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**FEDERAL DISTRICT JUDGE DENIES INJUNCTION REQUEST  
TO STOP CONSTRUCTION OF THE BORDER FENCE**  
**Plaintiffs will wait for a court ruling on the merits of the lawsuit filed  
against Secretary of Homeland Security Michael Chertoff**

El Paso County Attorney José R. Rodríguez announced today that U.S. District Judge Frank Montalvo has denied the request for a preliminary injunction against the construction of the border fence in El Paso County.

The request was filed on June 23, 2008 by the County of El Paso, the City of El Paso, El Paso County Water Improvement District No. 1, the Ysleta del Sur Pueblo, Frontera Audubon Society, Friends of the Wildlife Corridor, Friends of Laguna Atascosa National Wildlife Refuge, and Mark Clark, as part of their lawsuit against the Department of Homeland Security challenging Secretary Chertoff's statutory authority to issue waivers of more than three dozen federal laws, as well as related state, local and tribal laws, to expedite the construction of a border fence in El Paso County.

The request for a preliminary injunction sought to prevent the Department of Homeland Security (DHS) from constructing any fencing, walls, or other physical barriers along the U.S.-Mexico border in Texas, New Mexico, Arizona, and California, unless and until DHS complies with the laws waived by Chertoff on April 3, 2008.

Among the reasons for denying the request, U.S. District Judge Frank Montalvo stated that plaintiffs failed to prove that the construction of the border barriers will irreparably injure the public if the injunction was not granted.

Judge Montalvo further found that the plaintiffs did not prove that, by allowing DHS to issue the waivers against several federal laws, the U.S. Congress was unconstitutionally delegating its legislative powers to the Secretary of Homeland Security Michael Chertoff.

Despite the order denying the request for a preliminary injunction, U.S. District Judge Frank Montalvo did not rule on the merits of the lawsuit and the case remains pending. The attorneys representing the plaintiffs are considering various options, including a possible appeal to the U.S. Supreme Court.

County Attorney José R. Rodríguez expressed his disappointment that the preliminary injunction was not granted. “This case is not over yet. This lawsuit involves an unprecedented delegation of authority by the Congress to the executive branch, because it allows DHS Secretary Chertoff to disregard long-standing federal laws that provide protection and benefits to the public and the environment,” Rodríguez explained.

“I expect the County’s lawyers will do everything they can to obtain a favorable ruling in the course of the litigation,” Rodríguez finalized.

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