



**U.S. Customs and  
Border Protection**

Honorable Benjamin H. Nuvamsa, Chairman  
**Attn: Mr. Leigh J. Kuwanwisiwma**  
Hopi Tribal Council  
P.O. Box 123  
Kykotsmovi, AZ 86039

OCT 25 2007

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Mr. Nuvamsa:

While no final decisions on the fence locations have been made, U.S. Customs and Border Protection (CBP), U.S. Border Patrol (USBP), a component of the Department of Homeland Security, is preparing a Supplemental Environmental Assessment (EA) to address the potential environmental impacts and feasibility of constructing, maintaining, and operating tactical infrastructure in segments totaling approximately 13.7 miles in length within USBP Yuma Sector, Arizona and California. In preparing the EA, CBP will be working directly with the United States Army Corps of Engineers, Fort Worth District (USACE), who will provide technical expertise and other support to CBP. At this time, in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800, CBP wishes to initiate its consultation process with appropriate federally-recognized tribes who historically used this region and/or continue to use the area.

To assist USBP in gaining and maintaining operational control of the border, CBP proposes to construct, maintain, and operate tactical infrastructure to include primary pedestrian fence and access and patrol roads in 2 segments along the U.S./Mexico international border. Individual segments would range from approximately 3 miles to 10.7 miles in length. A map presenting the proposed project sites is enclosed.

Based on Congressional and Executive mandates, CBP and USBP are assessing operational requirements and land issues along the entire Southwest border. Preparing the EA does not necessarily mean the 13.7 miles of tactical infrastructure will be installed within USBP Yuma Sector. Rather, this effort is a prudent part of the planning process needed to assess any environmental concerns in accordance with the National Environmental Policy Act of 1969 (NEPA), the National Historic Preservation Act (NHPA), the Clean Water Act (CWA), and other applicable environmental laws and regulations.

Honorable Benjamin H. Nuvamsa

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Sincerely,



For R. Janson

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



**U.S. Customs and  
Border Protection**

OCT 25 2007

Honorable Ronnie Lupe, Chairman  
**Attn: Mr. Mark Atalha**  
White Mountain Apache Tribal Council  
202 East Walnut Street  
Whiteriver, Arizona 85941

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Mr. Lupe:

While no final decisions on the fence locations have been made, U.S. Customs and Border Protection (CBP), U.S. Border Patrol (USBP), a component of the Department of Homeland Security, is preparing a Supplemental Environmental Assessment (EA) to address the potential environmental impacts and feasibility of constructing, maintaining, and operating tactical infrastructure in segments totaling approximately 13.7 miles in length within USBP Yuma Sector, Arizona and California. In preparing the EA, CBP will be working directly with the United States Army Corps of Engineers, Fort Worth District (USACE), who will provide technical expertise and other support to CBP. At this time, in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800, CBP wishes to initiate its consultation process with appropriate federally-recognized tribes who historically used this region and/or continue to use the area.

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Honorable Ronnie Lupe  
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Sincerely,



For R. Janson

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



**U.S. Customs and  
Border Protection**

Ms. Pauline Jose  
Quechan Tribe  
Fort Yuma-Quechan Tribal Museum  
P.O. Box 1899  
Yuma, AZ 85366

OCT 25 2007

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Ms. Jose:

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Ms. Pauline Jose

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Sincerely,



For R. Janson

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



**U.S. Customs and  
Border Protection**

**OCT 25 2007**

Honorable Delia Carlisle, Chairperson  
**Attn: Ms. Nancy Nelson**  
Ak Chin Indian Community  
47685 N. Eco Museum Rd.  
Maricopa, AZ 85239

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Ms. Carlisle:

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Honorable Delia Carlisle  
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Sincerely,



For R. Janson

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



**U.S. Customs and  
Border Protection**

Honorable William Rhodes, Governor  
**Attn: Mr. Barnaby Lewis**  
Gila River Indian Community  
315 W. Casa Blanco Road  
Sacaton, AZ 85247

**OCT 25 2007**

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Mr. Rhodes:

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Honorable William Rhodes  
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Sincerely,

  
For R. Janson

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

OCT 25 2007

Ms. Jill McCormick  
Cocopah Tribe Museum  
County 15th & Avenue G  
Somerton, AZ 85350

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Ms. McCormick:

While no final decisions on the fence locations have been made, U.S. Customs and Border Protection (CBP), U.S. Border Patrol (USBP), a component of the Department of Homeland Security, is preparing a Supplemental Environmental Assessment (EA) to address the potential environmental impacts and feasibility of constructing, maintaining, and operating tactical infrastructure in segments totaling approximately 13.7 miles in length within USBP Yuma Sector, Arizona and California. In preparing the EA, CBP will be working directly with the United States Army Corps of Engineers, Fort Worth District (USACE), who will provide technical expertise and other support to CBP. At this time, in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800, CBP wishes to initiate its consultation process with appropriate federally-recognized tribes who historically used this region and/or continue to use the area.

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Ms. Jill McCormick  
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Sincerely,



*For R. Janson*

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



**U.S. Customs and  
Border Protection**

OCT 25 2007

Honorable Joni M. Ramos, President  
**Attn: Ms. Dezbah Hatahli**  
Salt River Pima-Maricopa Indian Community  
10005 E. Osburn  
Scottsdale, AZ 85256

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Ms. Ramos:

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Honorable Joni M. Ramos

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Sincerely,



For R. Janson

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



**U.S. Customs and  
Border Protection**

Honorable Ned Norris, Jr., Chairman  
**Attn: Mr. Peter Steere, Cultural Resources Manager**  
Tohono O'odham Nation  
Cultural Affairs Department  
P.O. Box 837  
Sells, AZ 85634

OCT 25 2007

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Mr. Norris:

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Honorable Ned Norris, Jr.  
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Sincerely,



For R. Janson

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



**U.S. Customs and  
Border Protection**

OCT 25 2007

Mr. E. George Ray, Director Museum  
Colorado River Indian Tribes Museum  
Route 1, Box 23-B  
Parker, AZ 85344

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Mr. Ray:

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Mr. E. George Ray  
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Sincerely,



*For R. Janson*

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

Mr. Milford Wayne Donaldson, FAIA  
California State Historic Preservation Officer  
ATTN: Michael McGuirt  
Office of Historic Preservation  
1416 9<sup>TH</sup> Street, Room 1442-7  
Sacramento, CA 95814

OCT 25 2007

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Mr. Donaldson:

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Mr. Milford Wayne Donaldson  
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Sincerely,

Handwritten signature of Robert F. Janson in black ink, consisting of a stylized 'RJ' followed by the name 'For R. Janson'.

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



**U.S. Customs and  
Border Protection**

OCT 25 2007

State Historic Preservation Office  
Attn: JoAnne Medley  
1300 West Washington  
Phoenix, Arizona 85007

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Ms. Medley:

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State Historic Preservation Office

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Sincerely,

A handwritten signature in black ink, appearing to read "R. Janson" with a stylized flourish.

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

Honorable Wendler Nosie, Chairman  
**Attn: Ms. Vernelda Grant, THPO**  
San Carlos Apache Tribe  
Historic Preservation & Archaeology Department  
P.O. Box 0  
San Carlos, Arizona 85550

OCT 25 2007

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Mr. Nosie:

While no final decisions on the fence locations have been made, U.S. Customs and Border Protection (CBP), U.S. Border Patrol (USBP), a component of the Department of Homeland Security, is preparing a Supplemental Environmental Assessment (EA) to address the potential environmental impacts and feasibility of constructing, maintaining, and operating tactical infrastructure in segments totaling approximately 13.7 miles in length within USBP Yuma Sector, Arizona and California. In preparing the EA, CBP will be working directly with the United States Army Corps of Engineers, Fort Worth District (USACE), who will provide technical expertise and other support to CBP. At this time, in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800, CBP wishes to initiate its consultation process with appropriate federally-recognized tribes who historically used this region and/or continue to use the area.

To assist USBP in gaining and maintaining operational control of the border, CBP proposes to construct, maintain, and operate tactical infrastructure to include primary pedestrian fence and access and patrol roads in 2 segments along the U.S./Mexico international border. Individual segments would range from approximately 3 miles to 10.7 miles in length. A map presenting the proposed project sites is enclosed.

Based on Congressional and Executive mandates, CBP and USBP are assessing operational requirements and land issues along the entire Southwest border. Preparing the EA does not necessarily mean the 13.7 miles of tactical infrastructure will be installed within USBP Yuma Sector. Rather, this effort is a prudent part of the planning process needed to assess any environmental concerns in accordance with the National Environmental Policy Act of 1969 (NEPA), the National Historic Preservation Act (NHPA), the Clean Water Act (CWA), and other applicable environmental laws and regulations.

Honorable Wendsler Nosie

Page 2

We welcome your comments on this undertaking and look forward to hearing any concerns you may have regarding known sacred sites or other traditional cultural properties within the proposed project area. A cultural resources survey is currently being conducted on the project corridor, and we will provide you a copy of the cultural resources report for your review and comment once it has been prepared. We will also provide a copy of the EA for your review and comment. If you have any questions, please contact Mr. Charles McGregor by mail at USACE, Fort Worth District, Engineering Construction Support Office, P.O Box 17300, Fort Worth, Texas 76102-0300 or by telephone at (817) 886-1585 or by contacting Assistant Chief Patrol Agent Javier Tarin USBP Yuma Sector at (928) 341-6500.

Sincerely,



For R. Janson

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

OCT 25 2007

Honorable Herminia Frias  
**Attn: Ms. Amalia Reyes**  
Pascua Yaqui Tribe  
7474 S Camino de Oeste  
Tucson, AZ 85746

**Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol Yuma Sector**

Dear Ms. Frias:

While no final decisions on the fence locations have been made, U.S. Customs and Border Protection (CBP), U.S. Border Patrol (USBP), a component of the Department of Homeland Security, is preparing a Supplemental Environmental Assessment (EA) to address the potential environmental impacts and feasibility of constructing, maintaining, and operating tactical infrastructure in segments totaling approximately 13.7 miles in length within USBP Yuma Sector, Arizona and California. In preparing the EA, CBP will be working directly with the United States Army Corps of Engineers, Fort Worth District (USACE), who will provide technical expertise and other support to CBP. At this time, in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800, CBP wishes to initiate its consultation process with appropriate federally-recognized tribes who historically used this region and/or continue to use the area.

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Honorable Herminia Frias  
Page 2

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Sincerely,



*RFJ*  
R. F. Janson

Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection

Enclosure



# United States Department of the Interior



BUREAU OF RECLAMATION  
Yuma Area Office  
7301 Calle Agua Salada  
Yuma, Arizona 85364

IN REPLY REFER TO:

YAO-7200  
ENV-6.00

NOV 20 2007

Mr. Charles McGregor  
Engineering Construction Support Office  
Department of the Army  
Fort Worth District, Corps of Engineers  
P.O. Box 17300  
Fort Worth, TX 76102-0300

Subject: Environmental Assessment (EA) for Proposed Construction, Maintenance, and Operation of Tactical Infrastructure, U.S. Department of Homeland Security, U.S. Customs and Border Protection (CBP), U.S. Border Patrol (USBP) Yuma Sector – Cooperating Agency Status

Dear Mr. McGregor:

The Bureau of Reclamation, Yuma Area Office (Reclamation), is pleased to participate as a cooperating agency in the preparation of an EA for CBP, USBP. This EA will address the environmental impacts and feasibility of constructing, maintaining, and operating tactical infrastructure in segments totaling 13.7 miles in length within USBP Yuma Sector, Arizona and California.

Reclamation has jurisdiction and specific expertise in the proposed project area sufficient for cooperator status per the Council on Environmental Quality (CEQ) regulations (40 C.F.R. §§1501.6 & 1508.5) and CEQ guidance. We understand the proposed construction of a pedestrian fence, access and patrol roads in two segments along the U.S./Mexico International Border could impact Reclamation facilities and/or lands.

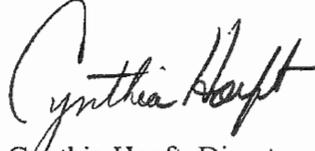
We anticipate that CBP, USBP and the U.S. Army Corps of Engineers (USACE) will continue to coordinate with Reclamation in the evaluation of the project's purpose and need, the design concept report, technical studies, and the National Environmental Policy Act (NEPA) document. We concur with your recommendation of an EA as the appropriate level of NEPA analysis. Reclamation will continue to work with you to provide the necessary right-of-use authorizations.

We look forward to assisting the USACE and USBP with this project. For information regarding right-of-use authorizations across Reclamation lands and facilities, please contact Mr. Steve Cummings of our Lands Team at 928-343-8151. The initial point of contact for NEPA is

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, YUMA AREA OFFICE, 7301 CALLE AGUA SALADA, YUMA, ARIZONA 85364

Mr. Sean Torpey, Group Manager of the Environmental Planning and Compliance Group, at 928-343-8268. We look forward to assisting you in the NEPA process. We would appreciate at least three copies of any draft documents (Draft EAs) you wish reviewed.

Sincerely,

A handwritten signature in black ink that reads "Cynthia Hoeft". The signature is written in a cursive style with a large initial "C" and a horizontal line extending from the end of the name.

Cynthia Hoeft, Director  
Resource Management Office

**White Mountain Apache Tribe Heritage Program  
PO Box 507 Fort Apache, AZ 85926**

**To:** Javier Tarin, USBP Assistance Chief Patrol Agent  
**Date:** December 06, 2007  
**Proposed Project:** Proposed construction, maintenance, and operation of Tactical Infrastructure, U.S. Dept of Homeland Security, U.S. CBP, U.S. Border Patrol, Yuma Sector.

.....

The White Mountain Apache Historic Preservation Office (THPO) appreciates receiving information on the proposed project, dated October 25, 07. In regards to this, please attend to the checked items below;

- ▶ There is no need to send additional information unless project planning or implementation results in the discovery of sites and/or items having known or suspected Apache Cultural affiliation.
- The proposed project is located within an area of probable cultural or historical importance to the White Mountain Apache Tribe (WMAT). As part of the effort to identify historical properties that maybe affected by the project we recommend an ethnohistorical study and interviews with Apache Elders. The Cultural Resource Director, *Mr. Ramon Riley* would be the contact person at (928) 338-4625 should this become necessary.
- The proposed project is located within or adjacent to a known historic property of cultural concern and/or historical importance to the White Mountain Apache Tribe and will most likely result in adverse affect to said property. Considering this, please refrain from further steps in project planning and/or implementation.
- Please refer to the attached additional notes in regards to the proposed project:

We have received and reviewed the information regarding the proposed construction, maintenance, and operation of Tactical Infrastructure in segments totaling approximately 13.7 miles within the USBP Yuma Sector, Arizona and California, and we have determined the proposed project *will not have an effect* on the tribe's Traditional Cultural Properties (TCPs) and/or historic properties. The project may proceed with the understanding that all ground disturbance be monitored and in the event subsurface materials or human remains are encountered all construction activities are to be stopped and the proper authorities and/or affiliated tribe(s) be notified to evaluate the situation.

We look forward to continued collaborations in the protection and preservation of places of cultural and historical significance.

Sincerely,

Mark T. Altaha  
 White Mountain Apache Tribe  
 Historic Preservation Officer  
 1 (928) 338-3033 Fax: 338-6055



U.S. Department of Agriculture

**FARMLAND CONVERSION IMPACT RATING**

<b>PART I (To be completed by Federal Agency)</b>		Date Of Land Evaluation Request	1/2/08
Name Of Project	Construction of Fence/Road Along Salinity Canal	Federal Agency Involved	CBP, USACE
Proposed Land Use	CBP, Bureau of Reclamation	County And State	Yuma County, Arizona

<b>PART II (To be completed by NRCS)</b>		Date Request Received By NRCS	1/7/07
Does the site contain prime, unique, statewide or local important farmland? (If no, the FPPA does not apply -- do not complete additional parts of this form).		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Acres Irrigated   Average Farm Size 22.0   452 acres
Major Crop(s) Cotton, alfalfa, produce	Farmable Land In Govt. Jurisdiction Acres: 225,185 % 6.4	Amount Of Farmland As Defined in FPPA Acres: 225,185 % 6.4	
Name Of Land Evaluation System Used	Name Of Local Site Assessment System	Date Land Evaluation Returned By NRCS 1/8/08	

<b>PART III (To be completed by Federal Agency)</b>	Alternative Site Rating			
	Site A	Site B	Site C	Site D
A. Total Acres To Be Converted Directly	22.0			
B. Total Acres To Be Converted Indirectly	0.0			
C. Total Acres In Site	22.0	0.0	0.0	0.0

<b>PART IV (To be completed by NRCS) Land Evaluation Information</b>				
A. Total Acres Prime And Unique Farmland	22.0			
B. Total Acres Statewide And Local Important Farmland	-			
C. Percentage Of Farmland In County Or Local Govt. Unit To Be Converted	.01%			
D. Percentage Of Farmland In Govt. Jurisdiction With Same Or Higher Relative Value	20			

<b>PART V (To be completed by NRCS) Land Evaluation Criterion</b> Relative Value Of Farmland To Be Converted (Scale of 0 to 100 Points)	0	96	0	0	0
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<b>PART VI (To be completed by Federal Agency)</b> Site Assessment Criteria (These criteria are explained in 7 CFR 658.5(b))	Maximum Points				
1. Area In Nonurban Use	15	15			
2. Perimeter In Nonurban Use	10	15			
3. Percent Of Site Being Farmed	20	0			
4. Protection Provided By State And Local Government	20	0			
5. Distance From Urban Builtup Area	15	0			
6. Distance To Urban Support Services	15	0			
7. Size Of Present Farm Unit Compared To Average	10	0			
8. Creation Of Nonfarmable Farmland	10	0			
9. Availability Of Farm Support Services	5	20			
10. On-Farm Investments	20	20			
11. Effects Of Conversion On Farm Support Services	10	0			
12. Compatibility With Existing Agricultural Use	10	0			
<b>TOTAL SITE ASSESSMENT POINTS</b>	160	70	0	0	0

<b>PART VII (To be completed by Federal Agency)</b>					
Relative Value Of Farmland (From Part V)	100	96	0	0	0
Total Site Assessment (From Part VI above or a local site assessment)	160	70	0	0	0
<b>TOTAL POINTS (Total of above 2 lines)</b>	260	166	0	0	0

Site Selected: <b>A</b>	Date Of Selection: <b>1/16/08</b>	Was A Local Site Assessment Used? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
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Reason For Selection:  
Only available site meeting purpose and need of project





# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

P.O. Box 1306

Albuquerque, New Mexico 87103

In Reply Refer To:

FWS/R2/NWRS-SUPV/033896

DEC 11 2007

Mr. Robert F. Janson  
Acting Executive Director  
Asset Management  
U.S. Customs and Border Protection  
Washington, D.C. 20229

Dear Mr. Janson:

Thank you for your letters, dated October 18, 2007, inviting the U.S. Fish and Wildlife Service (Service) to participate as a cooperating agency in development of Supplemental Environmental Assessments (SEA) for proposed construction, maintenance, and operation of tactical infrastructure related to securing various sectors of the U.S./Mexico international border. The Service is committed to continuing a cooperative relationship with U.S. Customs and Border Protection (CBP) to address issues in the vicinity of the border related to security and conservation of natural resources. Towards that goal, we will continue to cooperatively develop best management practices and standard operating procedures with CBP personnel in the various sectors in an effort to minimize environmental impacts associated with border protection.

We appreciate your invitation for the Service to serve as a cooperating agency in completion of National Environmental Policy Act documentation required to assess environmental concerns related to development and operation of border tactical infrastructure. Even though the Service is a Federal agency with land management responsibilities for natural resources that will be affected by the proposed action, we have concluded given the mission of the Service, that it would not be appropriate to assume the role of a cooperating agency in this planning process.

Sincerely,

Regional Director



**INTERAGENCY AGREEMENT BETWEEN  
UNITED STATES CUSTOMS AND BORDER PROTECTION  
AND  
UNITED STATES SECTION, INTERNATIONAL BOUNDARY  
AND WATER COMMISSION**

This Memorandum of Agreement (MOA) is made by and between the United States Section, International Boundary and Water Commission, United States and Mexico, an instrumentality of the United States federal government, hereinafter referred to as the "USIBWC," and United States Customs and Border Protection, a component of the Department of Homeland Security, hereinafter referred to as "CBP." Collectively the USIBWC and CBP are hereinafter referred to as the "PARTIES" to this MOA.

WITNESSETH

WHEREAS, the International Boundary and Water Commission (the "IBWC") is an officially recognized international organization pursuant to Executive Order 12467, and in which the United States participates pursuant to 22 U.S.C. §277 *et seq.*, and *inter alia* the 1889 International Boundary Convention (26 Stat. 1512) and 1944 Treaty between the United States and Mexico for the "Utilization of Waters of the Colorado, Tijuana and Rio Grande Rivers" (59 Stat. 1219) (the "1944 Treaty"); and

WHEREAS, the 1944 Treaty provides that the jurisdiction of the IBWC shall extend to the limitrophe parts of the Rio Grande and the Colorado River, to the land boundary between the two countries, and to works located upon their common boundary;

WHEREAS, the President is authorized pursuant to 22 U.S.C. Section §277b to construct any project or works which may be provided for in a treaty entered into with Mexico and to repair, protect, maintain or complete works now existing or now under construction or those that may be constructed under treaty provisions; to construct any project or works designed to facilitate compliance with the provisions of the treaties between the United States and Mexico; and to operate and maintain any project or works so constructed and provide rules and regulations for continuing supervision by the USIBWC; and

WHEREAS, the 1970 Treaty to "Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado Rivers as the International Boundary" between the United States and Mexico (the "1970 Boundary Treaty") provides that both governments will prohibit the construction of works in the channel of the rivers or within its territory, which, in the judgment of the IBWC, may cause deflection or obstruction of the normal flow of the Rio Grande and Colorado River or of their flood flows; and

WHEREAS, the Secretary of State, acting through the United States Commissioner of the USIBWC, is authorized by 22 U.S.C. §277(a) to conduct technical and other investigations relating to the defining, demarcation, fencing construction, or monumentation of the land and water boundary between the United States and Mexico; to

flood control, water resources, conservation, utilization of water, sanitation and prevention of pollution, channel rectification, stabilization, and other related matters upon the international boundary between the United States and Mexico; and to construct and maintain fences, monuments and other demarcations of the boundary line between the United States and Mexico; and

WHEREAS, CBP, as a component of the Department of Homeland Security, is authorized, pursuant to various provisions, including the Homeland Security Act of 2002, Pub. L. 107-296, codified at 6 U.S.C. §§ 101 *et seq.*, Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, as amended, 8 U.S.C. § 1103 and other Acts amendatory thereof and supplementary thereto, to control and guard the boundaries and borders of the United States against illegal border crossing activities, to install border infrastructure as needed to deter illegal crossings, and obtain operational control of the border; and

WHEREAS, this MOA is intended to provide for the coordination between the PARTIES in areas related to tactical infrastructure installation and utilization of land, floodways, levees and roads along the United States-Mexico border for security and law enforcement operations; and

WHEREAS, the intent of this MOA is to facilitate cooperation between the USIBWC and CBP in carrying out each party's responsibilities along the boundaries of the United States and the United Mexican States;

NOW THEREFORE, the USIBWC and CBP hereto agree as follows:

#### **Article I. USIBWC'S RESPONSIBILITIES**

The USIBWC agrees to the following:

1. USIBWC will cooperate with CBP in situations where CBP is conducting infrastructure construction or other security related activities at or near the U.S. – Mexico border that are subject to and/or implicate any provision of any law, treaty, or other legal requirement whose implementation is overseen by, under the jurisdiction of, or enforced by the USIBWC.
2. Subject to the provisions of this MOA, USIBWC will grant and/or facilitate CBP's access to property under USIBWC jurisdiction, including levee gates, areas with restricted access, and/or other areas under USIBWC control, for the purposes of securing the border, to include tracking, surveillance, interdiction, establishment of observation points, and installation of fences, roads, vehicle deterrent barriers, remote detection systems, and other related tactical infrastructure. However, nothing set forth in this MOA should be construed to restrict, limit, or otherwise affect CBP's statutory authority to access lands for the

purposes of patrolling the border and/or otherwise carry out its statutory mission to control and guard the borders and boundaries of the United States.

3. For each geographic region where CBP activities and/or projects are subject to terms and conditions of this MOA, USIBWC will provide a representative, and an alternate representative in case of emergency, authorized to act as the main point of contact regarding any provision in this MOA.
4. USIBWC will review and comment on CBP projects along the U.S.-Mexico border assuring expedited comments and revisions. USIBWC will strive to provide comments within three business days of receipt. Issues and concerns identified by the USIBWC that may delay or impede the construction of CBP infrastructure projects along the border will be elevated as necessary for resolution by leadership of the USIBWC and CBP.
5. In those instances where the USIBWC deems it appropriate to notify the Mexican Section of the IBWC (MXIBWC) of CBP projects or activities, the timing of any such notification will be coordinated between the PARTIES so that the notification takes place at a time that is mutually agreeable to both PARTIES. For construction activities on the western land boundary with no cross-boundary drainage issues, USIBWC will provide the MXIBWC courtesy notification of the proposed project. For construction activities on areas covered by the 1970 Boundary Treaty, USIBWC will endeavor to expedite its coordination with MXIBWC. It is understood that USIBWC cannot guarantee a timeline for MXIBWC response.
6. USIBWC will strive to perform a verification of the boundary in an expedited manner by coordinating with the MXIBWC with the understanding that verification must occur in a timely manner.
7. In the event of emergency flood operations, USIBWC will notify CBP at the earliest possible opportunity that it is invoking its right to remove or order removal of CBP infrastructure in order to gain access to project areas.

## **Article II. CBP'S RESPONSIBILITIES**

CBP agrees to the following:

1. CBP will cooperate with the USIBWC in situations where CBP is conducting infrastructure construction or other security related activities at or near the U.S. – Mexico border that are subject to and/or implicate any provision of any law, treaty, or other legal requirement whose implementation is overseen by, under the jurisdiction of, or enforced by the USIBWC.
2. CBP will consult with the USIBWC as needed before construction of tactical infrastructure at or near the U.S.-Mexico border. CBP will ensure that there is a

three-foot setback from and gated access to the boundary monuments so as to not impede the ability of USIBWC to undertake periodic maintenance of its land-boundary markers or monuments. CBP will not undertake construction of works in the channel of the boundary rivers or within U.S. territory, which in the judgment of the USIBWC would cause deflection or obstruction of the normal flow of the Rio Grande and Colorado River or of their flood flows.

3. CBP will provide USIBWC all necessary information regarding construction and environmental review activities along the U.S.-Mexico border in an expedited manner. CBP will strive to provide comments within three business days of request of information. Issues and concerns identified by CBP that may delay or impede the construction of CBP infrastructure along the border will be elevated for resolution by leadership for the USIBWC and CBP.
4. CBP will endeavor to take the proper measures to protect existing USIBWC levees and hydraulic structures. In the event of any damage incurred as a direct result of CBP infrastructure changes to such levees or structures, CBP will restore the damaged levees and hydraulic structures to a condition equal to that existing before such damage in a timely manner. CBP will ensure that the U.S. Army Corps of Engineers will have documented the conditions of levees and hydraulic structures prior to any CBP construction efforts related to SBI infrastructure.
5. In the event of emergency flood operations, any repair or replacement of CBP infrastructure removed for flood control purposes would be repaired and replaced at CBP expense. USIBWC will assist where possible in the reinstallation of any CBP infrastructure damaged or removed during flood control operations.
6. CBP will consult with the USIBWC to coordinate the location, placement, design and hydraulic impact of fences, roads, vehicle deterrent barriers and, to the extent its location and placement may be disclosed and is not law enforcement sensitive information, other related tactical infrastructures that it plans to install or construct on the US-Mexico border. CBP agrees that the location and placement of such fences, roads, vehicle deterrent barriers, and other related tactical infrastructure will be subject to review and approval by the USIBWC to ensure construction is within U.S. territorial limits and does not obstruct the boundary line of sight between monuments or cause deflection or obstruction of the normal flow of transboundary creeks, arroyos, rivers or their flood flows or impede the operation of IBWC binational projects or activities. CBP will be responsible for ensuring environmental regulatory compliance for CBP infrastructure.
7. CBP will perform the required maintenance to remove accumulated debris from water crossings where CBP infrastructure crosses the path of transboundary flows.

8. CBP will be responsible for any liabilities, costs, claims, or expenses arising out of CBP employees' or contractors' activities along the U.S. – Mexico border that are subject to this MOA. USIBWC will be responsible for any liabilities, claims, costs or expenses arising out of activities undertaken by USIBWC employees or contractors that result in damage to the fences, roads, vehicle deterrent barriers, or other tactical infrastructure that is subject to this MOA. USIBWC will not be responsible for any damage to such fences, roads, vehicle deterrent barriers, or other tactical infrastructure due to flood or force majeure events.
9. CBP will coordinate and not interfere with the USIBWC, its employees, contractors or agents performing work on behalf of the USIBWC.
10. CBP will consult with USIBWC to coordinate the work needed to control the vegetation impeding DHS's ability to conduct border security operations along the U.S.-Mexico border.
11. CBP will provide a representative, and an alternate representative in case of emergency, authorized to act as the main point of contact with regard to any provision in Articles I and II of this MOA in each geographic area where work is to be performed.
12. DHS will respond appropriately to terrorist or criminal attacks and/or threats requiring emergency law enforcement action as a part of its core mission and CBP will coordinate with local law enforcement entities where necessary. When requested, and where operationally feasible, CBP will coordinate a security presence for USIBWC employees and contractors during maintenance activities.
13. CBP will be the sole owner of infrastructure constructed by CBP pursuant to U.S. law. Consequently, CBP, as the executive agent for DHS border infrastructure, will own, operate and fund all maintenance, construction and upgrades necessary to keep said CBP-owned infrastructure operational. This agreement does not effect the allocation of responsibility for the maintenance, operation, and upgrade of infrastructure owned by or under the jurisdiction of the USIBWC which has been coordinated between the PARTIES and memorialized in separate agreement(s) pursuant to Article V, Section 4 of this MOA.

### **Article III. DURATION AND MODIFICATION OF MOA**

This MOA will take effect when signed by the PARTIES hereto and shall remain in effect unless terminated, in writing, by either PARTY after 60 days notice. This MOA may be modified at any time by written agreement of both PARTIES, and does not restrict either PARTY from enforcing any laws within its authority or jurisdiction.

#### **Article IV. INTERAGENCY COMMUNICATIONS**

To provide for consistent, recurring, and effective communication between both PARTIES, each PARTY shall immediately designate representatives to serve as the points of contact on all matters relating to this MOA. Each PARTY will advise the other PARTY, in writing, of the names and telephone numbers of the representative designated within 10 calendar days of the MOA's execution.

#### **Article V. MISCELLANEOUS PROVISIONS**

1. Nothing in this MOA may be construed to obligate the Parties or the United States to any current or future expenditure of funds in advance of the availability of appropriations, nor does this MOA obligate the agencies or the United States to spend funds for any particular project or purpose, even if funds are available.
2. This MOA is to be implemented consistent with the statutory and treaty provisions pursuant to which the PARTIES undertake their activities. Nothing in this MOA will be construed as affecting the authority or jurisdiction of either Party in carrying out its responsibilities under applicable statutes or treaties.
3. This document is an intra-governmental agreement among the PARTIES and does not create or confer any rights, privileges, or benefits upon any person, party, or entity. This MOA is not and shall not be construed as a rule or regulation.
4. This MOA will provide the basis for more detailed, project specific agreements between CBP and USIBWC for USIBWC projects along the U.S.-Mexico border. This MOA will not affect existing agreements between CBP and USIBWC for USIBWC projects along the U.S.-Mexico border.
5. In carrying out the provisions of this MOA, the PARTIES shall not release or disclose to any third party, any and all information that is pre-decisional, law enforcement sensitive, classified, or otherwise protected or sensitive information that relates to the construction, alignment, or placement of existing and/or proposed border infrastructure, including observation points, fences, roads, vehicle deterrent barriers, remote detection systems, and other related tactical infrastructure. The PARTIES shall also be prohibited from releasing or disclosing to any third party, any and all information that is pre-decisional, law enforcement sensitive, classified, or otherwise protected or sensitive information concerning existing or proposed border enforcement operations, activities, or constructs. In those instances where the USIBWC deems it appropriate to notify the Mexican Section of the IBWC (MXIBWC) of CBP projects or activities, the USIBWC will consult with CBP regarding the timing of any such notification or coordination with the MXIBWC so that contact with the MXIBWC is initiated at a time that is mutually agreeable to both PARTIES.

6. When appropriate and necessary the PARTIES will enter into specific reimbursable agreements for work performed by one Party on behalf of the other pursuant to the Economy Act, 31 U.S.C. Section 1535.

IN WITNESS WHEREOF, the PARTIES hereto execute this instrument on the date(s) set forth below:

**FOR U.S. CUSTOMS AND BORDER PROTECTION**

DATE: 1/18/08 W. Ralph Basham  
W. Ralph Basham  
Commissioner,  
U. S. Customs and Border Protection,  
Department of Homeland Security

**FOR UNITED STATES SECTION, INTERNATIONAL BOUNDARY AND  
WATER  
COMMISSION, UNITED STATES AND MEXICO**

DATE: 12/18/07 Carlos Marin  
Carlos Marin,  
Commissioner,  
United States Section,  
International Boundary and Water Commission  
United States and Mexico



**MEMORANDUM OF AGREEMENT**  
**for**  
**Environmental Coordination and Review**  
**Between the Department of the Interior and**  
**U.S. Customs and Border Protection for the**  
**Secure Border Initiative**

This Memorandum of Agreement (“MOA”) is entered into by the U.S. Department of the Interior (“DOI”) on behalf of the following DOI bureaus: the National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation, and the Bureau of Indian Affairs, (collectively the “DOI Bureaus”), and U.S. Customs and Border Protection (CBP), a component of the Department of Homeland Security (“DHS”). The DOI and CBP are collectively referred to herein as the “Parties.”

**I. Purpose**

This MOA is entered into in order to further effectuate the goals, principles, and objectives of the 2006 Memorandum of Understanding between DHS, DOI, and the Department of Agriculture entitled “Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States’ Borders.” The purpose of this MOA is to formalize the commitment among the Parties to coordinate the review of projects subject to the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., and Council on Environmental Quality (CEQ) Regulations implementing NEPA, 40 C.F.R. Parts 1500-1508. This agreement will facilitate a coordinated approach that ensures sound decisions based on concurrent and expedited agency reviews. This MOA shall be applicable to CBP projects that are undertaken for the purposes of securing the border, which may include, but are not limited to the construction, maintenance, and operation of borderland security fences, roads, towers, vehicle deterrent fences, remote detection systems, and other related tactical and technological infrastructure.

**II. Background**

The goal of the Secure Border Initiative is for CBP to obtain operational control of our Nation’s borders consistent with its Homeland Security mission. This will be accomplished in part through the construction, maintenance, and operation of various tactical and technological infrastructure along the United States–Mexico international border, including pedestrian and vehicle fences, roads, lighting systems, communication towers, remote detection systems, and electronic surveillance systems.

DOI has a longstanding responsibility for many cultural and natural resources in our Nation’s borderlands. The value of these interests is manifested to a significant degree in the borderlands and waters administered by DOI Bureaus and in Indian tribal lands. In particular, an array of valuable fish, wildlife, and plant communities coexist with important archaeological sites that collectively contribute to the fabric of the borderlands of the Southwest.

These important resources are being damaged or destroyed by large numbers of cross border violators entering the United States from Mexico. Likewise, Indian communities, visitors to DOI lands, and DOI employees are subject to increased danger to their well being due to the presence of criminal activity.

The need to coordinate the environmental review process for the planning, construction, and operation of borderland security projects is seen as necessary by the Parties to efficiently fulfill the mandates of NEPA.

### **III. Statutory and Regulatory Authority**

WHEREAS, this MOA is entered into under the authority of NEPA , 42 U.S.C. §§ 4321 et seq., and the Council on Environmental Quality (CEQ) regulations implementing NEPA, 40 C.F.R. Parts 1500-1508;

WHEREAS, pursuant to NEPA, 42 U.S.C. § 4331(b), the Federal government shall use all practicable means to improve and coordinate Federal plans, functions, programs, and resources to enhance the quality of the environment;

WHEREAS, regulations implementing NEPA at 40 C.F.R. § 1501.6 emphasize interagency cooperation early in the environmental review process;

WHEREAS, if more than one Federal agency is involved in the same action, 40 C.F.R. § 1501.5 provides for the designation in writing of a lead agency that will supervise the preparation of an environmental impact statement. The other agencies are identified as cooperating agencies;

WHEREAS, pursuant to 40 C.F.R. § 1508.5, an Indian tribe may by agreement with the lead agency become a cooperating agency when the effects are on a reservation;

WHEREAS, consistent with the intent of the CEQ regulations, the Parties may designate a lead agency for all NEPA documents; and

WHEREAS, pursuant to 40 C.F.R. § 1501.6(c), a cooperating agency may, in response to a lead agency's request for assistance in preparing an environmental analysis, defer to the lead agency in preparing such analysis;

**NOW, THEREFORE:**

### **IV. Commitment of the Agencies**

In the spirit of cooperation and collaboration, and with the mutual understanding that this is a flexible working agreement among the signatory agencies, the Parties hereby commit to the following responsibilities:

- A. To facilitate preparation of NEPA environmental documents, the Parties agree:

1. That CBP will serve as lead agency for all CBP border infrastructure projects (including, but not limited to Secure Border Initiative tactical and technological infrastructure) and will coordinate all NEPA document development and review;
2. That the DOI Bureaus involved in any CBP projects, by and through their respective offices and branches, and, where appropriate, Indian tribes, will serve as cooperating agencies for such projects, or in appropriate cases as joint lead; and
3. That each party will assume responsibility for its own actions.

B. As lead agency, CBP agrees:

1. To provide project information in a timely and thorough manner;
2. To invite cooperating agencies to coordination meetings and joint field reviews; and
3. To provide cooperating agencies an opportunity to comment on draft documents.

C. When serving as a cooperating agency, the DOI Bureaus agree:

1. To promptly provide comments on draft documents and otherwise fulfill the role of a cooperating agency as set forth at 40 C.F.R. Part 1501, in accordance with established Departmental procedures;
2. To provide technical assistance to CBP on tribal and non-tribal environmental and cultural resource issues; and
3. To the degree possible, seek ways to streamline and facilitate the completion of environmental and cultural compliance processes.

**V. Miscellaneous Provisions**

A. Nothing in this MOA may be construed to obligate the Parties or the United States to any current or future expenditure of funds in advance of availability of appropriations, nor does this MOA obligate the Parties or the United States to spend funds for any particular purpose, even if funds are available.

B. The Parties will, as appropriate, enter into specific reimbursable agreements pursuant to the Economy Act, 31 U.S.C. § 1535, when one party is to furnish materials or perform work or provide a service on behalf of another party.

C. The Parties shall retain all applicable legal responsibility for their respective personnel working pursuant to this MOA. This MOA is not intended to change in any way the individual employee status or the liability or responsibility of any party under Federal law.

D. Nothing in this MOA is intended to conflict with current law, regulation, directive, or other governing authority of any party to this MOA. If any term of this MOA is inconsistent with such authority, then that term shall not apply, but the remaining terms and conditions of the MOA shall remain in full force and effect.

E. This document is an intra-governmental agreement among the Parties and does not create or confer any rights, privileges, or benefits upon any person or entity not a signatory hereto. This MOA is not and shall not be construed as a rule or regulation.

F. This MOA may be modified or amended in writing upon the consent of all Parties, and other affected Federal or State agencies may seek to become a party to this MOA.

G. This MOA shall be effective through December 31, 2012, and may be renewed for another five years upon mutual agreement of the Parties. Any party to this MOA may terminate its participation in this MOA upon thirty (30) days written notice to the other Party.

H. This MOA becomes effective upon the date of signature by the last signatory.

## VI. Conclusion

In signing this MOA, the undersigned recognize and accept the roles and responsibilities assigned to each party. Each of the Parties agrees to pursue maximum cooperation and communication to secure our Nation's borders and to eliminate the environmental degradation of DOI-administered lands by persons illegally entering the United States.

### DEPARTMENT OF THE INTERIOR

By: James E. Cason Date: 1/11/08  
James E. Cason, Associate Deputy Secretary

### U.S. CUSTOMS AND BORDER PROTECTION

By: W. Ralph Basham Date: 1/18/08  
W. Ralph Basham, Commissioner