aclu.org
hshamsi@aclu.org
ojadwat@aclu.org

Cecillia D. Wang (SBN 187782)
American Civil Liberties Union Foundation
39 Drumm Street
San Francisco, CA 94111
Tel: (415) 343-0770
Fax: (415) 395-0950
cwang@aclu.org

Counsel for Plaintiffs

**Admitted pro hac vice*

***Counsel for Plaintiff Sierra Club*

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Exhibit 1

Menu



Weather Traffic Investigations Operation Safe Roads Contests



Photos show Pentagon-funded border construction near Yuma

Posted: 3:54 PM, Sep 11, 2019 Updated: 2019-09-12 19:29:06-04

AP By: Associated Press



Matt York/AP

+ Show Caption

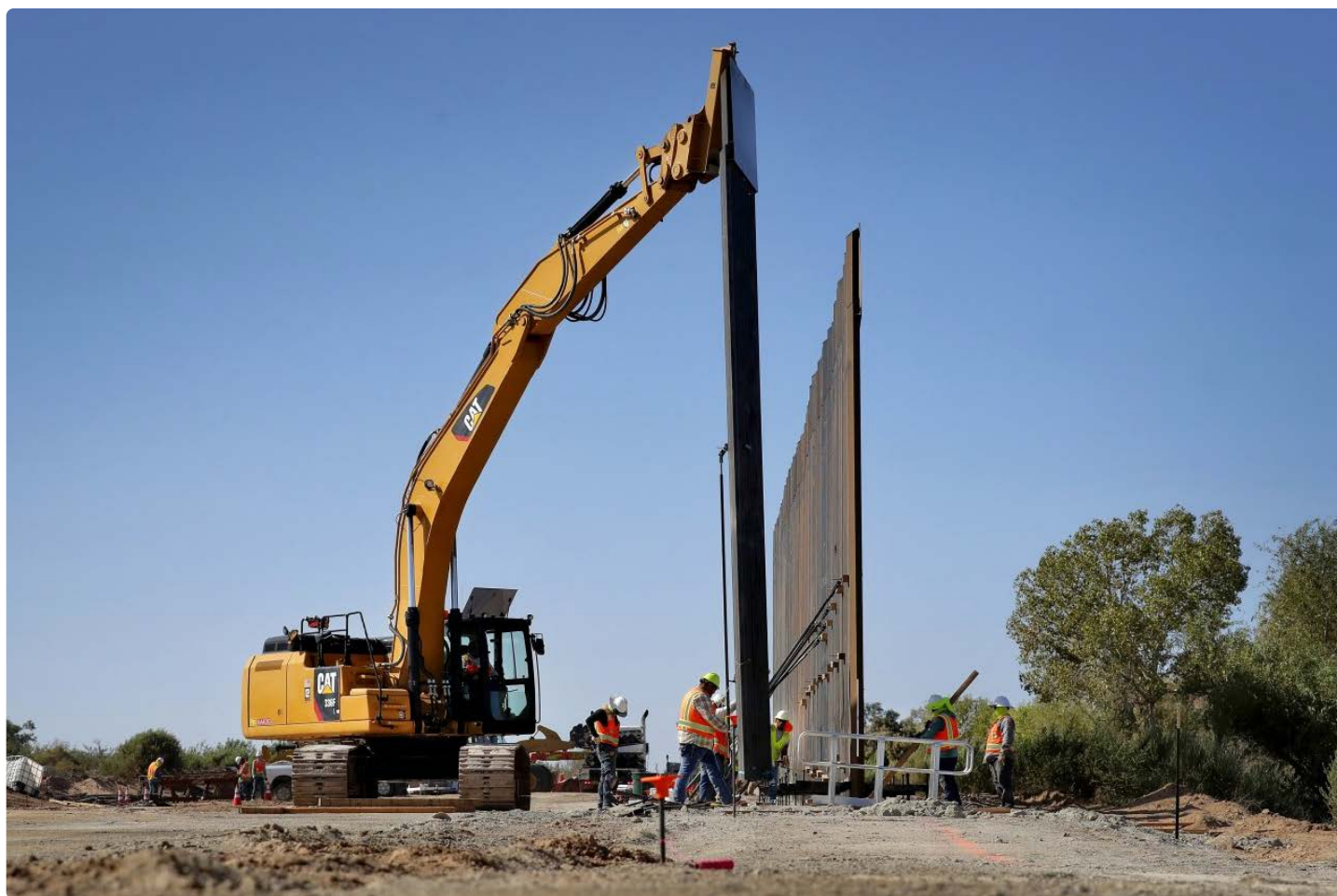
YUMA, AZ — On a dirt road past rows of date trees, just feet from a dry section of

Colorado River, a small construction crew is putting up a towering border wall that the government hopes will reduce -- for good -- the flow of immigrants who cross the U.S.-Mexico border illegally.

Cicadas buzz and heavy equipment rumbles and beeps before it lowers 30-foot-tall sections of fence into the dirt. "Ahi esta!" -- "There it is!" -- a Spanish-speaking member of the crew says as the men straighten the sections into the ground. Nearby, workers pull dates from palm trees, not far from the cotton fields that cars pass on the drive to the border.

South of Yuma, Arizona, the tall brown bollards rising against a cloudless desert sky will replace much shorter barriers that are meant to keep out cars, but not people.

This 5-mile section of fencing is where President Donald Trump's most salient campaign promise -- to build a wall along the entire southern border -- is taking shape.



Matt York/AP

Government contractors erect a section of Pentagon-funded border wall along the Colorado River, Tuesday, Sept. 10, 2019 in Yuma, Ariz. The 30-foot high wall replaces a five-mile section of Normandy barrier and post-n-beam fencing, shown at left, along the the International border that separates Mexico and the United States. Construction began as federal officials revealed a list of Defense Department projects to be cut to pay for President Donald Trump's wall. (AP Photo/Matt York)

The president and his administration said this week that they plan on building between 450 and 500 miles of fencing along the nearly 2,000-mile border by the end of 2020, an ambitious undertaking funded by billions of defense dollars that had been earmarked for things like military base schools, target ranges and maintenance facilities.

Two other Pentagon-funded construction [projects in New Mexico and Arizona are underway](#), but some are skeptical that so many miles of wall can be built in such a short amount of time. The government is up against last-minute construction hiccups, funding issues and legal challenges from environmentalists and property owners whose land sits on the border.

The Trump administration says the wall -- along with more surveillance technology, agents and lighting -- is key to keeping out people who cross illegally.



Matt York/AP

Government contractors erect a section of Pentagon-funded border wall along the Colorado River, Tuesday, Sept. 10, 2019 in Yuma, Ariz. The 30-foot high wall replaces a five-mile section of Normandy barrier and post-n-beam fencing, shown at left, along the the International border that separates Mexico and the United States. Construction began as federal officials revealed a list of Defense Department projects to be cut to pay for President Donald Trump's wall. (AP Photo/Matt York)

Critics say a wall is useless when most of those apprehended turn themselves in to Border Patrol agents in the hope they can be eventually released while their cases play out in immigration court.

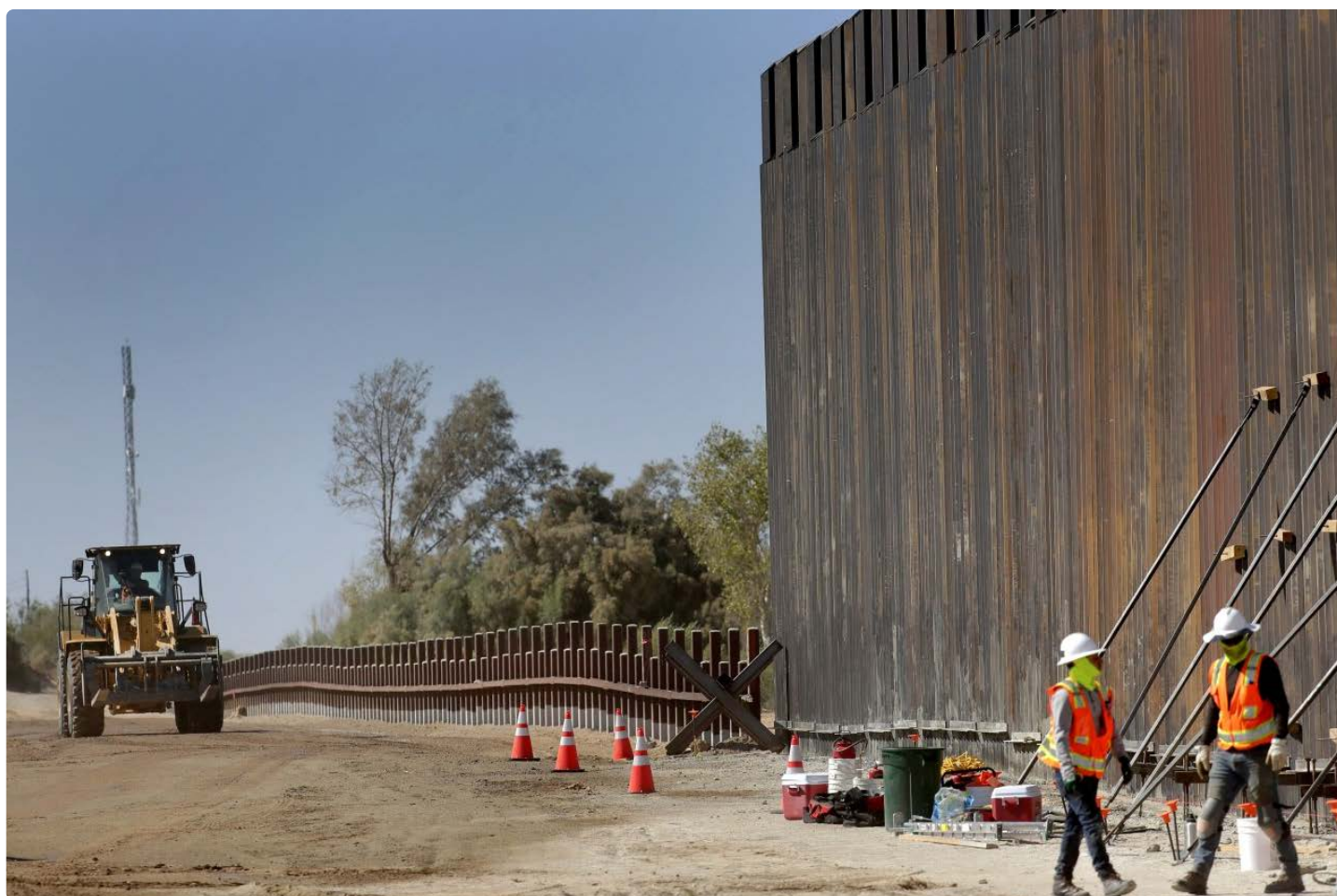
In Yuma, the defense-funded section of tall fencing is replacing shorter barriers that U.S. officials say are less efficient.

It comes amid a steep increase since last year in the number of migrant families who cross the border illegally in the Yuma area, often turning themselves in to Border Patrol agents. Many are fleeing extreme poverty and violence, and some are seeking asylum.

So far this year, Border Patrol agents in the Yuma sector have apprehended over 51,000 family units. That's compared with just over 14,500 the year before -- about a 250% increase.

The Yuma sector is the third busiest along the southern border, with officials building a temporary, 500-person tent facility in the parking lot of the Border Patrol's Yuma headquarters in June.

It spent just under \$15 million for the setup and services for four months, including meals, laundry and security, but officials are evaluating whether to keep it running past next month as the number of arrivals in Yuma and across the southern border have fallen sharply in recent months.



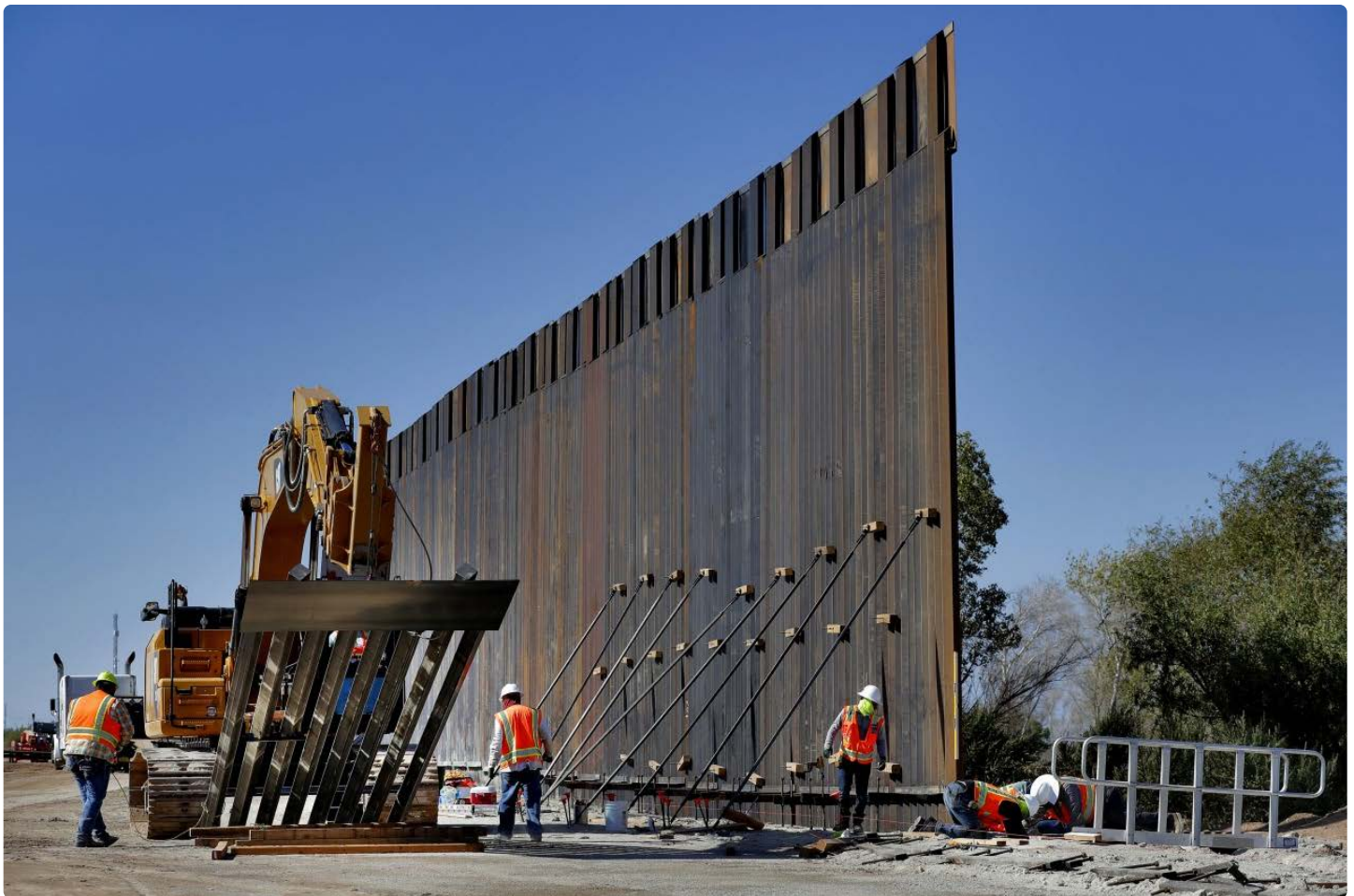
Matt York/AP

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The drop is largely due to the Mexican government's efforts to stop migrants from heading north after Trump threatened tariffs earlier this year to force Mexico to act.

The number of people apprehended along the southern border fell by 61 percent between this year's high point in May and the end of August. In Yuma, it fell by 86 percent, according to government figures. Most people apprehended are either traveling as families or are unaccompanied children.

"Historically this has been a huge crossing point for both vehicles as well as family units and unaccompanied alien children during the crisis that we've seen in the past couple of months," Border Patrol spokesman Jose Garibay said. "They've just been pouring over the border due to the fact that we've only ever had vehicle bollards and barriers that by design only stop vehicles."



Matt York/AP

Government contractors erect a section of Pentagon-funded border wall along the Colorado River, Tuesday, Sept. 10, 2019 in Yuma, Ariz. The 30-foot high wall replaces a five-mile section of Normandy barrier and post-n-beam fencing along the the International border that separates Mexico and the United States. Construction began as

federal officials revealed a list of Defense Department projects to be cut to pay for President Donald Trump's wall. (AP Photo/Matt York)

Victor Manjarrez Jr., a former Border Patrol chief who's now a professor at the University of Texas, El Paso, was an agent when the government put up the first stretch of barriers along the southern border -- in San Diego.

He's seen barriers evolve from easily collapsible landing mats installed by agents and the National Guard to the sophisticated, multibillion-dollar projects now being done by private contractors.

Manjarrez says tall border fencing is crucial in some areas and less helpful in others, like remote stretches of desert where shorter barriers and more technology like ground sensors would suffice.

"One form doesn't fit in all areas, and so the fence itself is not the one solution. It's a combination of many things," Manjarrez said.

The ease of construction varies by place and depends on things like water, Manjarrez said, adding that just because a plot of land is flat "doesn't mean it's not complex."

He said building 450 to 500 miles of fence by the end of next year would be tough if that figure doesn't include sections of the wall that have been built recently.

"As it stands now, contractors are building pretty fast," Manjarrez said. The real question is whether the government needs to build that much fencing, he said.

The Trump administration may face those issues along with lawsuits from landowners who aren't giving up their property so easily and [environmentalists who say the barriers stop animals from migrating](#) and can cut off water resources.

The Tohono O'odham tribe in Arizona also has expressed opposition to more border fencing on its land, which stretches for nearly 75 miles along the border with Mexico.

Near Yuma, the Cocopah Indian Tribe's reservation is near the latest fencing project, and leaders are concerned it will block the view to its sacred sites, spokesman

Jonathan Athens said.

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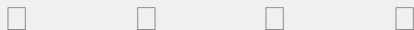


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