EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

STATE OF CALIFORNIA, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

No. 4:20-cv-1563-HSG

DECLARATION OF PAUL ENRIQUEZ

I, Paul Enriquez, declare as follows:

1. I am the Acquisitions, Real Estate and Environmental Director for the Border Wall Program Management Office ("Wall PMO"), U.S. Border Patrol Program Management Office Directorate, U.S. Customs and Border Protection ("CBP"), an agency of the Department of Homeland Security ("DHS"). I have held this position since August 6, 2018. From 2013 to August 2018, I was the Real Estate and Environmental Branch Chief for the Border Patrol and Air and Marine Program Management Office ("BPAM"), Facilities Management and Engineering, Office of Facilities and Asset Management ("OFAM"). From 2011 to 2013, I was employed as an Environmental Protection Specialist in the BPAM office. In that role, I performed environmental analyses for various border infrastructure projects. From 2008 to 2011, I was a contractor assigned to the BPAM office and provided environmental support on various border infrastructure

projects. Based upon my current and past job duties, I am familiar with past and planned border infrastructure projects supporting border security.

2. In my position I am personally aware of the border barrier projects that have been approved for construction by the Secretary of Defense that will be executed with the assistance of the Department of Defense ("DOD") pursuant to 10 U.S.C. § 284(b)(7). This declaration is based on my personal knowledge and information made available to me in the course of my official duties.

BACKGROUND

3. The Secretary of DHS has determined that the United States Border Patrol San Diego, El Centro, Yuma, Tucson, El Paso, and Del Rio Sectors are areas of high illegal entry. Consequently, Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended ("IIRIRA"), requires DHS to construct physical barriers and roads to deter and prevent illegal entry of people and drugs into the United States.

4. To support DHS's action under Section 102 of IIRIRA, on January 12, 2020, DHS, acting through CBP, sent DOD a request for assistance ("RFA"), requesting that the Secretary of Defense, pursuant to 10 U.S.C. § 284(b)(7), assist by constructing fences, roads, and lighting in certain locations within the six United States Border Patrol Sectors identified above. On February 13, 2020, the Secretary of Defense concluded that the support requested satisfies the statutory requirements of 10 U.S.C. § 284(b)(7) and that DoD will provide such support. The Secretary of Defense approved for construction 31 border barrier projects.

5. As a result of additional project planning by DHS and DOD, DHS, in coordination with CBP, has prepared a modified RFA. *See* Exhibit A. The modified RFA corrected clerical errors contained in the January 12, 2020, RFA regarding the locations of several projects. For example, the modified RFA corrected the coordinates for El Paso D, segment 3, to reflect the full 17 miles of barrier construction that will occur as a part of that project. The modified RFA also notified DOD that CBP was removing two segments of El Centro A, which together totaled approximately seven miles. Thus, El Centro A now totals approximately three miles of new barrier. The modified RFA that is attached as Exhibit A been transmitted to DOD for a final administrative processing. Through additional planning and project review, DHS and DOD also discovered that the January 12, 2020, RFA inadvertently described El Paso C, segment 1, as approximately three miles. The start and end coordinates provided in the January 12, 2020, RFA, however, correctly describe El Paso C, segment 1, as six miles in length.
6. As a result of these modifications, the border barrier projects to be executed in fiscal year 2020 with the assistance of DOD pursuant to 10 U.S.C. § 284(b)(7) are as follows:
    a. San Diego A, segments 1 – 3 (the "San Diego Projects");
    b. El Centro A (the "El Centro Project");
    c. Yuma A, segments 1 – 2, and Yuma B, segments 1 – 2 (the "Yuma Projects");
    d. Tucson A, segments 1 – 5, Tucson B, segments 1 and 3 – 6, and Tucson C, segments 1 and 3 – 4 (the "Tucson Projects");
    e. El Paso A, El Paso B, segment 6, El Paso C, segments 1 – 2, and El Paso D, segments 1 – 4 (the "El Paso Projects"); and
    f. Del Rio A and Del Rio B (the "Del Rio Projects") (collectively the "Projects").

7. The Projects are described in more detail in Paragraphs 14 through 31 below.

8. CBP is the DHS component with primary responsibility for border security. CBP constructs, operates, and maintains border infrastructure necessary to deter and prevent illegal entry on the southern border.

9. Within CBP, the Wall PMO has expertise in managing and executing border infrastructure projects. The Wall PMO is directly tasked with managing the schedule, finances, real estate acquisition, environmental planning—including compliance with the National Environmental Policy Act ("NEPA") and the Endangered Species Act ("ESA")—and construction of the border infrastructure system along the U.S. border. Given its expertise in managing border infrastructure projects, the Wall PMO, on behalf of CBP, is working in close coordination with DOD on the Projects.

10. For the Projects, the Wall PMO, on behalf of CBP will, among other things, review and approve technical specifications, review and approve barrier alignments and locations, and provide feedback and input on other aspects of project planning and execution. In addition, the Wall PMO, on behalf of CBP, is responsible for all environmental planning, including stakeholder outreach and consultation, for the Projects.

11. In my capacity as the Acquisitions, Real Estate, and Environmental Director, I am responsible for overseeing all environmental planning and compliance activities as well as the real estate acquisition process for projects executed or overseen by the Wall PMO, including the Projects to be executed with the assistance of DOD.

12. The environmental planning and consultation that CBP has and will engage in for the Projects is described in more detail in Paragraphs 32 through 44 below.

13. With the exception of the Yuma B Projects, which are situated on the federal Quechan Indian Reservation, and Yuma A, segment 1, which is situated on the federal Cocopah Indian Reservation, all of the Projects will be executed on land that is both owned and controlled by the United States. The vast majority of the construction activity and the project footprints themselves will occur within an approximately 60-foot strip of land that parallels the international border that is previously disturbed, includes existing barriers and roads, and functions primarily as a law enforcement zone.

A. <u>The San Diego Projects</u>

14. The San Diego Projects will be carried out under a waiver issued by the Secretary of DHS pursuant to Section 102(c) of IIRIRA that was published in the Federal Register on March 16, 2020, 85 Fed. Reg. 14958 (March 16, 2020) (the "San Diego Waiver"), which is attached hereto as Exhibit B.

15. The project area for the San Diego Projects is in San Diego County, California, and is described in the San Diego Waiver (the "San Diego Project Area"). Attached hereto as Exhibit C is a map depicting the areas within the San Diego Project Area where DHS and DOD will be constructing barrier.

16. As a part of the San Diego Projects, DHS and DOD will replace approximately 14 miles of existing primary pedestrian barrier with new steel bollard fencing and construct approximately three miles of new steel bollard fencing. The San Diego Projects also include installation of a linear ground detection system, road construction or road improvements, and the installation of lighting, which will be supported by grid power and include embedded cameras. The design of the new steel bollard fencing includes 30-foot

steel bollards that measure approximately 6" by 6" and are spaced 4" apart. All of the construction activity will occur on land that is owned and controlled by the United States.

B. The El Centro Project

17. The El Centro Project will be carried out under a waiver issued by the Secretary of DHS pursuant to Section 102(c) of IIRIRA that was published in the Federal Register on March 16, 2020, 85 Fed. Reg. 14960 (March 16, 2020) (the "El Centro Waiver"), which is attached hereto as Exhibit D.

18. The project area for the El Centro Project is in Imperial County, California, and is described in the El Centro Waiver (the "El Centro Project Area"). As noted in Paragraph 5, DOD will not be undertaking seven miles of the El Centro Project, thus reducing the total length of the El Centro Project to approximately three miles. Attached hereto as Exhibit E is a map depicting the areas within the El Centro Project Area where DHS and DOD will be constructing barrier.

19. As a part of the El Centro Project, DHS and DOD will construct approximately three miles of new steel bollard fencing. The project also includes the installation of a linear ground detection system, road construction or road improvement, and the installation of lighting, which will be supported by grid power and include embedded cameras. The design of the new steel bollard fencing will include 30-foot steel bollards that measure approximately 6" by 6" and are spaced 4" apart. All of the construction activity will occur on land that is owned and controlled by the United States.

C. The Yuma Projects

20. The Yuma Projects will be carried out under a waiver issued by the Secretary of DHS pursuant to Section 102(c) of IIRIRA that was published in the Federal Register on

March 16, 2020, 85 Fed. Reg. 14965 (March 16, 2020) (the "Yuma Waiver"), which is attached hereto as Exhibit F.

21. The project area for the Yuma Projects is in Yuma County, Arizona, and Imperial County, California, and is described in the Yuma Waiver (the "Yuma Project Area"). Attached hereto as Exhibit G is a map depicting the areas within the Yuma Project Area where DHS and DOD will be constructing barrier.

22. As a part of the Yuma Projects, DHS and DOD will construct approximately 17 miles of border barrier. As a part of Yuma A, within Yuma County, Arizona, DHS and DOD will replace approximately seven miles of existing vehicle barrier with new steel bollard fencing and approximately nine miles of existing secondary fencing with new steel bollard fencing. As a part of Yuma B, within Imperial County, California, DHS and DOD will replace approximately one-half (0.5) of a mile of existing primary pedestrian fencing with new steel bollard fencing and construct approximately one-half (0.5) of a mile of new secondary steel bollard fencing. The Yuma Projects also include the installation of a linear ground detection system, road construction or road improvement, and the installation of lighting, which will be supported by grid power and include embedded cameras. The design of the new steel bollard fencing includes 30-foot steel bollards that measure approximately 6" by 6" and are spaced 4" apart. The Yuma B projects are situated on the federal Quechan Indian Reservation. Yuma A, segment 1, is situated on the federal Cocopah Indian Reservation. All of the construction activity for Yuma A, segment 2, will occur on land that is both owned and controlled by the United States.

D. The Tucson Projects

23. The Tucson Projects will be carried out under a waiver issued by the Secretary of DHS pursuant to Section 102(c) of IIRIRA that was published in the Federal Register on March 16, 2020, 85 Fed. Reg. 14961 (March 16, 2020) (the "Tucson Waiver"), which is attached hereto as Exhibit H.

24. The project area for the Tucson Projects is in Pima County, Arizona, Santa Cruz County, Arizona, and Cochise County, Arizona, and is described in the Tucson Waiver (the "Tucson Project Area"). Attached hereto as Exhibit I are maps depicting the areas within the Tucson Project Area where DHS and DOD will be constructing barrier.

25. As a part of the Tucson Projects, DHS and DOD will construct approximately 75 miles of border barrier. As a part of Tucson A and Tucson B, segment 6, within Cochise County, DHS and DOD will replace approximately 24 miles of existing primary pedestrian barrier with new steel bollard fencing, construct approximately eight miles of new steel bollard fencing, and replace approximately one mile of existing secondary barrier with new steel bollard fencing. As a part of Tucson B, segments 1 and 3 – 5, and Tucson C, segment 4, within Santa Cruz County, DHS and DOD will construct approximately 25 miles of new steel bollard fencing and replace approximately two miles of existing primary pedestrian barrier and vehicle barrier with new steel bollard fencing. As a part of Tucson C, segments 1, 3, and 4, within Pima County, DHS and DOD will replace approximately seven miles of existing primary pedestrian barrier with new steel bollard fencing and construct approximately eight miles of new steel bollard fencing. The Tucson Projects will also include the installation of a linear ground detection system, road construction or road improvement, and the installation of lighting, which will be supported by grid power

and include embedded cameras. The design of the new steel bollard fencing will include 30-foot steel bollards that measure approximately 6" by 6" and are spaced 4" apart. All of the construction activity will occur on land that is owned and controlled by the United States

E. The El Paso Projects

26. The El Paso Projects will be carried out under a waiver issued by the Secretary of DHS pursuant to Section 102(c) of IIRIRA that was published in the Federal Register on March 16, 2020, 85 Fed. Reg. 14963 (March 16, 2020) (the "El Paso Waiver"), which is attached hereto as Exhibit J.

27. The project area for the El Paso Projects is in Luna County, New Mexico, Doña Ana County, New Mexico, and El Paso County, Texas, and is described in the El Paso Waiver (the "El Paso Project Area"). Attached hereto as Exhibit K are maps depicting the areas within the El Paso Project Area where DHS and DOD will be constructing barrier.

28. As a part of the El Paso Projects, DHS and DOD will construct approximately 57 miles of border barrier. As a part of El Paso A and El Paso D, segments 1 – 3, within El Paso County, Texas, DHS and DOD will replace approximately 38 miles of existing primary pedestrian barrier and approximately three miles secondary barrier with new steel bollard fencing. As a part of El Paso B, segment 6, and El Paso C, segment 1, within Luna County, New Mexico, DHS and DOD will replace approximately six miles of existing primary pedestrian barrier with new steel bollard fencing and construct approximately two miles of new steel bollard fencing. As part of El Paso C, segment 2, and El Paso D, segment 4, all within Doña Ana County, New Mexico, DHS and DOD will replace approximately seven miles of existing primary pedestrian barrier with new steel bollard

fencing and construct approximately one-half (0.5) a mile of new steel bollard fencing. The projects also include the installation of a linear ground detection system, road construction or road improvement, and the installation of lighting, which will be supported by grid power and include embedded cameras. The design of the new steel bollard fencing includes 30-foot steel bollards that that measure approximately 6" by 6" and are spaced 4" apart. All of the construction activity will occur on land that is owned and controlled by the United States.

F. The Del Rio Projects

29. The Del Rio Projects will be carried out under a waiver issued by the Secretary of DHS pursuant to Section 102(c) of IIRIRA that was published in the Federal Register on March 16, 2019, 85 Fed. Reg. 14953 (March 16, 2020) (the "Del Rio Waiver"), which is attached here to as Exhibit L.

30. The project area for the Del Rio Projects is in Val Verde County, Texas, and Maverick County, Texas, and is described in the Del Rio Waiver (the "Del Rio Project Area"). Attached hereto as Exhibit M are maps depicting the areas within the Del Rio Project Area where DHS and DOD will be constructing barrier.

31. As a part of the Del Rio Projects, DHS and DOD will be constructing approximately four miles of barrier. As a part of Del Rio A, within Maverick County, Texas, DHS and DOD will be replacing approximately two miles of existing pedestrian barrier with new steel bollard fencing. As a part of Del Rio B, within Val Verde County, Texas, DHS and DOD will also be replacing approximately two miles of existing pedestrian barrier with new steel bollard fencing. The Del Rio Projects also include the installation of a linear ground detection system, road construction or road improvement, and the installation of lighting,

which will be supported by grid power and include embedded cameras. The design of the new steel bollard fencing includes 30-foot steel bollards that measure approximately 6" by 6" and are spaced 4" apart. All of the construction activity will occur on land that is owned and controlled by the United States.

ENVIRONMENTAL PLANNING AND CONSULTATION FOR THE PROJECTS

32. CBP has long had a border security presence in the San Diego, El Centro, Yuma, Tucson, El Paso, and Del Rio Project Areas (collectively, the "Project Areas") and their surrounding areas. As a result of its environmental planning for past projects and activities within and near the Project Areas, CBP has developed a deep understanding and awareness of the natural, biological, historic, and cultural resources in the Projects Areas.

33. As a part of its environmental planning process, including environmental planning for past projects and activities in the Project Areas, CBP conducts biological, cultural, and other natural resource surveys, coordinates and consults with stakeholders, and uses that information to assess environmental impacts.

34. CBP is drawing on its prior experience in the Project Areas as it assesses the potential environmental impacts of the Projects. Additional information about prior environmental analyses covering prior actions in and near the Projects Areas can be found in my prior declarations dated April 25, 2019 (¶¶ 19–33) and June 19, 2019 (¶¶ 17–31), discussing the fiscal year 2019 § 284 projects.

35. In addition, CBP is presently engaged in new environmental planning and consultation that is specifically targeted to the Projects.

36. On March 16, 2020, to better understand the potential impacts of the Projects, CBP sent consultation letters to a number of stakeholders and potentially interested parties. The

consultation letters included information about the Projects and invited input from stakeholders regarding potential impacts. They informed stakeholders that CBP would be accepting comments and input through April 15, 2020, regarding the Projects.

37. CBP sent over 1,000 consultation letters to a range of stakeholders and potentially interested parties, including, among others, federal land managers and resource agencies such as the Department of the Interior, the United States Fish and Wildlife Service ("USFWS"), the Bureau of Land Management, the United States Forest Service, and the United States Environmental Protection Agency, State authorities and resource agencies, including the California, Arizona, New Mexico, and Texas State Historic Preservation Officers, the San Diego Regional Water Control Board, the California Department of Fish and Wildlife, the California Environmental Protection Agency, the New Mexico Environment Department, and the New Mexico Department of Game and Fish, as well as local officials, Native American Tribes, and numerous non-governmental organizations.

38. Also on March 16, 2020, CBP posted notices on its website, CBP.gov, notifying the public of the Projects and soliciting the public's input regarding potential impacts. The notices posted on CBP's website can be found at: https://www.cbp.gov/about/environmental-management-sustainability/documents/docs-review. The notices included a link to the same consultation letters, which include information about the Projects, that were sent to every individual stakeholder or potentially interested party.

39. Acknowledging that the novel coronavirus pandemic had created a challenging situation for stakeholders and the public to share feedback and insights, CBP subsequently extended the comment period to May 15, 2020. *See*

https://www.cbp.gov/about/environmental-management-sustainability/documents/docs-review. In it is announcements, CBP noted that the extended comment period may extend into pre-construction activities or border wall construction. CBP further noted, however, that it would continue to consider public comment, which would be used in CBP's evaluation of impacts and identification of measures that avoid or minimize impacts to the greatest extent possible throughout the duration of the Projects.

40. CBP has also engaged in an on-going dialogue regarding the Projects with federal land managers and resource agencies. On February 28, 2020, CBP conducted a webinar with federal land managers and resource agencies to discuss the Projects and potential impacts and issues of concern. CBP conducted another webinar with its federal partners on March 4, 2020.

41. CBP has and will continue to conduct "virtual site" visits with federal resource agencies and land managers. CBP had planned for in-person site visits; however, due to the travel restrictions resulting from the novel coronavirus, CBP is conducting virtual site visits where CBP and its federal partners have targeted discussions concerning specific issues or areas of focus, including, among others, the Jacumba Wilderness, the Buenos Aires National Wildlife Refuge, and the Coronado National Forest.

42. Consistent with its past practice for prior border infrastructure projects, CBP will survey the Project Areas for biological, historical, and cultural resources, and jurisdictional "Waters of the United States." CBP will use the data and information obtained through those surveys, along with data and information drawn from past environmental surveys and planning that CBP has done in the Project Areas, to prepare biological and cultural resources reports.

43. All of the information and input CBP obtains through stakeholder consultations, the biological and cultural resources reports, and prior environmental planning will inform the project planning and execution of the Projects.

44. Using the information it compiles and feedback it has receives CBP will prepare an analysis of the potential environmental impacts of the Projects. CBP will use that analysis to identify construction Best Management Practices ("BMPs") or design modifications that can be presented to DOD for incorporation into project planning and execution to minimize or avoid potential impacts to the greatest extent possible. CBP's standard suite of BMPs generally includes, among other things, a requirement that the contractor develop a storm water pollution prevention plan ("SWPPP"), an environmental awareness briefing for the construction contractor prior to any ground disturbing activities, environmental monitors who are on site during construction, pre-construction bird surveys, a stop work requirement if federally-listed species or archeological resources are discovered or are present within a work area, measures to limit the clearing of vegetation wherever possible, and measures to prevent the introduction of invasive species and minimize noise impacts. In addition, input from stakeholders and CBP's own analysis will be used to develop mitigation measures, which may be implemented after construction to offset or minimize unavoidable impacts.

ALLEGED HARMS FROM PROJECTS

45. As detailed in the Paragraphs 32 through 44, CBP has not yet completed the environmental planning and consultation processes for the Projects. Those processes are on-going. Nevertheless, based on these on-going consultations, CBP's prior experience in the Project Areas, meetings with various resource experts, and my understanding of the

Projects, I find many of plaintiffs' claims concerning the alleged environmental harms that will result from the Projects are overstated or misplaced.

A. Alleged Procedural Injuries

46. Plaintiffs have put forth concerns about possible procedural injuries. For instance, Plaintiffs allege that without a NEPA review of the Projects, numerous California Species of Special Concern that are allegedly found within the Project Areas will be "harmed or killed" by "extensive trenching, construction of roads, and staging of materials necessary to construct" border barrier. (Clark Decl. ¶ 18.) This statement is unsupported and appears to be unfounded. For example, plaintiffs do not explain how the seven bat species that are included in the list will be harmed or killed by trenching, road construction, or staging of materials. Plaintiffs nonetheless suggest that the alleged harms to the California Species of Special Concern could be remedied had NEPA not been waived because "USFWS would consider and address potential impacts to these state listed species." (Id.)

47. In fact, NEPA is a procedural statute. It does not contain any specific provisions that prohibit particular environmental harms. More importantly, however, as detailed above, CBP has engaged stakeholders, including USFWS and the California Department of Fish and Game, and will use stakeholder input to assess the potential impacts of the Projects. To the extent that concerns are raised or revealed concerning impacts to the California Species of Special Concern cited in plaintiffs' declarations, CBP will have the opportunity to address those impacts through BMPs that are recommended to DOD or possibly mitigation measures that are implemented during or after project execution.

48. Plaintiffs further allege that they are harmed because CBP will not have to apply for a National Pollutant Discharge Elimination System Construction General Permit, which would require preparation of a SWPPP that would be enforced by either the Colorado River Regional Water Control Board, in the case of the El Centro Project, or the San Diego Regional Water Board, in the case of the San Diego Projects. (Dunn Decl. ¶ 18; Gibson Decl. ¶ 20.)

49. As a standard BMP, CBP requests that DOD require that a SWPPP be prepared for all the Projects, including the El Centro and San Diego Projects. Indeed, because it is one of the standard BMPs that is incorporated into every border barrier project, to my knowledge a SWPPP has been prepared for every past and current barrier project that has been constructed under a waiver. In addition, as noted above and as noted in plaintiffs' own declarations (Gibson Decl. ¶ 13), CBP is actively seeking input from resource agencies and the public concerning the potential impacts of the Projects. To the extent that the San Diego Regional Water Board or the Colorado River Regional Water Control Board has concerns about the Projects or is able to provide input about minimizing impacts or protecting sensitive resources, CBP will consider that input as a part of project planning and execution.

B. Alleged Environmental Harms

50. In addition to alleged procedural injuries, plaintiffs make a number of allegations regarding purported environmental harms they claim will result from the Projects, including impacts to federally-listed species, wildlife, and sensitive plant species. As detailed below, many of plaintiffs' claims are overstated or misplaced.

1. Federally-Listed Species

51. Plaintiffs state that a portion of the San Diego Projects will cross Campo Creek, which is designated critical habitat for the endangered arroyo toad. (Clark Decl. ¶ 17.) Plaintiffs assert that impacts from the San Diego Projects, will therefore destroy toad habitat, disrupt its ability to breed, and kill toads directly due to increased vehicular traffic and use of construction equipment, all of which "further jeopardize the toad's survival." (Id.)

52. Plaintiffs' are incorrect that the San Diego Projects will cross Campo Creek and destroy critical habitat. USFWS has designated 98,366 acres of critical habitat for the arroyo toad in Santa Barbara, Ventura, Los Angeles, San Bernardino, Riverside, Orange, and San Diego Counties, California. *United States Fish and Wildlife Service, Final Rule, Revised Critical Habitat for the Arroyo Toad*, 76 Fed. Reg. 7246 (February 9, 2011), available at https://www.govinfo.gov/content/pkg/FR-2011-02-09/pdf/2011-1703.pdf. Campo Creek is within critical habitat Subunit 19e. Subunit 19e contains 950 acres of critical habitat, which encompasses approximately four miles of Campo Creek from Campo Lake to the U.S. – Mexico border. Notably, the segment of barrier that is nearest to Campo Creek that is to be replaced by DHS and DOD as a part of the San Diego Projects is situated over a mile east of the Campo Creek, outside the designated critical habitat for arroyo toad.

53. In addition, plaintiffs' claims regarding potential construction impacts are overstated. Although no barrier will be constructed within critical habitat, if toads are identified in the San Diego Project Area, they will be relocated by a specially trained biologist. Finally, CBP's standard suite of BMPs includes environmental monitors who are on site

during construction and a stop work requirement if federally-listed species are found in a work area.

54. Plaintiffs claim that the El Centro Project will irreparably harm Peninsular bighorn sheep because it will cut through designated critical habitat and block sheep from accessing habitat on both sides of the U.S. – Mexico border, thereby severing genetic and demographic connectivity between bighorn sheep populations in the U.S. and Mexico that is needed for the species to recover. (Clark Decl. ¶ 12.)

55. As noted, CBP is actively engaged with USFWS and will take steps, to the extent feasible to avoid, minimize, or mitigate impacts to wildlife, including Peninsular bighorn sheep. Just as importantly, as noted above the El Centro Project has been reduced to approximately three miles. With the project having been reduced to three miles, there will continue to be large unfenced areas within the El Centro Project Area to the east and west of the planned barrier. There will be an approximately six and one-half (6.5) mile gap between the western terminus of the planned El Centro Project and the nearest existing or planned barrier segment to the west. On the eastern side, there will be an approximately one-half (0.5) mile gap between the eastern terminus of the El Centro Project and the nearest existing or planned barrier to the east. Thus, Peninsular bighorn sheep will continue to be able to cross into Mexico after the completion of the El Centro Project. To this end, my review of data provided to me by USFWS indicates that migration of Peninsular bighorn sheep into Mexico would not be impacted by the planned El Centro segment.

56. Plaintiffs allege that El Paso D, segment 4, will significantly impact the recovery of Mexican wolf by dividing its habitat and impeding the wolf's movement. (Traphagen

Decl. ¶ 17.) For example, plaintiffs claim a Mexican wolf is known to have crossed the border in the mountainous area in New Mexico known as Mt. Cristo El Rey. (Traphagen Decl. ¶ 22.) Plaintiffs assert that El Paso D, segment 4, will close this narrow corridor because it will connect to a privately-funded segment of border wall that was constructed by an organization known as "We Build the Wall," which will in turn make "wolf dispersal and recovery nearly impossible." (Traphagen Decl. ¶ 21.) Plaintiffs' claims regarding alleged impacts to this population of Mexican wolf are overstated.

57. USFWS has reintroduced Mexican wolf in New Mexico as non-essential experimental populations pursuant to Section 10(j) of ESA, which means that USFWS has determined that the loss of this entire populations would not be "likely to appreciably reduce the likelihood of the survival of the species in the wild." 50 C.F.R. § 17.80(b).

58. Plaintiffs' assertion that El Paso D, segment 4, will close a narrow migration corridor for Mexican wolf in or near Mt. Cristo El Rey is incorrect. El Paso D, segment 4, will not connect to the privately-funded border wall constructed by "We Build the Wall" in Sunland Park, New Mexico. After the completion of El Paso D, segment 4, there will continue to be an approximately one-half (0.5) mile gap between the eastern terminus of El Paso D, segment 4, and the privately-funded border wall constructed by "We Build the Wall." In addition, there will be an approximately .08 mile gap between the western terminus of El Paso D, segment 4, and the existing pedestrian barrier situated to the west.

59. Just as importantly, the recovery criteria for Mexican wolf specifically contemplates "two demographically and environmentally independent populations," one in the United States and one in Mexico, "such that negative events (e.g., diseases, severe weather, natural disasters) are unlikely to affect both populations simultaneously." *United States Fish and*

Wildlife Service, Mexican Wolf Recovery Plan, First Revision (November 2017) at 24, available at https://www.fws.gov/southwest/es/mexicanwolf/pdf/2017MexicanWolfRecoveryPlanRevision1Final.pdf. According to USFWS, having two resilient populations provides for redundancy, which in turn provides security against extinction from catastrophic events that could impact a population. *Id.* Recovery criteria also call for achieving a specific genetic target to ensure genetic threats are adequately alleviated. *Id.* USFWS has recognized the benefits of connectivity (wolves naturally dispersing between populations) to improve genetic diversity but has also stated, "[USFWS] do[es] not expect the level of dispersal predicted between any of the sites (particularly between the United States and northern Sierra Madre Occidental) to provide for adequate gene flow between populations to alleviate genetic threats or ensure *representation* of the captive population's gene diversity in both populations." *Id.* (emphasis in original). Therefore, USFWS crafted a recovery strategy for the Mexican wolf that relies on the initial release of wolves from captivity to the wild and the translocation of wolves between populations as a necessary form of management to alleviate genetic threats during the recovery process. *Id.* USFWS specifically stated that "connectivity or successful migrants are not required to achieve recovery" of the Mexican wolf. *Id.* at 15.

2. Other Wildlife Species

60. Plaintiffs speculate that Flat-tailed horned lizard, a California Species of Special Concern which has previously been proposed for listing under ESA, will be harmed by the El Centro Project. (Clark Decl. ¶¶ 14-15.) Plaintiffs state that aerial photos of the terrain

"suggest" that this species occurs within the El Centro Project Area and it will therefore be harmed by construction activities from the El Centro Project. (Id.)

61. Plaintiffs further allege that other California Species of Special Concern, including various bat species, will be harmed by trenching, road construction, or staging of materials associated with the El Centro Project. (Clark Decl. ¶ 13.)

62. In light of CBP's standard process for completing biological surveys of each project area and CBP's standard suite of BMPs that include environmental monitors during construction and a stop work requirement if federally-listed species are discovered or are present within a work area, plaintiffs' allegations concerning alleged construction impacts to the Flat-tailed horned lizard and other California Species of Special Concern are exaggerated. Moreover, the bollard-style fencing will not restrict the movement of Flat-tailed horned lizard because they will be able to travel through the four-inch gaps between the bollards.

63. Plaintiffs allege that the El Paso Projects will destroy habitat connectivity that is critical to the survival of other species such as pronghorn antelope, bighorn sheep, and mountain lions (Traphagen Decl. ¶ 23.)

64. To the extent plaintiffs' allegations are in regard to the endangered Sonoran pronghorn, the El Paso Projects are east of the range of the endangered Sonoran pronghorn. Sonoran pronghorn do not occur in New Mexico. *United States Fish and Wildlife Service, Recovery Plan for the Sonoran Pronghorn, Second Revision* (November 2016) at 91, available at https://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/SonoranPronghorn/FINAL_Sonoran_Pronghorn_Recovery%20Plan_2nd%20Revision_11-16-16.pdf.

Moreover, according to the 2016 Recovery Plan for Sonoran pronghorn, recovery of the Sonoran pronghorn does not depend on natural cross-border migration of the species. Although the Recovery Plan considers the Sonoran pronghorn throughout its range, it specifically designates two conservation units containing two separate populations of the species: one in the United States and one in Mexico. *Id.* at 91. USFWS has noted that the species would likely benefit from habitat connectivity between Sonoran pronghorn populations. *Id* at 30. However, the Recovery Plan makes clear that recovery of Sonoran pronghorn does not depend on such natural cross-border migration, as Sonoran pronghorn in the United States are already "effectively geographically separated from Sonoran pronghorn populations in Mexico due to the physical barriers of Mexican Highway 2 and associated fencing." *Id.* at 2. In addition, the Recovery Plan states that having viable populations in both the United States and Mexico serves the aims of "representation, redundancy, and resiliency across its range," which decreases the changes that a "single stochastic event would cause the entire subspecies to go extinct." *Id.* at 99.

65. As to other species that may be found in the El Paso Project Area, plaintiffs' assertions are at odds with prior analyses. For example, in 2013 CBP completed an EA concerning the construction of approximately five miles of pedestrian fencing in Lukeville, Arizona (the "Lukeville Project") adjacent to the Organ Pipe Cactus National Monument, an area that is noted for its diversity of species. Like the Projects, including the El Paso Projects, the vast majority of the construction activities for the Lukeville Project was to occur in a 60-foot strip of federally-owned property immediately adjacent to the border that was already functioning as a law enforcement zone. The area was heavily disturbed and contained existing border infrastructure, including permanent vehicle barriers that were

constructed by the National Park Service in 2003. *U.S. Customs and Border Protection, Final Environmental Assessment for the Proposed Installation, Operation, and Maintenance of Primary Pedestrian Fence Near Lukeville, Arizona, U.S. Border Patrol, Tucson Sector* (February 2008) at 1-3, 2-1 – 2-2. In its analysis of potential impacts to wildlife, CBP acknowledged that the pedestrian fence could affect transboundary migration patterns of animals, including larger animals; however, the impacts were considered minimal because habitat fragmentation typically affects species with small populations size that are dependent on migration to obtain spatially or temporally limited resources. *Id.*

3. Other Impacts

66. Plaintiffs claim that the El Centro Project and San Diego Projects will harm or kill rare, threatened, and endangered plant species. (Vanderplank Decl. ¶ 14.) For example, it is alleged that construction activities will obliterate any plants or seeds found within the construction footprint (Id. ¶ 14), contribute to the spread of invasive species (Id. ¶ 15), and that there will be "irreparable and irreversible" impacts to numerous sensitive plant species (Id. ¶ 39).

67. Plaintiffs' allegations concerning impacts to sensitive plant species are exaggerated. Both the El Centro and San Diego Projects will be confined to a narrow strip of land along the international border. Of the 17 miles of barrier that will be constructed as a part of the San Diego Projects, 14 miles will replace existing barrier, and thus the majority of the project footprint for the San Diego Projects is already disturbed land and devoid of vegetation. CBP's standard suite of BMPs generally includes measures to limit the clearing of vegetation wherever possible and limit the introduction and spread of invasive

species. Further, much of the area that surrounds the San Diego and El Centro Project Areas is undeveloped. As such, there is abundant habitat for plant species that plaintiffs allege will be harmed by the El Centro or San Diego Projects. In addition, the planned barrier will be constructed within a low-lying area that is prone to illegal "drive through" events. A drive through event is one where illegal entrants drive vehicles off road for as far as possible north of the international border before fleeing on foot. Because the barrier will prevent drive through events, it may reduce impacts to sensitive plant species that occur outside the project footprint.

68. Plaintiffs further allege that lighting from the El Centro and San Diego Projects will "undoubtedly" affect the behavior of nocturnal animals and may also affect the phenology of plants. (Vanderplank Decl. ¶ 16.) However, to the extent CBP's own analysis or input from stakeholders reveals that impacts from lighting will create significant impacts, as it has done on past projects, CBP can address such impacts through such measures as installing light shields to minimize or control any light spillage beyond the narrow strip of land along the border that contains the project footprint.

This declaration is made pursuant to 28 U.S.C. § 1746. I declare under penalty of perjury that the foregoing is true and correct to the best of my current knowledge.

Executed on this 17 day of April, 2020.

Paul Enriquez
Acquisitions, Real Estate and Environmental Director
Border Wall Program Management Office
U.S. Border Patrol

EXHIBIT A

April 17, 2020

MEMORANDUM FOR: Robert G. Salesses
Deputy Assistant Secretary, HDI & DSCA
U.S. Department of Defense

FROM: RDML Brendan C. McPherson
Military Advisor
U.S. Department of Homeland Security

SUBJECT: Modification Request for Assistance Pursuant to 10 U.S.C. § 284

REFERENCE: (a) Request for Assistance Pursuant to 10 U.S.C. § 284, dated January 14, 2020
(b) Department of Defense (DoD) Secretary of Defense Response Letter, dated February 13, 2020
(c) Modification Request for Assistance Pursuant to 10 U.S.C. § 284, dated March 24, 2020
(d) Modification Request for Assistance Pursuant to 10 U.S.C. § 284, dated, March 26, 2020

Overview

As part of their internal review processes, the Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) have reviewed references (a) thru (d). During the review process, the need to clarify some of the coordinates and mileage figures for projects listed in references (a) and (b) became apparent. On behalf of the CBP Commissioner and as detailed below, this modification request is being provided to DoD to make technical and administrative clarifications to select projects requested in reference (a) and approved in reference (b). Additionally, on behalf of the CBP Commissioner, this modification revokes and removes a portion of the El Centro Project A requested in reference (a) and approved in reference (b). This modification supersedes, revokes, and replaces references (c) and (d). Except as detailed below, all other provisions of reference (a) remain unchanged. The technical and administrative corrections and modifications to individual projects detailed below have been informally coordinated with the impacted parties across DoD, DHS, and the Department of Justice.

EL CENTRO SECTOR

El Centro Project A

DHS/CBP is revoking and removing from reference (a) the request for two segments of El Centro Project A. Together, these two segments total approximately 7.5 miles of what would have been non-contiguous new primary pedestrian fencing.

The first segment to be removed from reference (a) consists of approximately 6.6 miles of what would have been new primary pedestrian fencing. The start and end coordinates for that segment are:

- Start: (32.618435, -116.106229)
- End: (32.627285, -115.993205)

The second segment to be removed from reference (a) consists of approximately .95 miles of what would have been new primary pedestrian fencing. The start and end coordinates for that segment are:

- Start: (32.631489, -115.93903)
- End: (32.63273, -115.922787)

The remaining provisions of El Centro Project A remain unchanged.

YUMA SECTOR

Yuma Project B
Request the start and end coordinates for two Yuma Project B segments requested in reference (a) and approved in reference (b) be adjusted to capture the full length of the project detailed in reference (a) and approved in reference (b).

The first segment to be adjusted includes fencing beginning near the Andrade Port of Entry continuing east in Imperial County, California on the Quechan Reservation. Request the start and end coordinates for that segment be adjusted to:

- Start coordinate: (32.71813, -114.728515)
- End coordinate: (32.71872, -114.720282)

The second segment to be adjusted includes fencing beginning near the Andrade Port of Entry continuing east in Imperial County, California on the Quechan Reservation. Request the start and end coordinates for that segment be adjusted to:

- Start coordinate: (32.719041, -114.727431)
- End coordinate: (32.719132, -114.720119)

TUCSON SECTOR

Tucson Project B
Request the start and end coordinates for one Tucson Project B segment requested in reference (a) and approved in reference (b) be adjusted to capture the full length of the project detailed in reference (a) and approved in reference (b).

The segment to be adjusted includes fencing beginning approximately 13 miles southeast of the Sasabe Port of Entry, on the Coronado National Forest, continuing east in Santa Cruz County. Request the start and end coordinates for that segment be adjusted to:

- Start coordinate: (31.421325, -111.351619)
- End coordinate: (31.33253, -111.01233)

EL PASO SECTOR

El Paso Project D
Request the start and end coordinates for one El Paso Project D segment requested in reference (a) and approved in reference (b) be adjusted to capture the full length of the project detailed in reference (a) and approved in reference (b).

The segment to be adjusted includes fencing beginning approximately 2 miles southeast of the Bridge of Americas Port of Entry continuing southeast in El Paso County. Request the start and end coordinates for that segment be adjusted to:

- Start coordinate: (31.752848, -106.418442)
- End coordinate: (31.552981, -106.26213)

EXHIBIT B

Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

DHS stores records in this system electronically in secure facilities protected through multi-layer security mechanisms and strategies that are physical, technical, administrative, and environmental in nature. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by select personal identifiers; primarily the FIN. The system also allows for queries based on other information in the system including but not limited to unique identification numbers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The transactional record systems retention schedule is currently in development with OBIM and will be submitted thereafter to NARA for approval.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DHS safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

DHS will consider individual requests to determine whether or not information may be released. Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''FOIA Contact Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528–0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about the individual maybe available under the Freedom of Information Act.

When seeking records from this system of records or any other Departmental system of records, the request must conform with the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his or her identity, meaning that he or she must provide his or her full name, current address, and date and place of birth. The individual must sign the request, and the signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, an individual may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, the individual should:

- Explain why he or she believe the Department would have information being requested;
- Identify which Component(s) of the Department he or she believes may have the information;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS Component agency may have responsive records;

If the request is seeking records pertaining to another living individual, the person seeking the records must include a statement from the subject individual certifying his/her agreement for the requestor to access his or her records.

Without the above information, the Component(s) may not be able to conduct an effective search, and the request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, see ''Records Access Procedures'' above, and 6 CFR part 5.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), and (e)(8); (f); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), has exempted this system from the following provisions of the Privacy Act, 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H); and (f).

Exemptions from these particular subsections are justified on a case-by-case basis determined at the time a request is made. When this system receives a record from another system exempted in that source system under 5 U.S.C. 552a(j)(2), 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claim any additional exemptions set forth here.

HISTORY:

Records in this System of Records were previously covered under DHS/US–VISIT–001 DHS Automated Biometric Identification System (IDENT), 72 FR 31080 (June 5, 2007) and DHS/NPPD/USVISIT–003 Technical Reconciliation Analysis Classification System (TRACS), 73 FR 116 (June 16, 2008).

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2020–04979 Filed 3–10–20; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of

barriers and roads in the vicinity of the international land border in San Diego County, California.

DATES: This determination takes effect on March 16, 2020.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's San Diego Sector is an area of high illegal entry. In fiscal year 2019, the United States Border Patrol (''Border Patrol'') apprehended over 58,000 illegal aliens attempting to enter the United States between border crossings in the San Diego Sector. Also in fiscal year 2019, there were over 300 drug-related events between border crossings in the San Diego Sector, through which Border Patrol seized over 3,300 pounds of marijuana, over 1,280 pounds of cocaine, over 293 pounds of heroin, over 3,985 pounds of methamphetamine, and over 107 pounds of fentanyl. Additionally, San Diego County, California, which is located in the San Diego Sector, has been identified as a High Intensity Drug Trafficking Area by the Office of National Drug Control Policy.

Due to the high levels of illegal entry of people and drugs within the San Diego Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the San Diego Sector. Therefore, DHS will take immediate action to replace existing and construct new pedestrian fencing in a number of non-contiguous segments of the border in the San Diego Sector. The segments where such construction will occur are referred to herein as the ''project area,'' which is more specifically described in Section 2 below.

The existing pedestrian fencing within the projects area, which includes landing mat fencing that is easily breached and has been damaged to the extent it is ineffective, is susceptible to exploitation. Replacement of the existing pedestrian fencing will increase the impedance capability in the San Diego Sector. Additionally, the construction of new fencing will close gaps and serve to slow or stop illegal activity, including narcotics smuggling and illegal entry. Within the project area roads will also be constructed or improved and lighting will be installed.

To support DHS's action under section 102 of IIRIRA, I requested that the Secretary of Defense, pursuant to 10 U.S.C. 284(b)(7), assist by constructing fence, roads, and lighting within the San Diego Sector in order to block drug smuggling corridors across the international boundary between the United States and Mexico. The Secretary of Defense has concluded that the support requested satisfies the statutory requirements of 10 U.S.C. 284(b)(7) and that the Department of Defense will provide such support in the project area described in Section 2 below.

Section 2

I determine that the following area in the vicinity of the United States border, located in the State of California within the United States Border Patrol's San Diego Sector, is an area of high illegal entry (the ''project area''): Starting approximately one and one-half (1.5) miles east of Border Monument 243 and extending east to the San Diego-Imperial County line.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project areas pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project area, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project area, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project area, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended:

The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly

referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Wilderness Act (Pub. L. 88–577 (16 U.S.C. 1131 *et seq.*)); the Federal Land Policy and Management Act (Pub L. 94–579 (43 U.S.C. 1701 *et seq.*)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*)); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); sections 102(29) and 103 of Title I of the California Desert Protection Act (Pub. L. 103–433); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); and the American Indian Religious Freedom Act (42 U.S.C. 1996).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

Acting Secretary of Homeland Security.

[FR Doc. 2020–05366 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Imperial County, California.

DATES: This determination takes effect on March 16, 2020.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

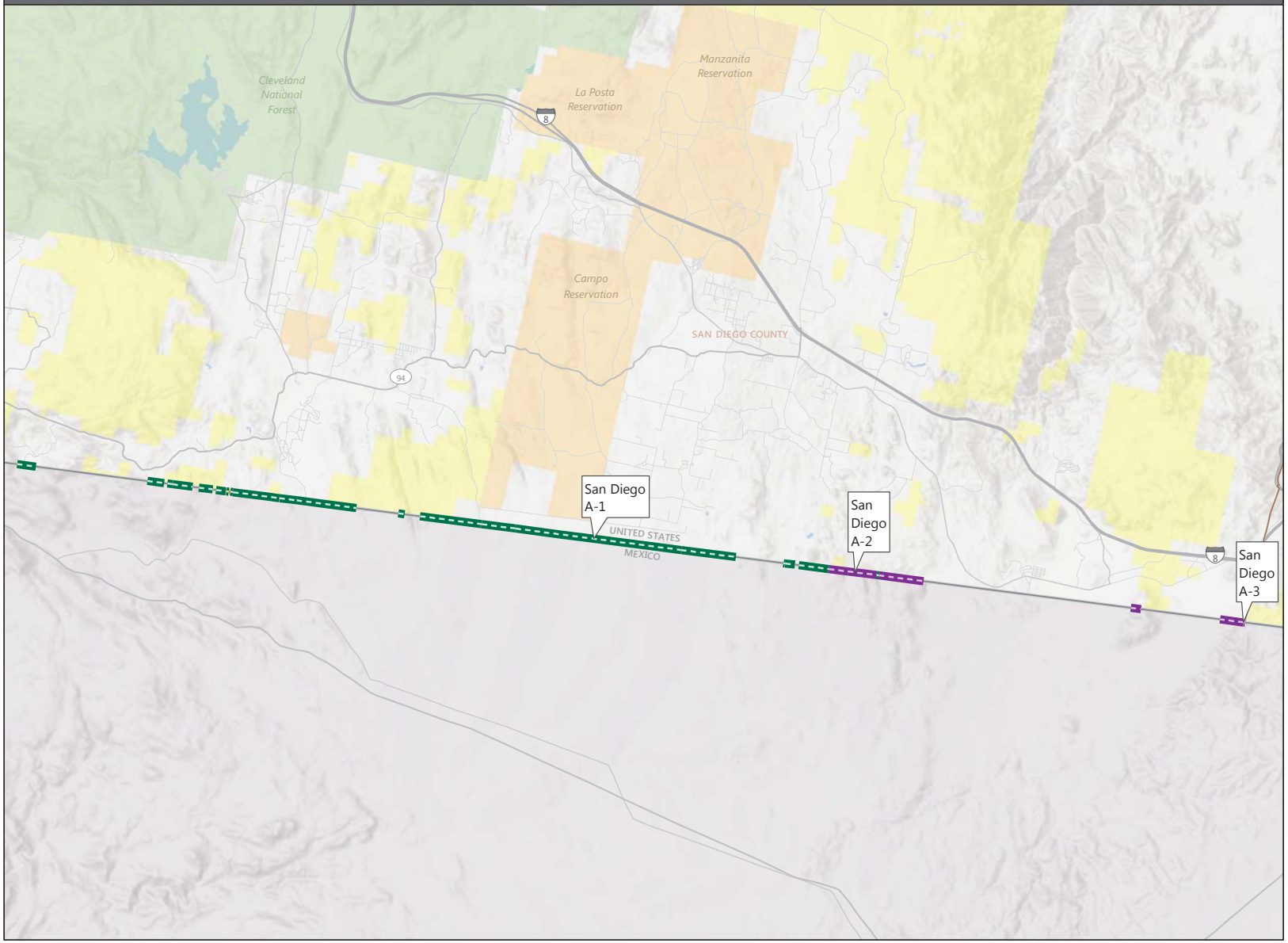
Determination and Waiver

Section 1

The United States Border Patrol's El Centro Sector is an area of high illegal entry. In fiscal year 2019, the United States Border Patrol (''Border Patrol'') apprehended over 35,000 illegal aliens attempting to enter the United States between border crossings in the El Centro Sector. Also in fiscal year 2019, there were approximately 180 drug-related events between border crossings in the El Centro Sector, through which Border Patrol seized over 100 pounds of marijuana, over 60 pounds of cocaine, over 100 pounds of heroin, and over 2,600 pounds of methamphetamine. Additionally, Imperial County, California, which is located largely in the El Centro Sector, has been identified as a High Intensity Drug Trafficking

EXHIBIT C

Exhibit C San Diego Projects



LEGEND

Existing Vehicle Barrier

Proposed Projects

Primary Pedestrian Barrier

Primary Pedestrian Barrier Replacement

**If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.*

1 in = 2.14 mi 1:135,500

EXHIBIT D

referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Wilderness Act (Pub. L. 88–577 (16 U.S.C. 1131 *et seq.*)); the Federal Land Policy and Management Act (Pub L. 94–579 (43 U.S.C. 1701 *et seq.*)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*)); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); sections 102(29) and 103 of Title I of the California Desert Protection Act (Pub. L. 103–433); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); and the American Indian Religious Freedom Act (42 U.S.C. 1996).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

Acting Secretary of Homeland Security.

[FR Doc. 2020–05366 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Imperial County, California.

DATES: This determination takes effect on March 16, 2020.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's El Centro Sector is an area of high illegal entry. In fiscal year 2019, the United States Border Patrol (''Border Patrol'') apprehended over 35,000 illegal aliens attempting to enter the United States between border crossings in the El Centro Sector. Also in fiscal year 2019, there were approximately 180 drug-related events between border crossings in the El Centro Sector, through which Border Patrol seized over 100 pounds of marijuana, over 60 pounds of cocaine, over 100 pounds of heroin, and over 2,600 pounds of methamphetamine. Additionally, Imperial County, California, which is located largely in the El Centro Sector, has been identified as a High Intensity Drug Trafficking

Area by the Office of National Drug Control Policy.

Due to the high levels of illegal entry of people and drugs within the El Centro Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the El Centro Sector. Therefore, DHS will take immediate action to construct barriers and roads. In addition, lighting will be installed.

To support DHS's action under section 102 of IIRIRA, I requested that the Secretary of Defense, pursuant to 10 U.S.C. 284(b)(7), assist by constructing fence, roads, and lighting within the El Centro Sector in order to block drug smuggling corridors across the international boundary between the United States and Mexico. The Secretary of Defense has concluded that the support requested satisfies the statutory requirements of 10 U.S.C. 284(b)(7) and that the Department of Defense will provide such support in the project area described in Section 2 below.

Section 2

I determine that the following area in the vicinity of the United States border, located in the State of California within the United States Border Patrol's El Centro Sector, is an area of high illegal entry (the ''project area''): Starting at the San Diego—Imperial County line and extending east approximately 11 miles.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project area pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project area, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project area, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project area, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95, 93 Stat. 721 (Oct. 31, 1979) (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, 74 Stat. 220 (June 27, 1960) as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub L. 94–579, 90 Stat. 2743 (Oct. 21, 1976) (43 U.S.C. 1701 *et seq.*)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 70 Stat. 1119 (Aug. 8, 1956) (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121, 48 Stat. 401 (March 10, 1934) (16 U.S.C. 661 *et seq.*)); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); the American Indian Religious Freedom Act (42 U.S.C. 1996); the Wilderness Act (Pub. L. 88–577, 78 Stat. 890 (Sept. 3, 1964) (16 U.S.C. 1131 *et seq.*)); and sections 102(29) and 103 of Title I of the California Desert Protection Act (Pub. L. 103–433, 108 Stat. 4471 (Oct. 31, 1994)).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

Acting Secretary of Homeland Security.

[FR Doc. 2020–05365 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Pima County, Arizona, Santa Cruz County, Arizona, and Cochise County, Arizona.

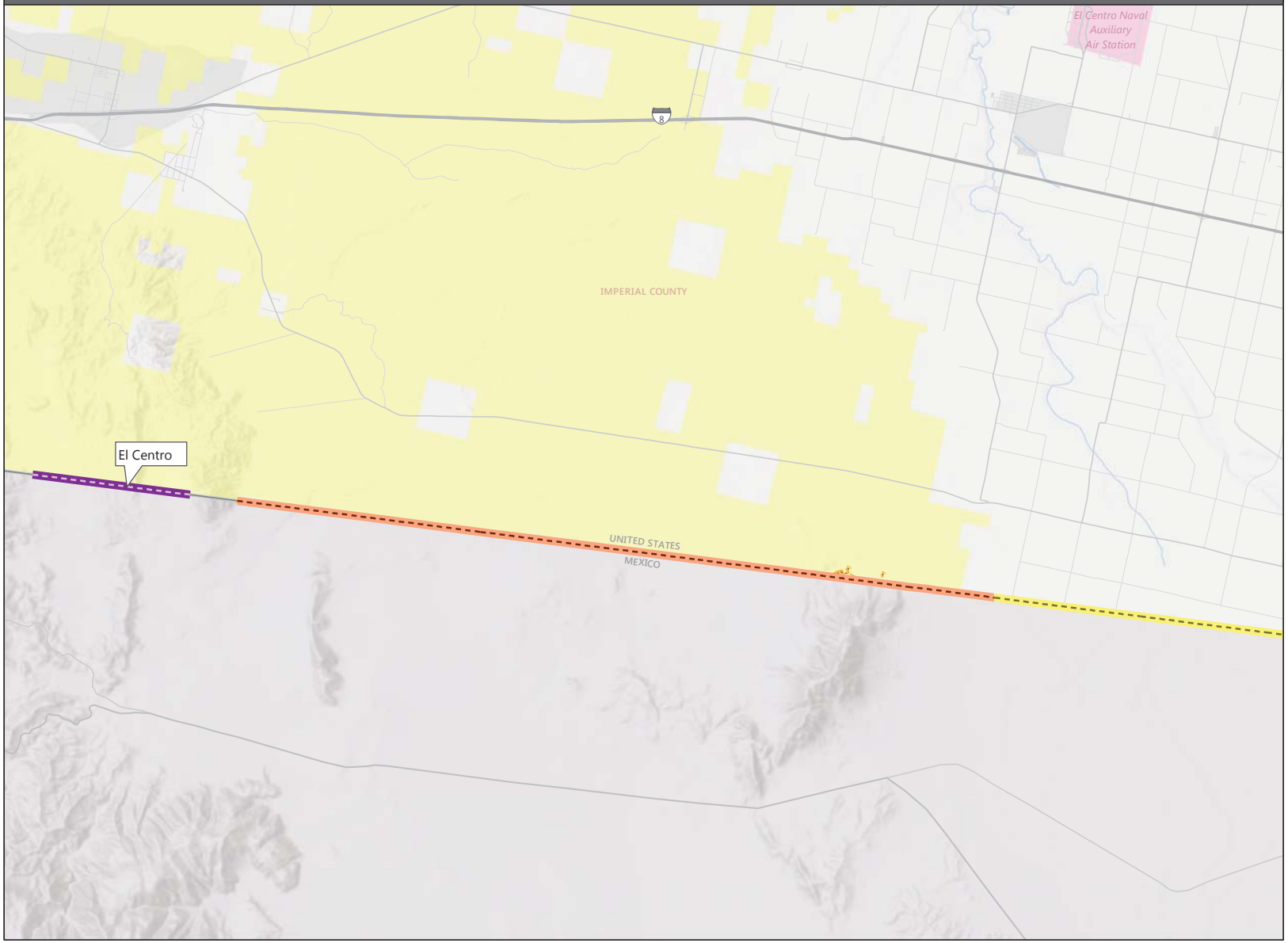
DATES: This determination takes effect on March 16, 2020.

SUPPLEMENTARY INFORMATION:

Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of

EXHIBIT E

Exhibit E El Centro Projects



LEGEND

- Existing Pedestrian Barrier
- Existing Vehicle Barrier

Proposed Projects

- Primary Pedestrian Barrier

Other Ongoing Projects

- Border Barrier (funded FY19)
- Border Barrier (Funded FY18)

**If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.*

1 in = 1.97 mi 1:124,678

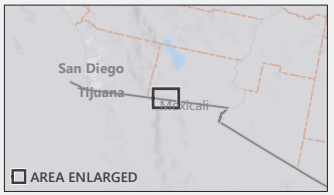


EXHIBIT F

100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub. L. 94–579 (43 U.S.C. 1701 *et seq.*)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*)); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Wild and Scenic Rivers Act (Pub. L. 90–542 (16 U.S.C. 1281 *et seq.*)); the Rivers and Harbors Act of 1899 (33 U.S.C. 403); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); and the American Indian Religious Freedom Act (42 U.S.C. 1996).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

Acting Secretary of Homeland Security.

[FR Doc. 2020–05348 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Yuma County, Arizona, and Imperial County, California.

DATES: This determination takes effect on March 16, 2020.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's Yuma Sector is an area of high illegal entry. In fiscal year 2019, the United States Border Patrol (''Border Patrol'') apprehended over 68,000 illegal aliens attempting to enter the United States between border crossings in the Yuma Sector. Also in fiscal year 2019, there were over 800 drug-related events between border crossings in the Yuma Sector, through which Border Patrol seized over 3,000 pounds of marijuana, over 33 pounds of heroin, over 1,186 pounds of methamphetamine, and over 50 pounds of fentanyl. Additionally, Yuma County, Arizona, which is located in the Yuma Sector, and Imperial County, California, a portion of which is located in the Yuma Sector, have been identified as a High Intensity Drug Trafficking Area by the Office of National Drug Control Policy.

Due to the high levels of illegal entry of people and drugs within the Yuma Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the Yuma Sector. Therefore, DHS will take immediate action to construct new secondary fencing and replace existing vehicle barriers and primary pedestrian and secondary fencing in the Yuma Sector. The segments of the border within which such construction will occur are referred to herein as the ''project areas'' and are more specifically described in Section 2 below.

The existing barriers within the project areas include outmoded vehicle barriers as well as primary pedestrian fencing and secondary fencing that no longer meet the Border Patrol's operational needs. The older fencing designs are easily breached and have been damaged to such a degree that they are ineffective. Both will be replaced with fencing that has a more operationally effective design. Although the deployment of vehicle barriers in the Yuma Sector initially curtailed the volume of illegal cross-border vehicular traffic, transnational criminal organizations have adapted their tactics by switching to foot traffic, cutting the barriers, or simply driving over them to smuggle illicit cargo into the United States. To respond to these changes in tactics, Border Patrol now requires pedestrian fencing rather than vehicle barrier. Additionally, constructing new and replacing existing secondary fencing will mean that a portion of the Yuma Sector will have a contiguous enforcement zone, which is critical to securing the border. Within the project areas roads will also be constructed or improved and lighting will be installed.

To support DHS's action under section 102 of IIRIRA, I requested that the Secretary of Defense, pursuant to 10 U.S.C. 284(b)(7), assist by constructing fence, roads, and lighting within the Yuma Sector in order to block drug smuggling corridors across the international boundary between the United States and Mexico. The Secretary of Defense has concluded that the support requested satisfies the statutory requirements of 10 U.S.C. 284(b)(7) and that the Department of Defense will provide such support in the project areas described in Section 2 below.

Section 2

I determine that the following areas in the vicinity of the United States border, located in the State of Arizona within the United States Border Patrol's Yuma Sector, are areas of high illegal entry (the ''project areas''):

- Starting approximately three-quarters (.75) of a mile west of the Andrade Port of Entry and extending east to the Colorado River;
- Starting approximately five and one-half miles (5.5) miles south of the Morelos Dam and extending south and generally following the Colorado River for approximately seven and one-half (7.5) miles; and
- Starting at the point where the Colorado River crosses the international border between the United States and Mexico and extending east to approximately Border Monument 201.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project areas pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project areas, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project areas, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Wild and Scenic Rivers Act (Pub. L. 90–542 (16 U.S.C. 1281 *et seq.*)); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub L. 94–579 (43 U.S.C. 1701 *et seq.*)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*)); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Rivers and Harbors Act of 1899 (33 U.S.C. 403); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); the American Indian Religious Freedom Act (42 U.S.C. 1996), and 43 U.S.C. 387.

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

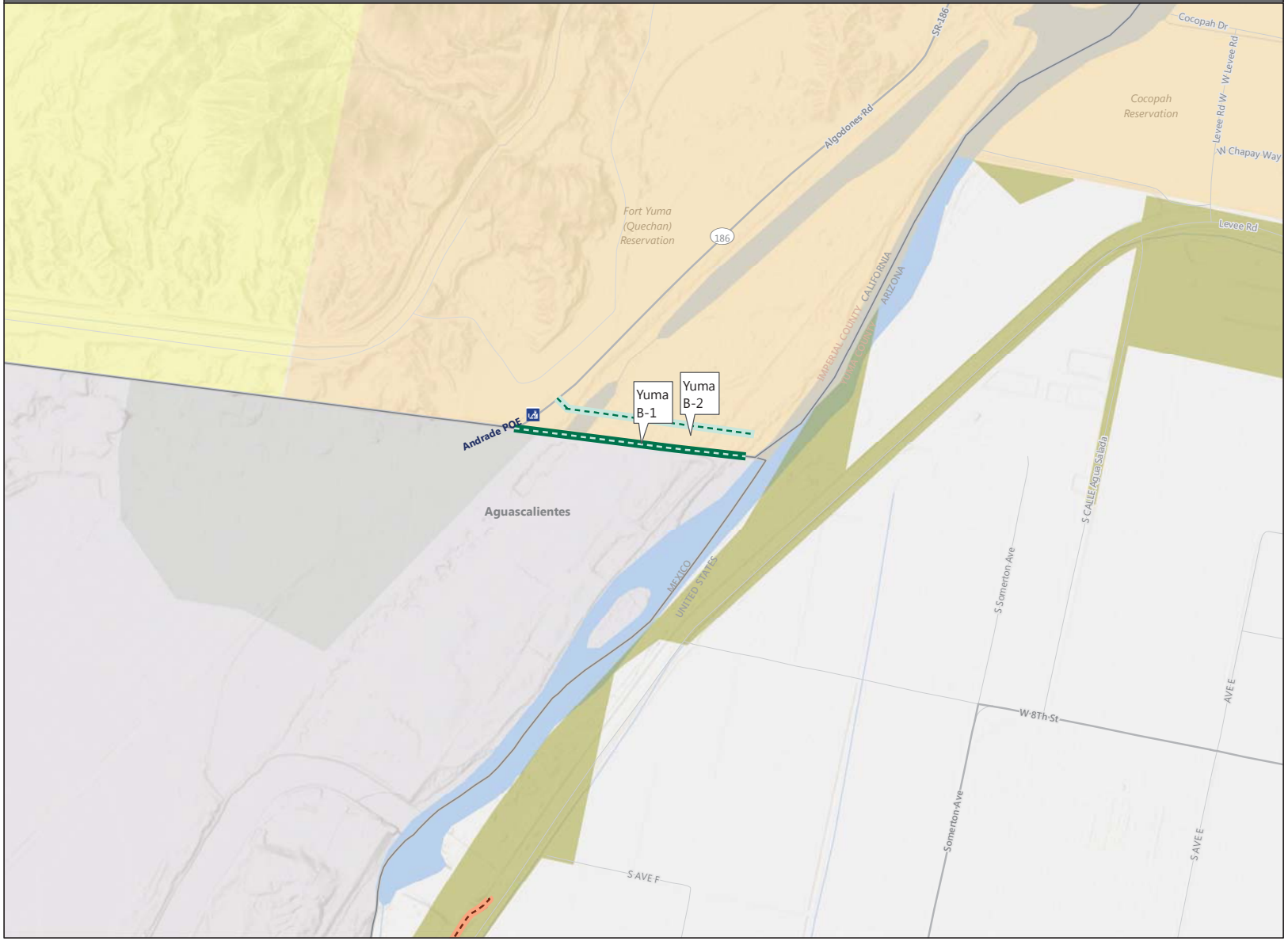
Acting Secretary of Homeland Security.

[FR Doc. 2020–05364 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

EXHIBIT G

Exhibit G Yuma Projects



LEGEND

- Existing Pedestrian Barrier

Proposed Projects

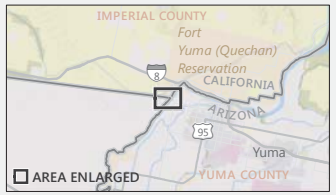
- Primary Pedestrian Barrier Replacement
- Secondary Barrier

Other Ongoing Projects

- Border Barrier (funded FY19)

If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.

1 in = 0.2 mi 1:12,866



Map Request 600v10.1

April 16, 2020

Exhibit G Yuma A Projects

LEGEND

- Existing Pedestrian Barrier
- Existing Vehicle Barrier

Proposed Projects

- Secondary Barrier Replacement
- Vehicle to Pedestrian Barrier Conversion

Other Ongoing Projects

- Border Barrier (funded FY19)
- Border Barrier (Funded FY18)

If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.

1 in = 1.6 mi 1:101,249

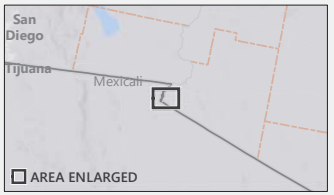


EXHIBIT H

Area by the Office of National Drug Control Policy.

Due to the high levels of illegal entry of people and drugs within the El Centro Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the El Centro Sector. Therefore, DHS will take immediate action to construct barriers and roads. In addition, lighting will be installed.

To support DHS's action under section 102 of IIRIRA, I requested that the Secretary of Defense, pursuant to 10 U.S.C. 284(b)(7), assist by constructing fence, roads, and lighting within the El Centro Sector in order to block drug smuggling corridors across the international boundary between the United States and Mexico. The Secretary of Defense has concluded that the support requested satisfies the statutory requirements of 10 U.S.C. 284(b)(7) and that the Department of Defense will provide such support in the project area described in Section 2 below.

Section 2

I determine that the following area in the vicinity of the United States border, located in the State of California within the United States Border Patrol's El Centro Sector, is an area of high illegal entry (the ''project area''): Starting at the San Diego—Imperial County line and extending east approximately 11 miles.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project area pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project area, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project area, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project area, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95, 93 Stat. 721 (Oct. 31, 1979) (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, 74 Stat. 220 (June 27, 1960) as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub L. 94–579, 90 Stat. 2743 (Oct. 21, 1976) (43 U.S.C. 1701 *et seq.*)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 70 Stat. 1119 (Aug. 8, 1956) (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121, 48 Stat. 401 (March 10, 1934) (16 U.S.C. 661 *et seq.*)); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); the American Indian Religious Freedom Act (42 U.S.C. 1996); the Wilderness Act (Pub. L. 88–577, 78 Stat. 890 (Sept. 3, 1964) (16 U.S.C. 1131 *et seq.*)); and sections 102(29) and 103 of Title I of the California Desert Protection Act (Pub. L. 103–433, 108 Stat. 4471 (Oct. 31, 1994)).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

Acting Secretary of Homeland Security.

[FR Doc. 2020–05365 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Pima County, Arizona, Santa Cruz County, Arizona, and Cochise County, Arizona.

DATES: This determination takes effect on March 16, 2020.

SUPPLEMENTARY INFORMATION:

Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of

terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's Tucson Sector is an area of high illegal entry. In fiscal year 2019, the United States Border Patrol (''Border Patrol'') apprehended over 63,000 illegal aliens attempting to enter the United States between border crossings in the Tucson Sector. Also in fiscal year 2019, there were over 1,200 drug-related events between border crossings in the Tucson Sector, through which Border Patrol seized over 59,000 pounds of marijuana, over 150 pounds of cocaine, over 155 pounds of heroin, over 2,700 pounds of methamphetamine, and over 12 pounds of fentanyl. Additionally, Pima County, Arizona, Santa Cruz County, Arizona, and Cochise County, Arizona, which are located in the Tucson Sector, have been identified as a High Intensity Drug Trafficking Area by the Office of National Drug Control Policy.

Due to the high levels of illegal entry of people and drugs within the Tucson Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the Tucson Sector. Therefore, DHS will take immediate action to construct new primary and secondary fencing and replace existing pedestrian and secondary fencing in the Tucson Sector. The segments within which such construction will occur are referred to herein as the ''project areas'' and are more specifically described in Section 2 below.

The lack of adequate barriers, either due to a complete absence of barrier or ineffective primary or secondary fencing that no longer meet Border Patrol's operational needs, continues to be particularly problematic as it pertains to the trafficking of illegal narcotics in the Tucson Sector. The replacement of outmoded primary and secondary fencing and the construction of new primary pedestrian fencing will add much needed infrastructure in the Tucson Sector. The added impedance capability will slow or stop illegal activity, afford Border Patrol more time to respond, and increase the likelihood of interdiction. Within the project areas roads will also be constructed or improved and lighting will be installed.

To support DHS's action under section 102 of IIRIRA, I requested that the Secretary of Defense, pursuant to 10 U.S.C. 284(b)(7), assist by constructing fence, roads, and lighting within the Tucson Sector in order to block drug smuggling corridors across the international boundary between the United States and Mexico. The Secretary of Defense has concluded that the support requested satisfies the statutory requirements of 10 U.S.C. 284(b)(7) and that the Department of Defense will provide such support in the project areas described in Section 2 below.

Section 2

I determine that the following areas in the vicinity of the United States border, located in the State of Arizona within the United States Border Patrol's Tucson Sector, are areas of high illegal entry (the ''project areas''):

- Starting two (2) miles north and west of Border Monument 140 and extending south and east to approximately one and one-half (1.5) miles east of Border Monument 124;
- Starting approximately one (1) mile west of Border Monument 116 and extending east to approximately one mile (1) east of Border Monument 100;
- Starting at approximately Border Monument 98 and extending east for approximately 10 miles;
- Starting approximately one-half (0.5) of a mile west of the Naco Port of Entry and extending east to approximately Border Monument 92;
- Starting approximately one-half (0.5) of a mile west of Border Monument 91 and extending east for approximately 16 miles;
- Starting approximately one-half (0.5) of a mile east of Border Monument 83 and extending west for two (2) miles; and
- Starting approximately one-half (0.5) of a mile west of Border Monument 74 and extending east to the Arizona-New Mexico state line.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project areas pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project areas, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project areas, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–

190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95, 93 Stat. 721 (Oct. 31, 1979) (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, 74 Stat. 220 (June 27, 1960) as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); Wild and Scenic Rivers Act (Pub. L. 90–542, 82 Stat. 906 (Oct. 2, 1968) (16 U.S.C. 1271 *et seq.*)); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub L. 94–579, 90 Stat. 2743 (Oct. 21, 1976) (43 U.S.C. 1701 *et seq.*)); the Wilderness Act (Pub. L. 88–577, 78 Stat. 890 (Sept. 3, 1964) (16 U.S.C. 1131 *et seq.*)); sections 101(a)(14), 101(a)(17), and 101(b) of Title I of the Arizona Wilderness Act of 1984 (Pub. L. 98–406, 98 Stat. 1486 (August 28, 1984)); the National Wildlife Refuge System Administration Act (Pub. L. 89–669 (16 U.S.C. 668dd–668ee)); the National Wildlife Refuge System Improvement Act of 1997 (Pub. L. 105–57); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 70 Stat. 1119 (Aug. 8, 1956) (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121, 48 Stat. 401 (March 10, 1934) (16 U.S.C. 661 *et seq.*)); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Rivers and Harbors Act of 1899 (33 U.S.C. 403); the National Park Service Organic Act and the National Park Service General Authorities Act (Pub. L. 64–235, 39 Stat. 535 (Aug. 25, 1916) and Pub. L. 91–383, 84 Stat. 825 (Aug. 18, 1970) as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 1, 2–4 and 16 U.S.C. 1a–1 *et seq.,* now codified at 54 U.S.C. 100101–100102, 54 U.S.C. 100301–100303, 54 U.S.C. 100501–100507, 54 U.S.C. 100701–100707, 54 U.S.C. 100721–100725, 54 U.S.C. 100751–100755, 54 U.S.C. 100901–100906, 54 U.S.C. 102101–102102)); Arizona-Idaho Conservation Act of 1988 (Pub. L. 100–696, 102 Stat. 4571 (Nov. 18, 1988) (16 U.S.C. 460xx)); 16 U.S.C. 450y (Pub. L. 77–216, 55 Stat. 630 (Aug. 18, 1941), as amended by Pub. L. 82–478, 66 Stat. 510 (July 9, 1952)); 67 Stat. c18 (Nov. 5, 1952); National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*); Multiple-Use and Sustained-Yield Act of 1960 (16 U.S.C. 528–531); 16 U.S.C. 472; 16 U.S.C. 551; the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); and the American Indian Religious Freedom Act (42 U.S.C. 1996).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

Acting Secretary of Homeland Security.

[FR Doc. 2020–05349 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Luna County, New Mexico, Doña Ana County, New Mexico, and El Paso County, Texas.

DATES: This determination takes effect on March 16, 2020.

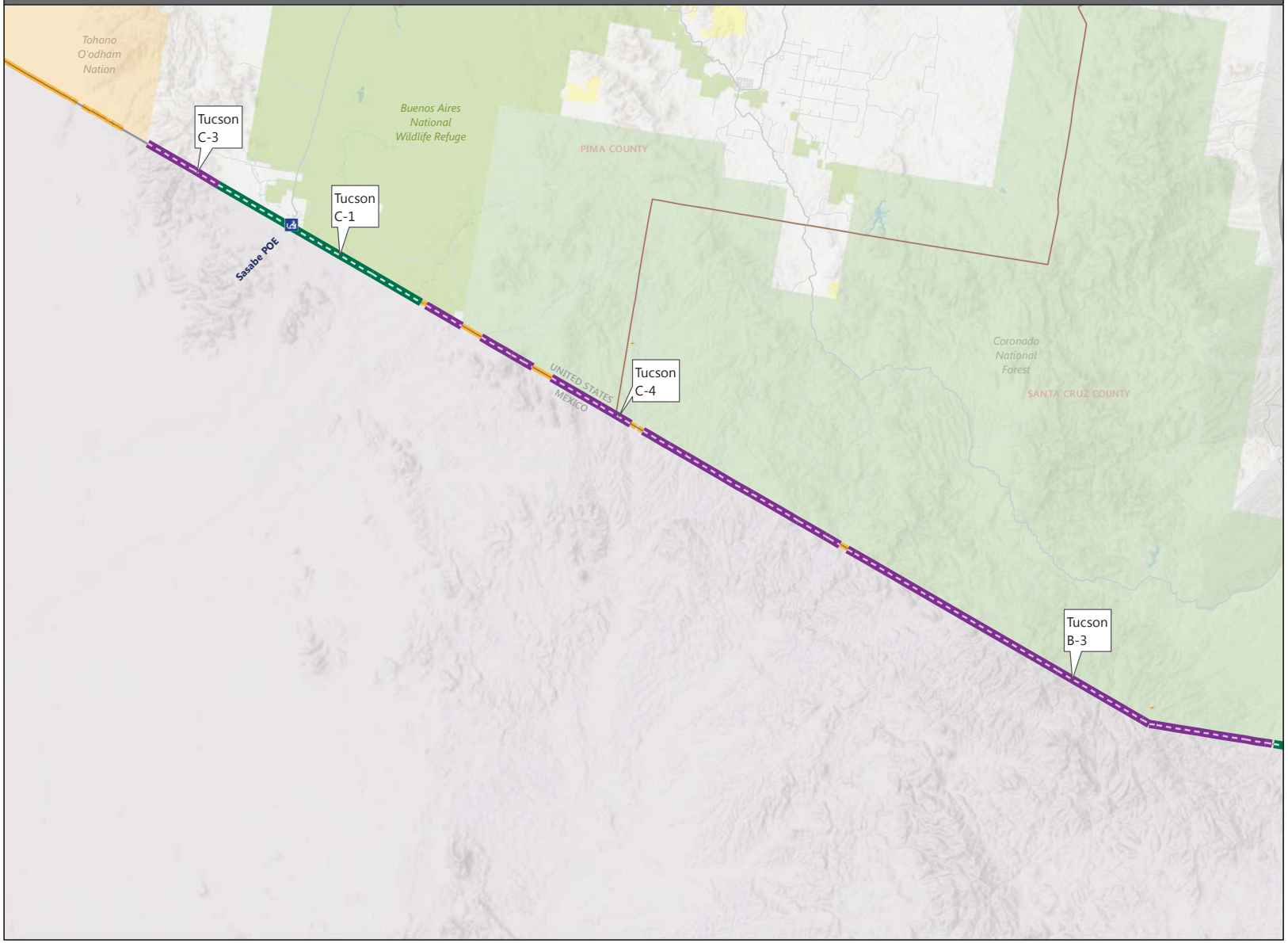
SUPPLEMENTARY INFORMATION:

Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of

EXHIBIT I

Exhibit I Tucson Projects



LEGEND

- Existing Vehicle Barrier

Proposed Projects

- Primary Pedestrian Barrier
- Primary Pedestrian Barrier Replacement

**If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.*

1 in = 2.95 mi 1:186,713

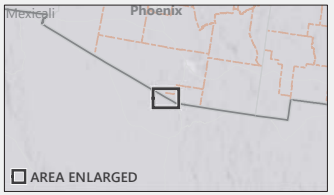
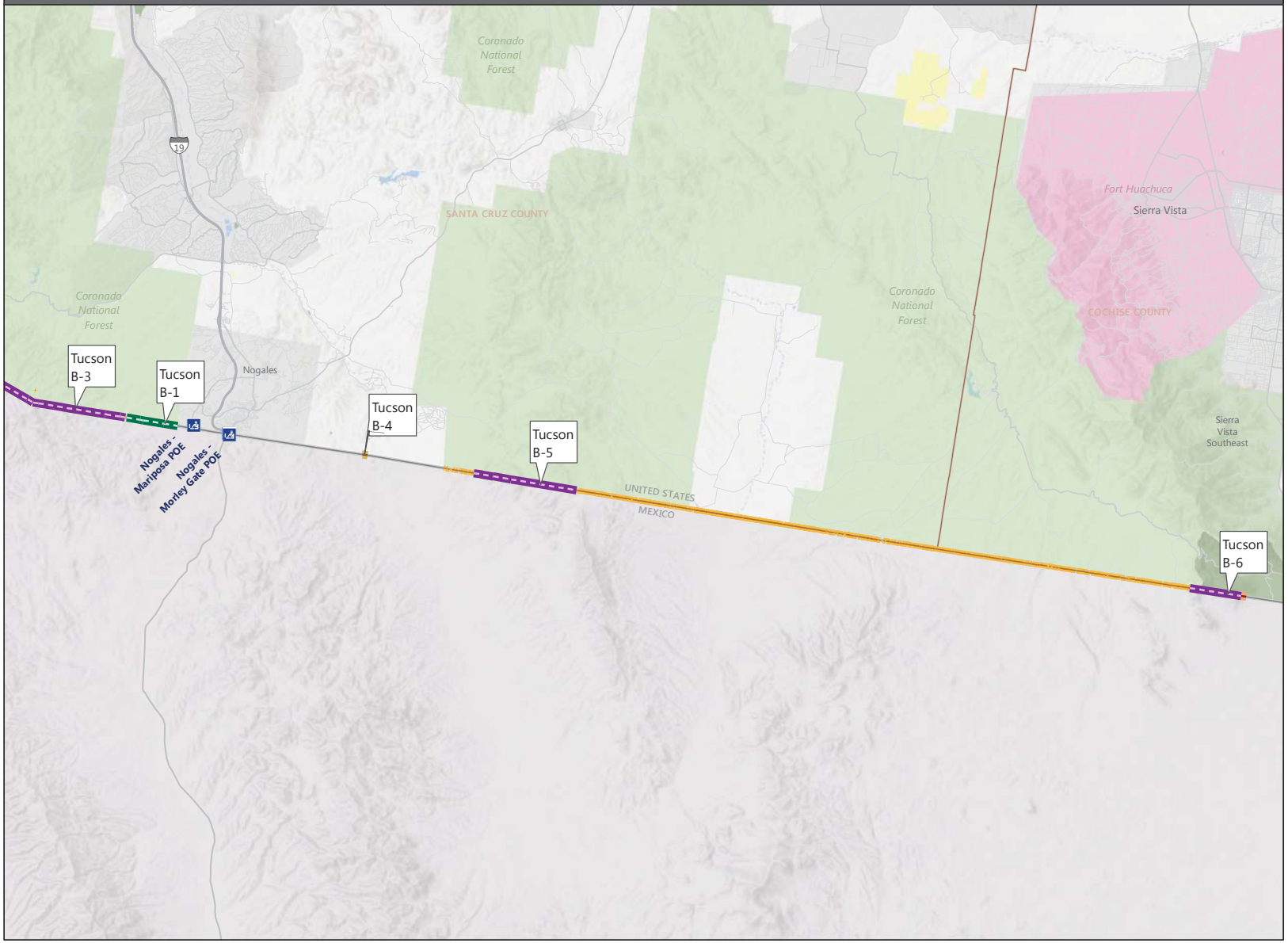


Exhibit I Tucson Projects



LEGEND

Existing Vehicle Barrier

Proposed Projects

Primary Pedestrian Barrier

Primary Pedestrian Barrier Replacement

Vehicle to Pedestrian Barrier Conversion

Other Ongoing Projects

Border Barrier (funded FY19)

**If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.*

1 in = 3.92 mi 1:248,262

AREA ENLARGED

Map Request 600v10.1

April 16, 2020

Exhibit I Tucson Projects

LEGEND

Existing Vehicle Barrier

Proposed Projects

Primary Pedestrian Barrier Replacement

Secondary Barrier Replacement

Other Ongoing Projects

Border Barrier (funded FY19)

**If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.*

1 in = 2.93 mi 1:185,603

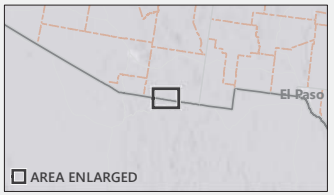
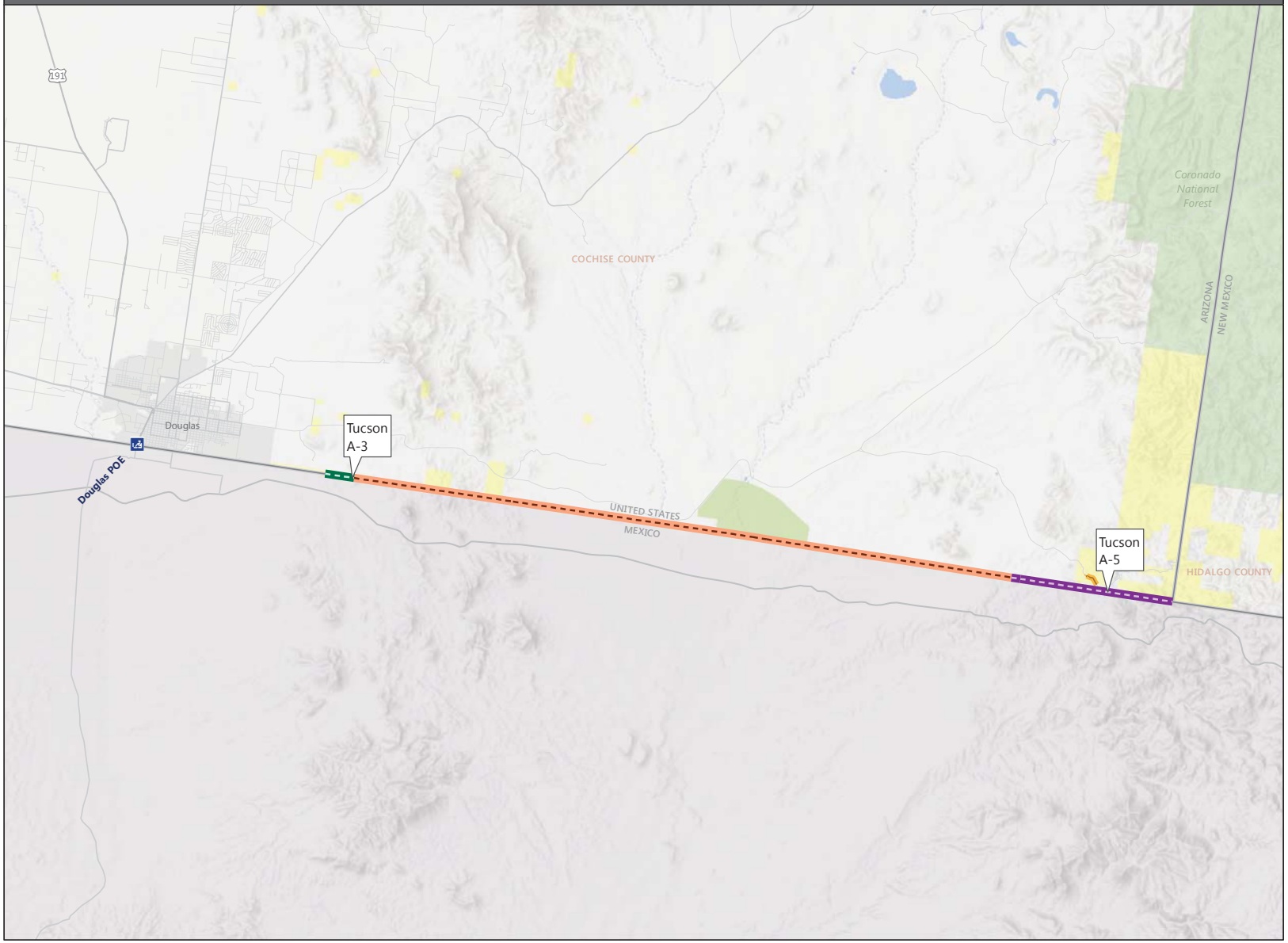


Exhibit I Tucson Projects



LEGEND

- Existing Pedestrian Barrier
- Existing Vehicle Barrier

Proposed Projects

- Primary Pedestrian Barrier
- Primary Pedestrian Barrier Replacement

Other Ongoing Projects

- Border Barrier (funded FY19)

**If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.*

1 in = 2.84 mi 1:180,231

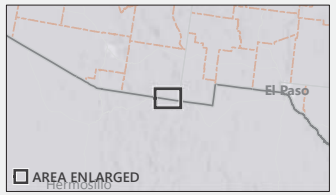


EXHIBIT J

190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95, 93 Stat. 721 (Oct. 31, 1979) (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, 74 Stat. 220 (June 27, 1960) as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); Wild and Scenic Rivers Act (Pub. L. 90–542, 82 Stat. 906 (Oct. 2, 1968) (16 U.S.C. 1271 *et seq.*)); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub L. 94–579, 90 Stat. 2743 (Oct. 21, 1976) (43 U.S.C. 1701 *et seq.*)); the Wilderness Act (Pub. L. 88–577, 78 Stat. 890 (Sept. 3, 1964) (16 U.S.C. 1131 *et seq.*)); sections 101(a)(14), 101(a)(17), and 101(b) of Title I of the Arizona Wilderness Act of 1984 (Pub. L. 98–406, 98 Stat. 1486 (August 28, 1984)); the National Wildlife Refuge System Administration Act (Pub. L. 89–669 (16 U.S.C. 668dd–668ee)); the National Wildlife Refuge System Improvement Act of 1997 (Pub. L. 105–57); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 70 Stat. 1119 (Aug. 8, 1956) (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121, 48 Stat. 401 (March 10, 1934) (16 U.S.C. 661 *et seq.*)); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Rivers and Harbors Act of 1899 (33 U.S.C. 403); the National Park Service Organic Act and the National Park Service General Authorities Act (Pub. L. 64–235, 39 Stat. 535 (Aug. 25, 1916) and Pub. L. 91–383, 84 Stat. 825 (Aug. 18, 1970) as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 1, 2–4 and 16 U.S.C. 1a–1 *et seq.,* now codified at 54 U.S.C. 100101–100102, 54 U.S.C. 100301–100303, 54 U.S.C. 100501–100507, 54 U.S.C. 100701–100707, 54 U.S.C. 100721–100725, 54 U.S.C. 100751–100755, 54 U.S.C. 100901–100906, 54 U.S.C. 102101–102102)); Arizona-Idaho Conservation Act of 1988 (Pub. L. 100–696, 102 Stat. 4571 (Nov. 18, 1988) (16 U.S.C. 460xx)); 16 U.S.C. 450y (Pub. L. 77–216, 55 Stat. 630 (Aug. 18, 1941), as amended by Pub. L. 82–478, 66 Stat. 510 (July 9, 1952)); 67 Stat. c18 (Nov. 5, 1952); National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*); Multiple-Use and Sustained-Yield Act of 1960 (16 U.S.C. 528–531); 16 U.S.C. 472; 16 U.S.C. 551; the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); and the American Indian Religious Freedom Act (42 U.S.C. 1996).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

Acting Secretary of Homeland Security.

[FR Doc. 2020–05349 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Luna County, New Mexico, Doña Ana County, New Mexico, and El Paso County, Texas.

DATES: This determination takes effect on March 16, 2020.

SUPPLEMENTARY INFORMATION:

Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of

1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's El Paso Sector is an area of high illegal entry. In fiscal year 2019, the United States Border Patrol (''Border Patrol'') apprehended over 182,000 illegal aliens attempting to enter the United States between border crossings in the El Paso Sector. Also in fiscal year 2019, there were over 400 drug-related events between border crossings in the El Paso Sector, through which the Border Patrol seized over 11,000 pounds of marijuana, over 137 pounds of cocaine, over 35 pounds of heroin, over 340 pounds of methamphetamine, and over two pounds of fentanyl. Additionally, Luna County, New Mexico, Doña Ana County, New Mexico, and El Paso County, Texas, which are located in the El Paso Sector, have been identified as High Intensity Drug Trafficking Areas by the Office of National Drug Control Policy.

Due to the high levels of illegal entry of people and drugs within the El Paso Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the El Paso Sector. Therefore, DHS will take immediate action to construct new primary pedestrian fencing and replace existing primary pedestrian and secondary fencing in the El Paso Sector. The segments within which such construction will occur are referred to herein as the ''project areas'' and are more specifically described in Section 2 below.

The existing pedestrian and secondary fencing within the project areas no longer meets Border Patrol's operational needs. The existing pedestrian and secondary fencing is not of sufficient height. Further, the existing pedestrian fencing was constructed with thinner materials that are easily breached. It therefore does not provide the level of impedance necessary to meet Border Patrol's operational needs. Both will be replaced with fencing that has a more operationally effective design. In addition, the construction of new fencing in the El Paso Sector is intended to slow or stop illegal activity. Increasing the level of impedance will improve Border Patrol's ability to respond to narcotics smuggling and illegal entries. Within the project areas roads will also be constructed or improved and lighting will be installed.

To support DHS's action under section 102 of IIRIRA, I requested that the Secretary of Defense, pursuant to 10 U.S.C. 284(b)(7), assist by constructing fence, roads, and lighting within the El Paso Sector in order to block drug smuggling corridors across the international boundary between the United States and Mexico. The Secretary of Defense has concluded that the support requested satisfies the statutory requirements of 10 U.S.C. 284(b)(7) and that the Department of Defense will provide such support in the project areas described in Section 2 below.

Section 2

I determine that the following areas in the vicinity of the United States border, located in the State of Texas and the State of New Mexico within the United States Border Patrol's El Paso Sector, are areas of high illegal entry (the ''project areas''):

- Starting at approximately Border Monument 33 and extending east for approximately three (3) miles;
- Starting at approximately Border Monument 24 and extending east to approximately Border Monument 20;
- Starting approximately two and one-half (2.5) miles west of Border Monument 4 and extending east to approximately one-half (0.5) of a mile east of Border Monument 3;
- Starting approximately one and one-quarter (1.25) miles east of Border Monument 3 and extending east to approximately Border Monument 2;
- Starting at approximately the New Mexico—Texas state line and generally following the International Boundary and Water Commission levee south and east for approximately two (2) miles;
- Starting approximately one-half (0.5) of a mile north and west of the Paso Del Norte Port of Entry and generally following the International Boundary and Water Commission levee east to approximately one-half (0.5) of a mile south and east of the Bridge of the Americas Port of Entry; and
- Starting approximately one and one-half (1.5) miles south and east of the Bridge of the Americas Port of Entry and generally following the International Boundary and Water Commission levee south and east to approximately nine (9) miles south and east of the Tornillo Port of Entry.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project areas pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project areas, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project areas, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C.

100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub. L. 94–579 (43 U.S.C. 1701 *et seq.*)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*)); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Wild and Scenic Rivers Act (Pub. L. 90–542 (16 U.S.C. 1281 *et seq.*)); the Rivers and Harbors Act of 1899 (33 U.S.C. 403); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); and the American Indian Religious Freedom Act (42 U.S.C. 1996).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

Acting Secretary of Homeland Security.

[FR Doc. 2020–05348 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Yuma County, Arizona, and Imperial County, California.

DATES: This determination takes effect on March 16, 2020.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

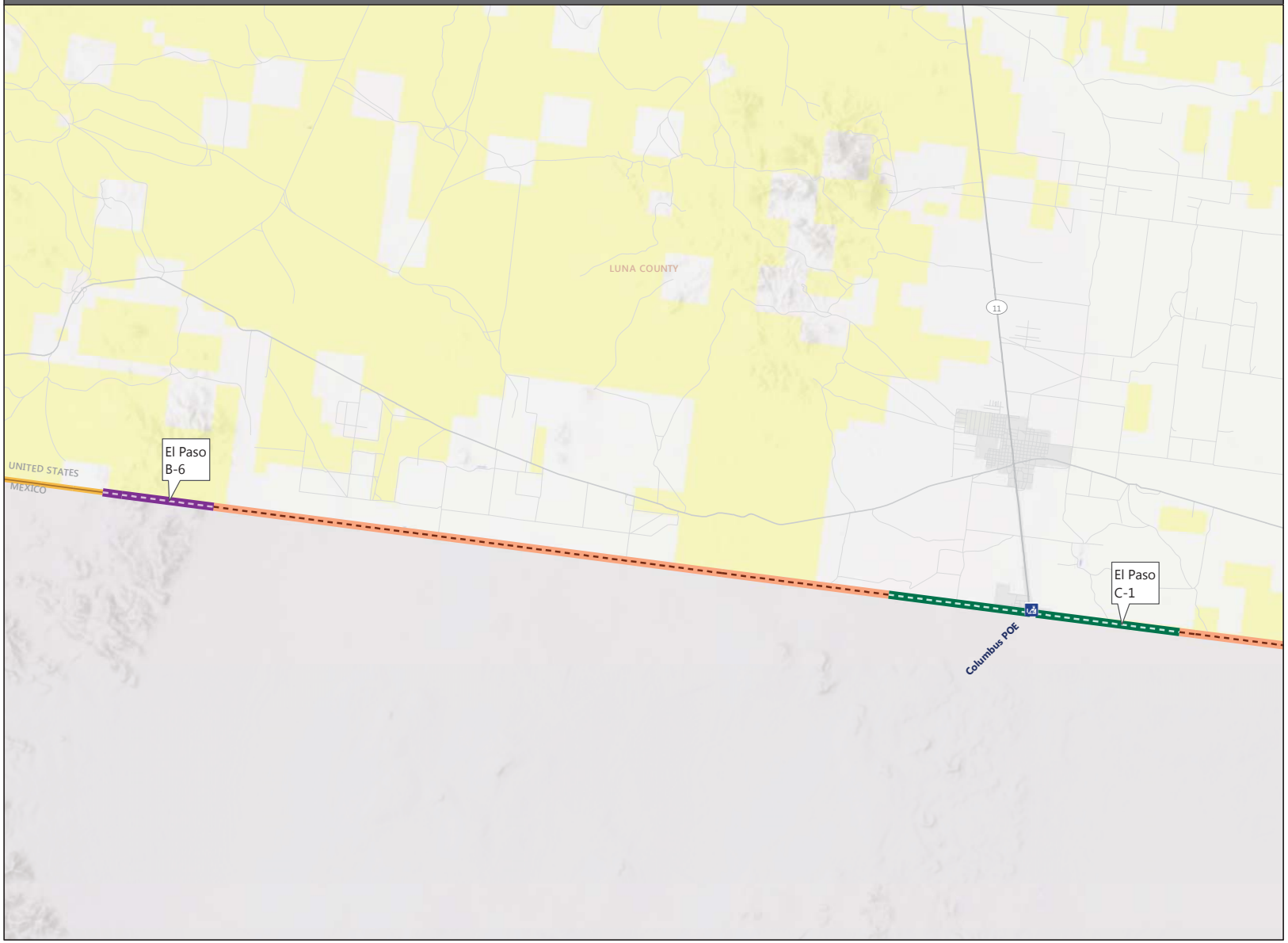
Determination and Waiver

Section 1

The United States Border Patrol's Yuma Sector is an area of high illegal entry. In fiscal year 2019, the United States Border Patrol (''Border Patrol'') apprehended over 68,000 illegal aliens attempting to enter the United States between border crossings in the Yuma Sector. Also in fiscal year 2019, there were over 800 drug-related events between border crossings in the Yuma Sector, through which Border Patrol seized over 3,000 pounds of marijuana, over 33 pounds of heroin, over 1,186 pounds of methamphetamine, and over 50 pounds of fentanyl. Additionally, Yuma County, Arizona, which is located in the Yuma Sector, and Imperial County, California, a portion of which is located in the Yuma Sector, have been identified as a High Intensity Drug Trafficking Area by the Office of National Drug Control Policy.

EXHIBIT K

Exhibit K El Paso Projects



LEGEND

Existing Vehicle Barrier

Proposed Projects

Primary Pedestrian Barrier

Primary Pedestrian Barrier Replacement

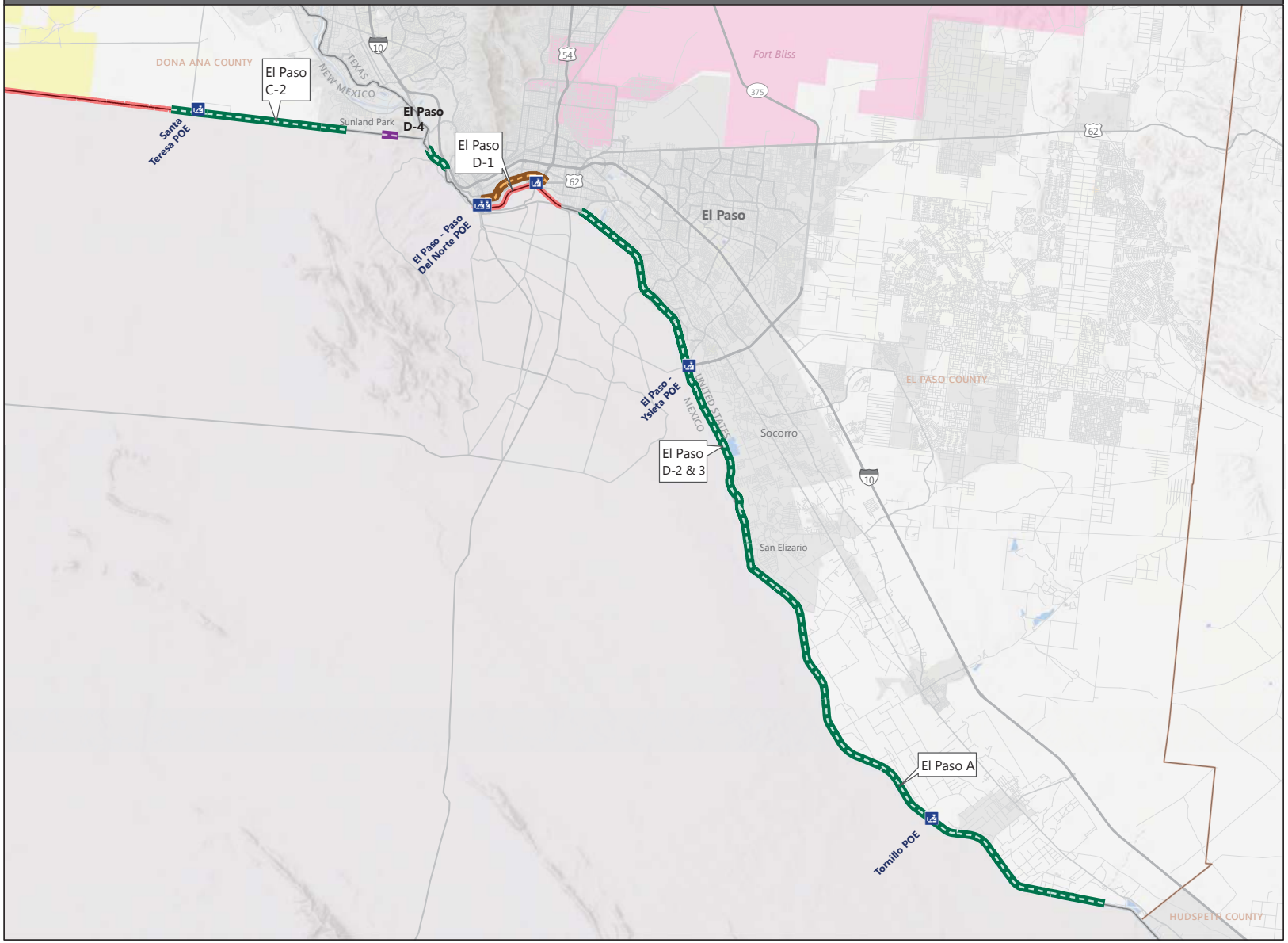
Other Ongoing Projects

Border Barrier (funded FY19)

**If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.*

1 in = 2.08 mi 1:131,879

Exhibit K El Paso Projects



LEGEND

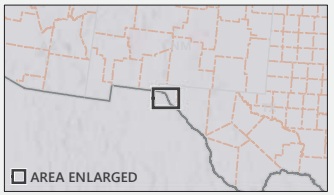
- Existing Pedestrian Barrier

Proposed Projects

- Primary Pedestrian Barrier
- Primary Pedestrian Barrier Replacement
- Secondary Barrier Replacement

If sheet measures less than 11x17" it is a reduced print. Reduce scale accordingly.

1 in = 3.87 mi 1:245,017



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Map Request 600v10.1

April 16, 2020

EXHIBIT L

respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: National Survey of Substance Abuse Treatment Services (N–SSATS) (OMB No. 0930–0106)—Extension

The Substance Abuse and Mental Health Services Administration (SAMHSA) is requesting an extension of the National Survey of Substance Abuse Treatment (N–SSATS) data collection (OMB No. 0930–0106), which expires on September 30, 2020. N–SSATS provides both national and state-level data on the numbers and types of patients treated and the characteristics of facilities providing substance abuse treatment services. It is conducted under the authority of Section 505 of the Public Health Service Act (42 U.S.C. 290aa–4) to meet the specific mandates for annual information about public and private substance abuse treatment providers and the clients they serve.

This request includes:

- Collection of N–SSATS, which is an annual survey of substance abuse treatment facilities; and
- Updating of the Inventory of Behavioral Health Services (I–BHS) which is the facility universe for the N–SSATS. I–BHS is also the facility universe for the annual survey of mental health treatment facilities, the National Mental Health Services Survey (N–MHSS). The I–BHS includes all substance abuse treatment and mental health treatment facilities known to SAMHSA. (The N–MHSS data collection is covered under OMB No. 0930–0119.)

The information in I–BHS and N–SSATS is needed to assess the nature and extent of these resources, to identify gaps in services, and to provide a database for treatment referrals. Both I–BHS and N–SSATS are components of the Behavioral Health Services Information System (BHSIS).

The request for OMB approval will include a request to update the I–BHS facility listing on a continuous basis and to conduct the N–SSATS and the between cycle N–SSATS (N–SSATS BC) in 2021, 2022, and 2023. The N–SSATS BC is a procedure for collecting services data from newly identified facilities between main cycles of the survey and will be used to improve the listing of treatment facilities in the online Behavioral Health Treatment Services Locator.

Estimated annual burden for the BHSIS activities is shown below:

Type of respondent and activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
States					
I–BHS Online [1]	56	75	4,200	0.08	336
State Subtotal	56		4,200		336
Facilities					
I–BHS application [2]	800	1	800	0.08	64
Augmentation screener	1,300	1	1,300	0.08	104
N–SSATS questionnaire	17,000	1	17,000	0.67	11,333
N–SSATS BC	1,000	1	1,000	0.58	580
Facility Subtotal	20,100		20,100		12,081
Total	20,156		24,300		12,417

[1] States use the I–BHS Online system to submit information on newly licensed/approved facilities and on changes in facility name, address, status, etc.

[2] New facilities complete and submit the online I–BHS application form in order to get listed on the Inventory.

Send comments to Carlos Graham, SAMHSA Reports Clearance Officer, 5600 Fisher Lane, Room 15E57A, Rockville, MD 20852 *OR* email him a copy at *carlos.graham@samhsa.hhs.gov.* Written comments should be received by May 15, 2020.

Carlos Graham,

Social Science Analyst.

[FR Doc. 2020–05274 Filed 3–13–20; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Val Verde County, Texas, and Maverick County, Texas.

DATES: This determination takes effect on March 16, 2020.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, section 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other

unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's Del Rio Sector is an area of high illegal entry. In fiscal year 2019, the United States Border Patrol (''Border Patrol'') apprehended over 57,000 illegal aliens attempting to enter the United States between border crossings in the Del Rio Sector. Also in fiscal year 2019, there were over 146 drug-related events between border crossings in the Del Rio Sector, through which Border Patrol seized over 40 pounds of marijuana, over 15 pounds of cocaine, over 24 pounds of heroin, and over 195 pounds of methamphetamine. Additionally, Val Verde County, Texas, and Maverick County, Texas, which are located in the Del Rio Sector, have been identified as a High Intensity Drug Trafficking Area by the Office of National Drug Control Policy.

Due to the high levels of illegal entry of people and drugs within the Del Rio Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the Del Rio Sector. Therefore, DHS will take immediate action to replace existing pedestrian fencing in the Del Rio Sector. The segments within which such construction will occur are referred to herein as the ''project areas'' and are more specifically described in Section 2 below.

The current pedestrian barrier in the Del Rio Sector does not provide the level of impedance necessary to effectively secure the border. Transnational criminal organizations frequently defeat and exploit the existing fencing for narcotics and human smuggling due to its inferior design and dilapidated condition. Construction of new fencing with a more operational effective design will allow Border Patrol to secure the border more effectively. Within the project areas roads will also be constructed or improved and lighting will be installed.

To support DHS's action under section 102 of IIRIRA, I requested that the Secretary of Defense, pursuant to 10 U.S.C. 284(b)(7), assist by constructing fence, roads, and lighting within the Del Rio Sector in order to block drug smuggling corridors across the international boundary between the United States and Mexico. The Secretary of Defense has concluded that the support requested satisfies the statutory requirements of 10 U.S.C. 284(b)(7) and that the Department of Defense will provide such support in the project areas described in Section 2 below.

Section 2

I determine that the following areas in the vicinity of the United States border, located in the State of Texas within the United States Border Patrol's Del Rio Sector, are areas of high illegal entry (the ''project areas''):

- Starting approximately two and one-half (2.5) miles north and west of the Del Rio Port of Entry and extending south and east for approximately three and one-half (3.5) miles; and
- Starting approximately one-half (0.5) mile south of the Eagle Pass II Port of Entry and extending north for approximately three (3) miles.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project areas pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project areas, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project areas, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended:

The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95, 93 Stat. 721 (Oct. 31, 1979) (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the Safe Drinking Water Act (42

U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, 74 Stat. 220 (June 27, 1960) as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified at 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121, 48 Stat. 401 (March 10, 1934) (16 U.S.C. 661 *et seq.*)); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Rivers and Harbors Act of 1899 (33 U.S.C. 403); the Wild and Scenic Rivers Act (Pub. L. 90–542 (16 U.S.C. 1281 *et seq.*)); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); and the American Indian Religious Freedom Act (42 U.S.C. 1996).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Dated: March 11, 2020.

Chad F. Wolf,

Acting Secretary of Homeland Security.

[FR Doc. 2020–05347 Filed 3–13–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2019–0047]

Privacy Act of 1974; System of Records

AGENCY: Department of Homeland Security.

ACTION: Notice of new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled, ''Department of Homeland Security/ALL–043 Enterprise Biometric Administrative Records (EBAR) System of Records (SOR).'' This system of records allows the DHS to collect and maintain administrative and technical records associated with the enterprise biometric system known as the Automated Biometric Identification System (IDENT) and its successor information technology system, currently in development, called the Homeland Advanced Recognition Technology (HART).

Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) to exempt this system of records from certain provisions of the Privacy Act, elsewhere in the **Federal Register**. This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before April 10, 2020. This new system will be effective upon publication, with the exception of the routine uses, which will become effective April 10, 2020.

ADDRESSES: You may submit comments, identified by docket number DHS–2019–0047 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

Instructions: All submissions received must include the agency name and docket number DHS–2019–0047. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions and for privacy issues, please contact: Jonathan R. Cantor, *privacy@hq.dhs.gov,* (202) 343–1717, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION:

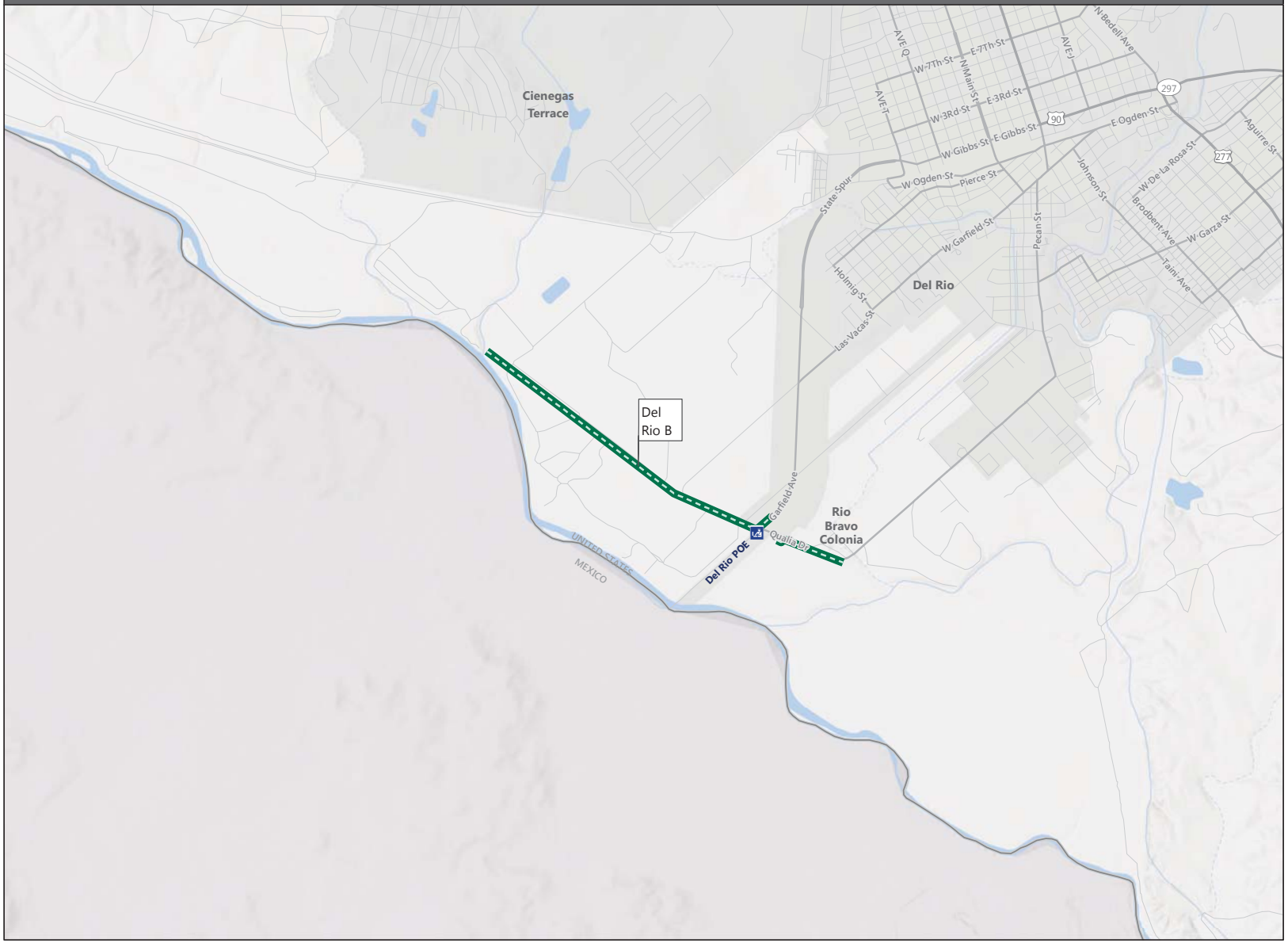
I. Background

In 2007, DHS published the DHS/US–VISIT–001 DHS Automated Biometric Identification System (IDENT), 72 FR 31080 (June 5, 2007) system of records notice (SORN). The IDENT SORN covered biometric holdings for the entire Department. Since then, the Department's Privacy Act framework and technology for enterprise biometrics has evolved as the Department has matured. DHS Component SORNs now cover the collection, maintenance, and use of the biometrics records collected directly by each Component. The Department, however, still published a SORN to cover biometrics first collected and received from non-DHS entities, DHS/ALL–041 External Biometric Records (EBR) SORN, 83 FR 17829 (April 24, 2018), which governs the maintenance and use of biometrics and associated biographic information received from non-DHS entities. DHS is establishing DHS/ALL–043 Enterprise Biometric Administrative Records (EBAR) to cover the administrative and technical records associated with the enterprise biometric system, known as the Automated Biometric Identification System (IDENT) and its successor information technology system, currently in development, called the Homeland Advanced Recognition Technology (HART). Together, the EBAR SORN, EBR SORN, and the underlying Component SORNs will replace the IDENT and Technical Reconciliation Analysis Classification System (TRACS) SORNs. DHS will rescind the IDENT and TRACS SORNs by publishing a *notice of rescindment* in the **Federal Register**, following publication of this SORN.

The Office of Biometric Identity Management (OBIM) maintains the Department's primary repository of biometric information held by DHS in connection with varied missions and functions, including law enforcement; national security; immigration screening; border enforcement; intelligence; national defense; background investigations relating to national security positions; and credentialing consistent with applicable DHS authorities.

The primary repository, currently IDENT and its successor information technology (IT) system, HART, is a centralized and dynamic DHS-wide biometric database that also contains limited biographic and encounter history information needed to place the biometric information in proper context. The information is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by Federal, State, local, tribal, foreign, or international agencies, consistent with

Exhibit M Del Rio Projects



LEGEND

Proposed Projects

Primary Pedestrian Barrier Replacement

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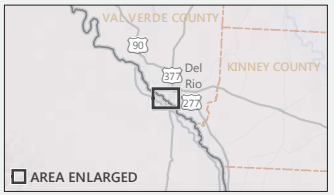
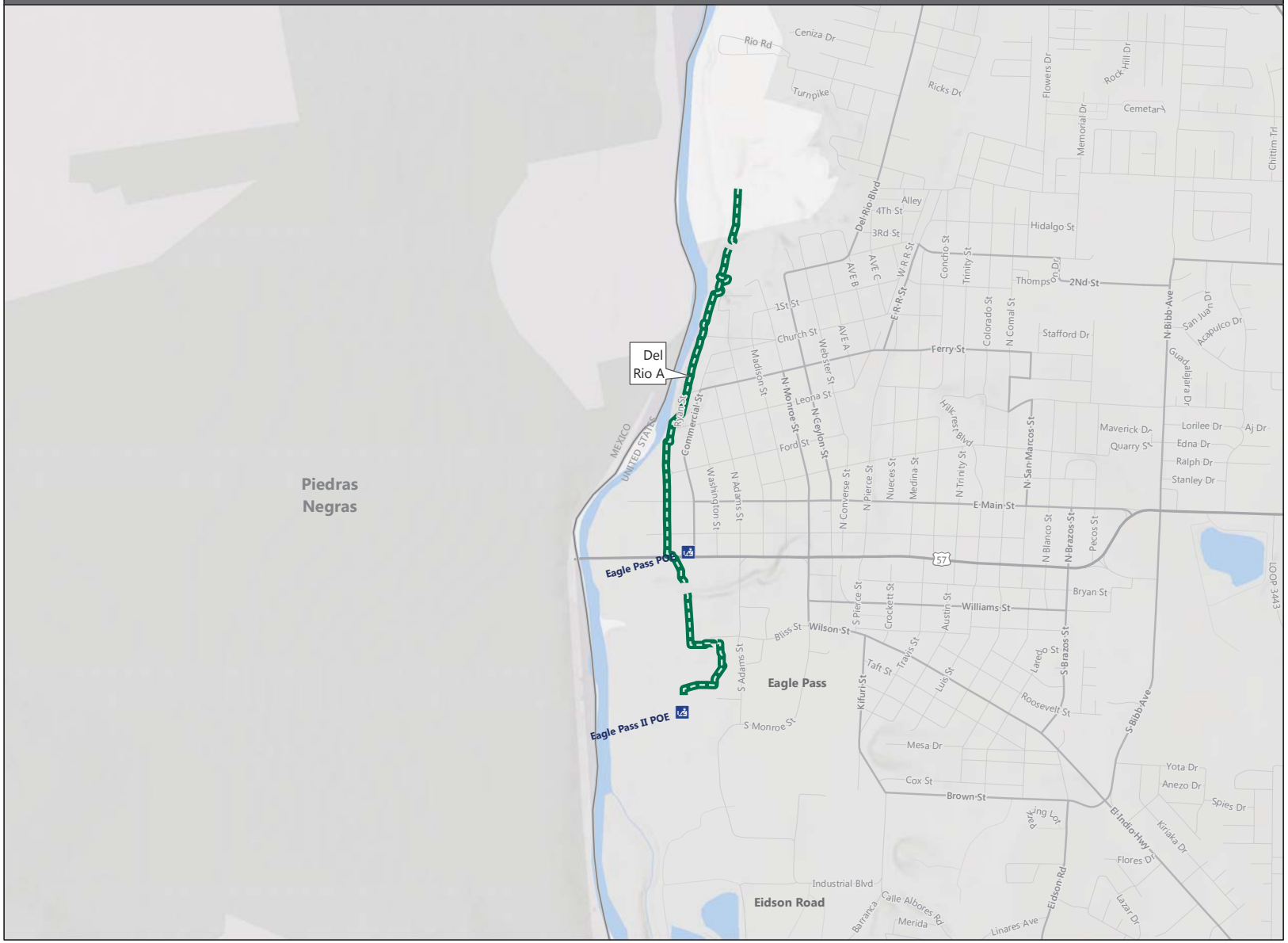


Map Request 600v10.1

April 16, 2020

Exhibit M Del Rio Projects



LEGEND

Proposed Projects

Primary Pedestrian Barrier Replacement

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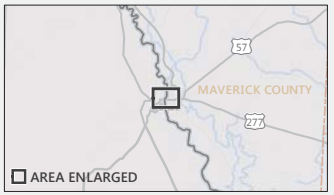

Map Request 600v10.1

April 16, 2020

EXHIBIT M