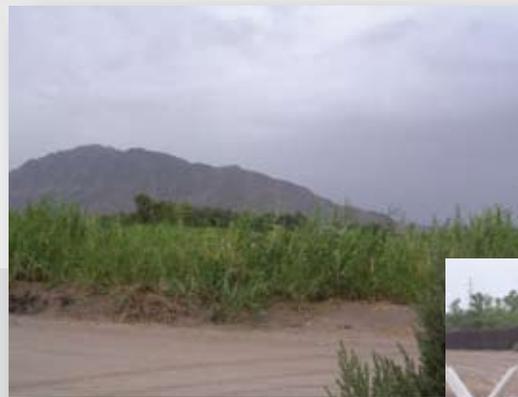




# RESPONSE TO PUBLIC COMMENTS FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF TACTICAL INFRASTRUCTURE U.S. Border Patrol El Centro Sector, California



U.S. Department of Homeland Security  
U.S. Customs and Border Protection  
U.S. Border Patrol



**JUNE 2008**





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**RESPONSE TO PUBLIC COMMENTS  
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TACTICAL INFRASTRUCTURE  
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# 1. Response to Public Comments

## 1.1 Introduction

On April 1, 2008, the Secretary of the U.S. Department of Homeland Security (DHS), pursuant to his authority under Section 102(c) of Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, as amended, exercised his authority to waive certain environmental and other laws in order to ensure the expeditious construction of tactical infrastructure along the U.S./Mexico international border. Although the Secretary's waiver means that CBP no longer has any specific legal obligations under the laws that are included in the waiver, the Secretary committed DHS to continue responsible environmental stewardship of valuable natural and cultural resources. CBP strongly supports the Secretary's commitment to responsible environmental stewardship.

U.S. Customs and Border Protection (CBP) is continuing to work in a collaborative manner with local government, state and federal land managers, and the interested public to identify environmentally sensitive resources and develop appropriate best management practices (BMPs) to avoid or minimize adverse impacts resulting from the construction of tactical infrastructure.

CBP prepared an Environmental Stewardship Plan (ESP) that analyzes the potential environmental impacts associated with construction of tactical infrastructure in the U.S. Border Patrol (USBP) El Centro Sector. The infrastructure will consist of approximately 44.6 miles of primary pedestrian and vehicle fence, lights, and access and patrol roads. The ESP also describes measures CBP has identified—in consultation with federal, state and local agencies—to avoid, minimize, or mitigate impacts to the environment. The ESP will guide CBP's efforts going forward. The tactical infrastructure described in the ESP for the USBP El Centro Sector is covered by the Secretary's April 1, 2008 waiver.

This document has been prepared to provide responses to public comments received on the Draft Environmental Assessment (EA). **Table 1-1** lists the Draft EA commenters and presents the comments and responses, which have been incorporated into the ESP as applicable.

## 1.2 Draft EA Public Involvement Process

On December 26, 2007, CBP published a Notice of Availability (NOA) and Public Open House announcement in the *Imperial Valley Press* announcing the availability of a Draft EA for Construction, Operation, and Maintenance of Tactical Infrastructure, U.S. Border Patrol El Centro Sector, California, for public review and comment. The NOA announced the availability of the Draft EA; the date, time, and place for the public open house; and publicized a request for comments on the Draft SEA. Additionally, the release of the Draft EA initiated a formal 30-day public comment period that ended 24 January 2008.

CBP hosted a public open house in Imperial, California, to provide an overview of the Draft EA and accept public comment. The open house was attended by 4 people. Newspaper notices, the [www.BorderFenceNEPA.com](http://www.BorderFenceNEPA.com) Web site, and the public open

house were used to request public input and to disseminate information about draft alternatives and their effects (see **Figure 1-1**).

CBP received 9 submissions by fax, by email, through the project specific Web site, and by regular mail from the public, federal and state agencies, and a nongovernmental organization (Defenders of Wildlife). There were no oral or written comments received at the public open house. A list of commenters on the Draft EA is provided in **Section 1-1**.

From the 9 submissions (e.g., letters, emails) received on the Draft EA, approximately 69 individual comments were extracted and responses are included in **Table 1-1**.

### **1.3 Methodology for Analyzing Comments**

CBP went through a process of analyzing each comment and developing responses to comments on the Draft EA. Comments covered a wide spectrum of specific and non-specific thoughts, opinions, ideas and concerns. Respondents invested considerable time and effort to submit comments on the Draft EA. Agency and public comments on the Draft EA were considered and incorporated into the analysis of potential environmental impacts in the ESP as applicable. Due to the issuance of the Secretary's waiver, some comments related to elements of the National Environmental Policy Act (NEPA) process are not applicable to the ESP analysis and have not been directly addressed in the ESP.

Comments and responses are presented in the following order:

#### **Federal Agency Correspondence**

- U.S. Environmental Protection Agency (USEPA)
- U.S. International Boundary and Water Commission (USIBWC)
- Department of the Interior (DOI)
- Bureau of Land Management (BLM)

#### **State and Local Agency Correspondence**

- Imperial County Air Pollution Control District (ICAPCD)

#### **Stakeholder Organizations**

- Defenders of Wildlife (DOW)

Imperial Valley Press

Wednesday, December 26, 2007

### Notice of Availability and Public Open House Announcement

#### Draft Environmental Assessment (EA) for Construction, Operation, and Maintenance of the Proposed Tactical Infrastructure U.S. Border Patrol (USBP) El Centro Sector, California

The U.S. Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) announces the availability of and invites public comment on the Draft EA. Pursuant to the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., CBP has prepared the Draft EA to identify and assess the potential impacts associated with the proposed construction, operation, and maintenance of tactical infrastructure to include primary pedestrian fence, primary vehicle fence, access roads, patrol roads, and lights along approximately 45 miles of the U.S./Mexico international border within USBP El Centro Sector, California (the Proposed Action). The Proposed Action would be implemented in six distinct fence sections. Individual sections would range from approximately 2 to 19 miles in length. The purpose of the Proposed Action is to assist USBP agents in gaining effective control of the U.S. border between Ports of Entry in the USBP El Centro Sector.

The Draft EA complies with NEPA, the Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500-1508, and DHS Management Directive 5100.1 ([Environmental Planning Program](#)). Copies of the Draft EA can be downloaded from the project Web site at [www.BorderFenceNEPA.com](http://www.BorderFenceNEPA.com), or <https://ecso.swf.usace.army.mil/Pages/Publicreview.cfm>, or by emailing: [information@BorderFenceNEPA.com](mailto:information@BorderFenceNEPA.com). To request a hard copy of the Draft EA, you may call toll-free (877-752-0420). Hard copies of the Draft EA can be reviewed at the Camarena Memorial Library (850 Encinas Avenue, Calexico, CA 92231, (760) 768-2170); El Centro Public Library (539 State Street, El Centro, CA 92243, (760) 337-4565); Imperial County Free Library System (331 South Clark Road, Building 24, El Centro, CA 92243, (760) 339-6460); and the Community Center Branch Library (375 South 1st Street, El Centro, CA 92243, (760) 336-8977).

CBP invites public comment on the Draft EA. A public open house will be held on January 9, 2008, from 4:30 p.m. to 8:00 p.m. at the Imperial Valley Expo, 200 East Second Street, Imperial, CA.

Pursuant to the CEQ's regulations, CBP invites public participation in the NEPA process. In order to be considered for inclusion in the Final EA, comments on the Draft EA must be received by January 24, 2008. Please provide comments using only one of the following methods:

- (a) Attend and submit comments at the public open house to be held 4:30 p.m. to 8:00 p.m. on January 9, 2008 at the Imperial County Expo, 200 East Second Street, Imperial, CA
- (b) Electronically through the Web site at: [www.BorderFenceNEPA.com](http://www.BorderFenceNEPA.com)
- (c) By email to: [ECcomments@BorderFenceNEPA.com](mailto:ECcomments@BorderFenceNEPA.com)
- (d) By mail to: El Centro Sector Tactical Infrastructure EA, c/o e2M, 2751 Prosperity Avenue, Suite 200, Fairfax, Virginia 22031
- (e) By fax to: (757) 299-5585

When submitting comments, please include your name and address, and identify your comments as for the El Centro Sector Draft EA. Requests for information may be submitted to: Charles McGregor, U.S. Army Corps of Engineers, Engineering and Construction Support Office, 819 Taylor Street, Room 3B10, Fort Worth, Texas 76102; and fax: (757) 299-5585.

**Figure 1-1. Notice of Availability and Public Open House Announcement**

**Table 1-1. Summary of Public Comments Response Matrix**

#	Reviewer	Comment	Response
1	EPA Letter 1-22-08	The DEA does not fully disclose impacts to wetlands and waters of the U.S. and how these impacts will be mitigated to below levels of significance. The Final EA should include an evaluation of the project alternatives in this context to demonstrate the project's compliance with the 404(b)(1) Guidelines.	Please see Chapter 6.2.3 of the ESP, which discusses the existing wetlands and impacts to those wetlands.
2	EPA Letter 1-22-08	The DEA does not fully disclose impacts to biological resources, including threatened and endangered species, and how these impacts will be mitigated to below levels of significance.	Please see Chapter 7 of the ESP, which discusses impacts to biological resources. In addition, the Biological Resources Plan (BRP) discusses specific Best Management Practices (BMPs) and mitigation of impacts on threatened and endangered species and other biological resources.
3	EPA Letter 1-22-08	The DEA also does not identify the type of primary pedestrian fence design that will be used for the 6 discreet fence segments, which will largely influence impacts.	Standard designs for primary pedestrian fence is included in Appendix B of the ESP. Section B-1 will be Normandy style primary vehicle fence. Sections B-2 B-3, B-4 and B-5A will be bollard style primary pedestrian fence. Section B-5B will be a special design to account for the dunes, designated as PV-4 in Appendix B. Appendix B has been revised to include this information in the ESP.
4	EPA Letter 1-22-08	EPA believes a comprehensive mitigation strategy should be developed for cumulative impacts resulting from several border fence and infrastructure projects that are occurring along the border.	CBP is coordinating with the Department of the Interior to include a programmatic compensation plan from construction of tactical infrastructure.
5	EPA Letter 1-22-08	EPA recommends that all mitigation measures supporting the FONSI be identified and their effectiveness evaluated in the Final EA.	Mitigation measures are included in the BRP in Appendix E of the ESP and Chapter 1.6.

#	Reviewer	Comment	Response
6	EPA Letter 1-22-08	The Final EA should include detailed, quantified information regarding direct, indirect, and cumulative impacts of the project on the function and acreage of wetlands and waters of the U.S. We recommend inclusion of a draft Construction, Mitigation, and Restoration (CM&R) Plan in the Final EA to support the FONSI.	A formal wetland jurisdictional survey was conducted January 17 through the 19, 2008. The description of the wetlands located within the Project area has been reflected to show the results of the jurisdictional wetland survey. Based upon the jurisdictional wetland survey, it is expected that approximately 8.48 acres of jurisdictional wetlands will be impacted by the Project (see ESP Chapter 6.2.2).
7	EPA Letter 1-22-08	EPA recommends expansion of the alternatives analysis, including evaluation of the use of additional agents and/or technology in environmentally sensitive areas in conjunction with primary fence and tactical infrastructure to avoid and minimize impacts.	On April 1, 2008, the Secretary of DHS, pursuant to his authority under Section 102(c) of IIRIRA of 1996, as amended, exercised his authority to waive certain environmental and other laws in order to ensure the expeditious construction of tactical infrastructure along the U.S./Mexico international border. Although the Secretary's waiver means that CBP no longer has any specific legal obligations for alternatives analysis under NEPA, the Secretary committed DHS to continue responsible environmental stewardship of our valuable natural and cultural resources. CBP has worked with resource agencies to consider alternative designs and locations that would minimize environmental impacts.
8	EPA Letter 1-22-08	EPA recommends improvements to the cumulative impacts analysis. EPA recommends the use of the June 2005 Guidance for Preparer's of Indirect and Cumulative Impacts Analysis developed jointly by Caltrans, FHWA, and EPA.	Please see Related Projects and Potential Effects (Chapter 11 of the ESP).

#	Reviewer	Comment	Response
9	EPA Letter 1-22-08	To the extent that information is available and obtainable, include an analysis of reasonable foreseeable impacts to the environment and communities on the Mexican side of the border in the Final EA.	During the scoping process, the issue of relations with Mexico was identified as a potential socioeconomic impact (Draft EA Appendix B). Chapter 1.5 of the ESP references the USIBWC as a coordinating agency and their responsibility regarding applicable treaty obligations between the U.S. and Mexico.
10	EPA Letter 1-22-08	Fence maintenance in waterways: It is not clear who would be responsible for ongoing maintenance of fences in wetland/riparian areas and streambeds to ensure flow. Please clarify in the Final EA who would be responsible for this maintenance and how it would be funded.	USBP would be responsible for the maintenance of the fence and an annual budget would be allocated.
11	EPA Letter 1-22-08	EPA recommends that the Final EA estimate the quantity of water expected to be used, the source of this water, the measures of significance for evaluating water use, or whether water use for the project would result in significant impacts.	Chapter 6.1.3 addresses Project effects on water supply.
12	USIBWC Letter 1-22-08	As indicated in previous consultations with this agency, we recommend that final engineering drawings be submitted for review and approval prior to beginning any construction near the international boundary. These drawings must show the location of each component in relation to the international boundary, arroyo washes, and the boundary monuments.	Final engineering drawings will be provided to the USIBWC when available.
13	USIBWC Letter 1-22-08	In addition, we request that proposed construction activities be accomplished in a manner that does not change historic surface runoff characteristics at the international border.	Tactical infrastructure would not affect drainage in washes. However, it might not be practical to design the tactical infrastructure to not modify sheet flow runoff throughout the Project area.
14	USIBWC Letter 1-22-08	We will require assurances that structures constructed along the United States-Mexico border are maintained in an adequate manner and that liability issues created by these structures are addressed.	CBP will ensure that tactical infrastructure would be adequately maintained.

#	Reviewer	Comment	Response
15	DOI Letter 2-8-08	The EA does not adequately address indirect and cumulative impacts.	CBP has considered the past, present, and reasonably foreseeable projects (see Chapter 11 of the ESP) that could impact future actions when combined with the impacts of the Project within the Project corridor.
16	DOI Letter 2-8-08	We have concerns regarding (1) incomplete project description, (2) adequacy of analysis of effects on natural resources, (3) sufficiency of proposed mitigation measures, and (4) conclusion that environmental effects of the proposed project are not significant.	CBP is coordinating with the USFWS on the Project, impacts on sensitive species, and potential mitigation measure. Effect determinations on threatened and endangered species are included in the BRP (see Appendix E of the ESP).
17	DOI Letter 2-8-08	The EA is lacking necessary information to assess effects of the proposed on the following species: Yuma clapper rail, Pierson's milk-vetch, southwestern willow flycatcher, Peninsular bighorn sheep, burrowing owl, and the flat tailed horned lizard. Focused surveys were either not conducted at all, or conducted at an inappropriate time of the year. Direct and indirect impacts to these federal or state-listed species and candidate or potential candidate species, are not defined or analyzed sufficiently.	Impacts to the referenced listed species are addressed in the BRP (see Appendix E of the ESP).
18	DOI Letter 2-8-08	The project description does not provide maps or spatial representation of plant communities and listed/sensitive species habitat occurring within and surrounding the proposed impact area. Project area aerial photographs with species distribution and vegetation communities clearly identified should be included to assist effects analysis.	Vegetation maps are incorporated in the BSR.
19	DOI Letter 2-8-08	The EA should clearly describe project-related impacts (temporary and permanent) to each vegetation community and species habitat for all aspects of the project, including road widening, staging/lay down areas, new fence construction, and new road construction.	Vegetation impacts are included with the ESP. Impacts and mitigation measures to protected habitats are included in the BRP.

#	Reviewer	Comment	Response
20	DOI Letter 2-8-08	Without information on a definite fence design, lay-down areas, and access roads, or relevant biological information, the EA does not adequately assess adverse effects of the proposal or mitigation measures needed to reduce impacts to a level of insignificance.	Thank you. The ESP provides the requested locations and the construction lay-down/staging areas and access roads have been field evaluated and the plant communities and land use types have been delineated on aerial photography for automation in a GIS. From this digital product, acreages by vegetation and land use type have been calculated to inform the impact analysis in the ESP. A complete description and illustration of biological resources, including wetlands and rare species habitat, has been prepared in the BSR (Appendix D of the ESP), which also serves to inform the impact analyses. To the extent possible CBP has selected construction lay-down sites that were previously disturbed to reduce the effect to biological resources.
21	DOI Letter 2-8-08	Throughout the document, discussion and assessment of effects of construction activities should be expanded and clarified. Indirect impacts that should be assessed include, but may not be limited to, (1) redirection of immigrant traffic to unsecured areas of the border that may impacts wildlife habitat, (2) construction of access roads and use of staging areas that are not included in proposed 60-foot wide right of way, and (3) effects of construction noise on wildlife.	Analysis of these activities is included in the ESP.
22	DOI Letter 2-8-08	We recommend that DHS work with us in an attempt to design the project in a way that avoids and minimizes adverse effects, and may potentially avoid the need to initiate formal consultation under Section 7 of the Endangered Species Act. Unless more complete information is provided on project design and mitigation measures, it appears that initiation of formal consultation will be needed.	CBP has cooperated closely with USFWS throughout the environmental analysis, and incorporated USFWS input to the fullest extent practicable while still meeting the mission mandates.

#	Reviewer	Comment	Response
23	DOI Letter 2-8-08	The Draft EA does not adequately describe where Border Patrol intends to complete activities that will occur outside of the 60-foot wide Roosevelt Reservation. It is not clear in the Draft EA whether Border Patrol will need to go outside of the 60-foot Roosevelt Reservation, and where they will need to do so. BLM will need to review the areas planned to have staging areas and areas outside the Roosevelt Reservation, in order to assess what resources could be impacted during the proposed construction projects.	With the exception of access roads and some staging areas, all construction, operation, and maintenance activities would be within the 60-foot corridor. The access roads and staging areas are identified in the ESP.
24	DOI Letter 2-8-08	Please provide BLM with a map that identifies these areas (mentioned in comment 9-9).	With the exception of access roads and some staging areas, all construction, operation, and maintenance activities would be within the 60-foot corridor. The access roads and staging areas are identified in the ESP.
25	DOI Letter 2-8-08	The Draft EA does not specify the timeframe for the proposed fence construction. Please clarify whether construction will occur on a year-round basis until proposed action is complete, or if construction will occur only during certain times of year. Depending on which time of year construction will take place, there will be Special Status Species issues to consider. If construction will take place during winter months, Pierson's milkvetch will need to be surveyed and avoided in Imperial Sand Dunes Recreation Area. If construction will take place during summer months, Flat-tailed Horned lizards will need to be avoided and it is possible that a Flat-tailed Horned lizard monitor may need to be on site during construction activities.	Please see page ES-2 of the ESP, that states that certain priority miles of fencing "are to be completed by December of 2008".

#	Reviewer	Comment	Response
26	DOI Letter 2-8-08	Habitat compensation will need to be paid for any Flat-tailed Horned lizard habitat within East Mesa or Yuha Management Areas that is disturbed outside the Roosevelt Reservation.	These BMPs are addressed in the BRP. .
27	DOI Letter 2-8-08	Best management practices will need to be followed for the Flat-tailed Horned lizard, as outlined in the Flat-tailed Horned lizard Range-Wide Management Strategy.	These BMPs are addressed in the BRP.
28	DOI Letter 2-8-08	Please clarify which type of fence you intend to construct in Imperial Sand Dunes Recreation Area, and address impacts that will result from construction of that particular type of fence.	Section B-5B would be a special design to account for the dunes, designated as PV-4 in Appendix B.
29	DOI Letter 2-8-08	The technology alternative considered but not analyzed further should be analyzed further in the final EA. Technology may be used to minimize direct and indirect impacts that fence construction would produce, especially in an area like Imperial Sand Dunes, that is sparsely populated and where shifting sands make constructing a physical barrier such as a fence difficult.	On April 1, 2008, the Secretary of DHS, pursuant to his authority under Section 102(c) of IIRIRA of 1996, as amended, exercised his authority to waive certain environmental and other laws in order to ensure the expeditious construction of tactical infrastructure along the U.S./Mexico international border. Although the Secretary's waiver means that CBP no longer has any specific legal obligations for alternatives analysis under NEPA, the Secretary committed DHS to continue responsible environmental stewardship of our valuable natural and cultural resources. CBP has worked with resource agencies to consider alternative designs and locations that would minimize environmental impacts.
30	DOI Letter 2-8-08	We recommend that direct and indirect effects of lighting on biological resources be disclosed in this document if lighting might be used in the future. Although not a concern in already disturbed areas, any lighting proposed beyond B-3 should be avoided if feasible.	Lighting has been modified in coordination with USFWS.

#	Reviewer	Comment	Response
31	DOI Letter 2-8-08	The EA repeatedly states design criteria would be used to minimize adverse impacts on threatened or endangered species and their critical habitat, but does not describe where this has or will occur. If avoidance measures cannot be included in the design criteria, mitigation measures and best management practices should be used to mitigate impacts to levels that are less than significant	BMPs addressing federally listed species would also be applicable to general wildlife species and are addressed in the BRP.
32	DOI Letter 2-8-08	To accurately assess impacts of the proposed project, we recommend wetland delineation for the project be verified by the U.S. Army Corps of Engineers and that natural resource agencies be provided with a mitigation plan for any unavoidable impacts to wetlands and waters of the U.S. The mitigation plan should include a restoration plan for temporary impacts, as well as mitigation for all permanent and indirect impacts to jurisdictional areas.	A jurisdictional wetlands survey was conducted in consultation with the USACE, and mitigation measures will be implemented.
33	DOI Letter 2-8-08	Statements used throughout the document that the fence will have beneficial impact to wetland/riparian areas, vegetation, wildlife, and federally listed species (by reducing human activity and trash) have not been supported with data. This is important because impacts from vehicular activity and road maintenance would likely increase. Regardless, decision documents should include a thorough analysis of all direct, indirect, and cumulative impacts based on best available scientific information.	Thank you. The present level of human activity, pets, feral dogs and cats, and trash accumulation were observed during field research, noted, and photographed. Human activity observed included foot trails, motorbike and vehicle accesses, access for rafts, fishing, swimming, and strolling. Feral dogs and cats were observed in the proposed corridor near Mexicali, as were some dog carcasses. Delineation of the land use units roads and trails and other disturbed lands from recent aerial photography and automating these data to a GIS allowed calculation of acreages that do not currently support vegetation. These data provide the baseline from which long-term impacts due to development and use of tactical infrastructure were determined.

#	Reviewer	Comment	Response
34	DOI Letter 2-8-08	The EA should provide current information on existing barrier fence segments along the International Border in Imperial County so an assessment of cumulative effects is possible, including effects to unlisted species.	Tactical Infrastructure is shown on Figure 1-1 of the ESP. ESP Chapter 11 (page 11-1) presents Related Projects and Potential Effects regarding additional tactical infrastructure in the USBP El Centro Sector.
35	DOI Letter 2-8-08	Potential direct and indirect effects to Peninsular bighorn sheep should be analyzed in the EA. In particular, we are concerned about probable redirection of increased pedestrian traffic and subsequent apprehension activities in the Jacumba Mountains at the west end of the project corridor. It has recently been confirmed that a population of sheep resides in this area and is likely to move between habitats in Mexico and the US. We are concerned that increased human activity could adversely affect this population. Therefore, to reduce levels of human-related disturbance in bighorn sheep habitat, we recommend that these indirect effects be mitigated by maintaining the existing vehicle barrier fence along at least the westernmost 1-mile reach of the B-1 segment, so that pedestrian foot traffic and apprehension activities are spread across a larger area and not as concentrated within bighorn sheep habitat.	The BSR and BRP analyzes impacts on Bighorn Sheep as well as mitigation techniques. Section B-1 will have vehicular fencing. Lights have been withdrawn from this section in coordination with USFWS.

#	Reviewer	Comment	Response
36	DOI Letter 2-8-08	<p>We also recommend that a monitoring program be implemented, as detailed below. The area south of I-8, the Jacumba Mountains, has not been regularly surveyed during the bi-annual helicopter census of bighorn sheep in the Peninsular Ranges. The reason is a lack of financial resources to pay for the helicopter time, travel expenses of qualified surveyors, wages, etc. The team that conducts the census is led by CDFG, and it selects areas to be flown. Mitigation funds need to be earmarked for the Jacumbas, which would lead to the next step. Some bighorn sheep have been observed from the ground in the Jacumbas. Assuming these sheep are still present, we do not know much about their movement patterns or demographics. For example, we do not know if they are crossing into Mexico, crossing I-8, home range size, or major sources of mortality. To get this type of information one generally has to radio-collar a portion of the group. GPS-equipped collars can be programmed to collect data at pre-determined time intervals. The data can be retrieved remotely or when the animal is recaptured. We have found a combination of GPS and VHF collars work well. If a survey turned up an ewe group in the Jacumbas, the next step would be to catch and collar some sheep. Most Peninsular sheep extend down into Baja, and the population at one time was interconnected. Interstate I-8 and other human impacts severed the connection(s). The proposed project likely would add to this disruption of habitat connectivity by increasing human activity within bighorn home ranges. Populations have a higher probability of surviving long-term if connectivity between populations is maintained, including trans-border populations (Recovery Plan for Bighorn Sheep in the Peninsular Ranges, California, FWS 2000).</p>	<p>Section B-1 will have vehicular fencing. Lights have been withdrawn from this section in coordination with USFWS. As such, mitigation for Peninsular Big Horn Sheep is not anticipated.</p>

#	Reviewer	Comment	Response
37	DOI Letter 2-8-08	The severity of impacts to Pierson's milk-vetch would depend on the type of fence built. Infrastructure that would stabilize the dunes or cause sand to accumulate around a solid structure would alter sand transport and have significant negative effects on the composition of sand dune biological communities. We suggest that a least-impacting fence design be used, such as Normandy vehicle barrier or some other moveable sectional structure that can "float" on top of the sand, minimizing alteration of the sand transport regime and preventing eventual burial of the fence itself. Additionally, we suggest avoidance measures be implemented to minimize impacts to milk-vetch.	The fence design for the active portion of the dunes is a floating style fence that is not anticipated to inhibit dune movement. BMPs for milk vetch are addressed in the BRP.
38	DOI Letter 2-8-08	However, the claim that adverse impacts to this species "would be offset by the beneficial impact of reduced cross-border violator traffic through remaining habitat" (p. 3-40) is problematic for two reasons: (1) cross-border violator traffic may be reduced, but DHS operational, construction, and maintenance traffic would likely increase, and (2) claimed reduction of impacts does not adequately offset direct loss of habitat, or the barrier to dispersal the proposed project will cause. Therefore, we recommend that impacts to FTHL habitat be mitigated in accordance with all provisions of the FTHL Management Strategy. Furthermore, to allow for cross-border dispersal, we recommend the border fence design be permeable for lizards.	The fence design is permeable to FTHL. The potential impact corridors are already patrolled, and increased patrol is not anticipated.

#	Reviewer	Comment	Response
39	DOI Letter 2-8-08	Yuma clapper rail are known to occupy seepage wetlands along the All American Canal in section B5a. Potential impacts to the rail should be analyzed for any direct and indirect impacts to wetland habitats in this section. Additionally, roads that go through or near the seepage wetlands should not be used for construction access to avoid disturbance to rails.	Potential impacts to Yuma clapper rail and corresponding BMPs are addressed in the BRP.
40	DOI Letter 2-8-08	These potential indirect impacts should be adequately addressed and disturbance to breeding rails should be minimized by avoiding the breeding season or using noise attenuation measures.	Potential impacts to Yuma clapper rail and corresponding BMPs are addressed in the BRP.
41	DOI Letter 2-8-08	The EA provides insufficient maps and information about occurrence and quality of riparian habitat within and near project impact area, making it difficult to understand potential impacts to southwestern willow flycatcher. We recommend that direct impacts to flycatcher habitat be avoided throughout project corridor. Furthermore, potential indirect effects on flycatcher from construction and maintenance-related noise and lighting should be mitigated, as recommended above for clapper rail.	CBP is coordinating with the USFWS; the USFWS has agreed that southwestern willow flycatcher is not a species of concern for this Project.

#	Reviewer	Comment	Response
42	DOI Letter 2-8-08	The burrowing owl is a Fish and Wildlife Service migratory non-game bird of management concern (Birds of Conservation Concern 2002). We note the EA recorded burrowing owls in project area. We therefore recommend that potential direct and indirect effects to burrowing owls be analyzed and mitigated. Two pre-construction surveys should be conducted (1) no more than 30 days from the beginning of construction and (2) within three days of on-site grubbing and disturbance, to avoid impacts from the construction activities to burrowing owls. We recommend a burrowing owl survey be conducted within proposed project area using a qualified biologist who is familiar with burrowing owl use of Imperial Valley agricultural lands and the California Department of Fish and Game Staff Report (1995). We request that DHS work with the Service to develop avoidance, minimization and/or mitigation measures to reduce potential impacts.	Migratory birds surveys will be conducted immediately prior to construction. It is anticipated that impacts to burrowing owls will be avoidable as they burrow in the sides of the canal where no construction activities would take place and are demonstrably tolerant of noise and general activity.
43	DOI Letter 2-8-08	The source of water used for fugitive dust control and other water-consuming activities associated with proposed project should be analyzed. The project description should include information on source and usage of water necessary for the project. Due to occurrences of surface waters with low water quality within the area, water used to control fugitive dust or other project-related activities should come from an uncontaminated source.	Text revised per comment. Dust control BMPs are discussed in Table ES-1.

#	Reviewer	Comment	Response
44	DOI Letter 2-8-08	The EA does not disclose habitat impacts associated with clearing of lay-down/staging areas. We appreciate the DHS effort to locate staging areas within previously-disturbed habitat. However, all impacts (temporary or permanent) should be disclosed in the EA. Where staging areas cannot be contained within already-disturbed habitat, mitigation measures should be provided to offset temporary or permanent loss of that habitat. Restoration should be implemented in staging areas that are needed only temporarily.	Thank you. The construction lay-down/staging areas have been field evaluated and the plant communities and land use types have been delineated on aerial photography for automation in a GIS. From this digital product, acreages by vegetation and land use type have been calculated to inform the impact analysis in the ESP. Some sites occupy sparse creosote bush shrublands that also support OHV recreation and would be difficult to restore. Some sites with ground water seepage from canals and ditches support the nonnative, invasive salt-cedar or tamarisk and Bermuda grass, which would be cleared. Restoration of these sites could consider introduction of native seepage-driven species including arrowweed shrubs.
45	DOI Letter 2-8-08	The project proposes impacts to the Alamo River, Pinto Wash (0.5 mile pedestrian fence), and within 200 ft. of the All-American Canal. Effects are all described as insignificant, but are not described in enough detail to understand impacts to biological resources. Wetland and riparian habitat delineations and acres of impacts (temporary and permanent) need to be disclosed.	The water resources chapter of the ESP has been updated based on a jurisdictional wetlands survey conducted in January 2008 in consultation with the USACE. Text has been modified to describe and discuss jurisdictional wetlands and waters of the U.S. in the Project area.
46	BLM Letter 1-16-08	The Draft EA does not adequately describe where Border Patrol intends to complete activities that will occur outside of the 60' wide Roosevelt Reservation. It is not clear in the Draft EA whether Border Patrol will need to go outside of the 60' Roosevelt Reservation, and where they will need to do so. BLM will need to review the areas where you plan to have staging areas and where you plan to go outside the Roosevelt Reservation, in order to assess what resources could be impacted during the proposed construction projects. Please provide our office with a map that identifies these areas.	With the exception of access roads and some staging areas, all construction, operation, and maintenance activities would be within the 60-foot corridor. The access roads and staging areas are identified in the ESP.

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47	BLM Letter 1-16-08	The Draft EA does not specify the timeframe for the proposed fence construction. Please clarify whether construction will occur on a year-round basis until the proposed action is complete, or if the proposed action will occur only during certain times of the year. Depending on which time of year that construction will take place, there will be Special Status Species issues to consider. If construction will take place during the winter months, Pierson's Milkvetch will need to be surveyed for and avoided in the Imperial Sand Dunes Recreation Area. If construction will take place during the summer months, Flat-tailed Horned Lizards will need to be avoided and it is possible that a Flat-tailed Horned Lizard monitor may need to be on site during construction activities.	Construction should begin in Spring 2008 and continue through 12/31/08.
48	BLM Letter 1-16-08	Habitat compensation will need to be paid for any Flat-tailed Horned Lizard habitat within the East Mesa or Yuha Management Areas that is disturbed which is outside the Roosevelt Reservation.	Comment noted.
49	BLM Letter 1-16-08	Best management practices will need to be followed for the Flat-tailed Horned Lizard, as outlined in the Flat-tailed Horned Lizard Range Wide Management Strategy.	Comment noted, BMPs for the Flat-tailed Horned Lizard are detailed in the BRP.
50	BLM Letter 1-16-08	The Imperial Sand Dunes is one of the busiest recreation areas in the United States. Between the months of October and May, be prepared for heavy visitation (especially during weekends and holidays) in the Imperial Sand Dunes Recreation Area section of the project area.	Comment noted.
51	BLM Letter 1-16-08	Please clarify which type of fence you intend to construct in the Imperial Sand Dunes Recreation Area, and address the impacts that will result from the construction of that particular type of fence.	PV-4 Primary pedestrian fencing will be constructed in Section B-5B, in a portion of the Imperial Sand Dunes Recreation Area. Environmental impacts on the Imperial Sand Dunes are discussed in Chapter 4.1.3 and the BRP.

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52	BLM Letter 1-16-08	The technology alternative that was considered but not analyzed further should be analyzed further in the final EA. Technology may be used to minimize the direct and indirect impacts that fence construction would produce, especially in an area like the Imperial Sand Dunes, that is sparsely populated and where shifting sands may make constructing a physical barrier such as a fence difficult.	On April 1, 2008, the Secretary of DHS, pursuant to his authority under Section 102(c) of IIRIRA of 1996, as amended, exercised his authority to waive certain environmental and other laws in order to ensure the expeditious construction of tactical infrastructure along the U.S./Mexico international border. Although the Secretary's waiver means that CBP no longer has any specific legal obligations for alternatives analysis under NEPA, the Secretary committed DHS to continue responsible environmental stewardship of our valuable natural and cultural resources. CBP has worked with resource agencies to consider alternative designs and locations that would minimize environmental impacts.
53	ICAPCD Letter 1-9-08	It is unclear to the Imperial County Air Pollution Control District (ICAPCD) why Table 1-1 includes the San Diego Air Pollution Control District as an approving agency. However, rather than ask for an explanation the ICAPCD would like to reaffirm to the lead agency that jurisdiction falls onto the ICAPCD for approvals, permits and adherence to subsequent enacted rules and regulations.	Table has been removed from the ESP. On April 1, 2008, the Secretary of DHS, pursuant to his authority under Section 102(c) of IIRIRA of 1996, as amended, exercised his authority to waive certain environmental and other laws in order to ensure the expeditious construction of tactical infrastructure along the U.S./Mexico international border. Although the Secretary's waiver means that CBP no longer has any specific legal obligations for alternatives analysis under NEPA, the Secretary committed DHS to continue responsible environmental stewardship of our valuable natural and cultural resources. CBP has worked with resource agencies to consider alternative designs and locations that would minimize environmental impacts.

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54	ICAPCD Letter 1-9-08	Section 3.10 (Air Quality): As mentioned above, this section as well as Appendix G concentrated its analysis on construction activities and little or no operational analysis was conducted. Therefore, the ICAPCD would like to see, at a minimum, a qualitative analysis on maintenance and operational impacts in the long term.	Text revised per comment. "ICAQCD" was removed from the ESP.
55	ICAPCD Letter 1-9-08	It is reasonable to assume that the potential for increased agents and subsequent associated activity, such as tire dragging and increased vehicle activity, along these proposed sections may occur. One avenue is to use the current "Dust Control Plan" as submitted by USBP, EI Centro Sector as guidance.	Text revised per comment. Dust control Plan for Operations was referenced.
56	ICAPCD Letter 1-9-08	It will be necessary to develop a dust control plan for the proposed project. In addition, the Draft EA failed to mention compliance with the requirements of Regulation VIII, Fugitive Dust Emissions. Therefore, the Final EA should include language which commits to compliance with the requirements of Regulation VIII and a qualitative discussion on long term operational impacts to air quality with identified mitigation measures.	On April 1, 2008, the Secretary of DHS, pursuant to his authority under Section 102(c) of IIRIRA of 1996, as amended, exercised his authority to waive certain environmental and other laws in order to ensure the expeditious construction of tactical infrastructure along the U.S./Mexico international border. Although the Secretary's waiver means that CBP no longer has any specific legal obligations for alternatives analysis under NEPA, the Secretary committed DHS to continue responsible environmental stewardship of our valuable natural and cultural resources. CBP has worked with resource agencies to consider alternative designs and locations that would minimize environmental impacts.

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57	DOW Letter 1-24-08	The DEA is unlawfully narrow because it fails to thoroughly consider any action alternatives that do not involve significant mileages of border walls, when the purpose of the DEA should be to assess effective but environmentally benign, methods of achieving operational control of the international border. Further, the DEA provides an unfortunately shallow analysis of indirect effects, and as such fails to adequately consider or work to minimize: the predictable redirection of illegal activities resulting from construction of discontinuous wall segments; the introduction and colonization of invasive vegetation due to land disturbances; and the restrictions land managers will face as they work to create, maintain, or restore wildlife habitat, conduct prescribed burns, or control annual wildfires, due to the limited access points proposed.	The Draft EA considered alternatives that would meet the Border Patrol's Purpose and Need. The BRP addresses mitigation measures for invasive species and the ESP has been revised to include potential impacts to vegetation communities from the introduction of invasive species. It is not anticipated that the fence would restrict land managers.
58	DOW Letter 1-24-08	In this instance, several factors demonstrate that a border fence construction "proposal" for the state of California exists, including: (1) Congressional direction in the Secure Fence Act; (2) the draft EIS for a similar border fence proposal in San Diego; (3) DHS' initiation of an EIS process for a similar border fence proposal in southern Texas; and (4) the simultaneous planning and development of several individual and segmented fence construction projects in different areas of the State. The existence of a comprehensive fence construction plan with significant environmental impacts within California thus requires the preparation of a regional EIS before construction of individual fence segments may lawfully proceed.	On April 1, 2008, the Secretary of DHS, pursuant to his authority under Section 102(c) of IIRIRA of 1996, as amended, exercised his authority to waive certain environmental and other laws in order to ensure the expeditious construction of tactical infrastructure along the U.S./Mexico international border. Although the Secretary's waiver means that CBP no longer has any specific legal obligations for alternatives analysis under NEPA, the Secretary committed DHS to continue responsible environmental stewardship of our valuable natural and cultural resources. CBP has worked with resource agencies to consider alternative designs and locations that would minimize environmental impacts.

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59	DOW Letter 1-24-08	No NEPA analysis conducted on the overall impacts of fence construction on wildlife within the California borderlands region. The California borderlands region contains many species of plants and wildlife that have otherwise limited distributions within the United States (e.g., Algodones Dunes sunflower, Pierson's milkvetch, and flat-tailed horned lizard). Because DHS' Environmental Assessment for the EI Centro Segment has only considered potential cumulative impacts within the specific project areas, there has been absolutely no NEPA analysis conducted on the overall impacts of fence construction on wildlife within the California borderlands region. The construction of significant fencing along the EI Centro segment will result in fragmentation of habitat, genetic isolation, and increases the species' risk of extinction within the U.S. Reference the 2003 FTHL Conservation Strategy.	Comment noted. Impacts to threatened and endangered species are discussed in Chapter 7.3 of the ESP and the BRP.
60	DOW Letter 1-24-08	The DEA contains a brief discussion of cumulative impacts within the EI Centro segment area but does not address or acknowledge the potential cumulative impacts of simultaneous fence construction being undertaken or planned within different areas of the California border.	Chapter 11 of the ESP analyzes reasonably foreseeable actions and also considers tentative projects; it is acceptable to generalize these impacts since reasonably foreseeable projects may never be implemented. Cumulative impacts could be less or more in any given year and provide a good opportunity for studies to be conducted. The related projects and potential effects analysis considers the appropriate geographic scale of analysis for each resource area. For example, the air quality analysis considers the Southeast Desert AQCR is the appropriate geographic scale. The entire southern border has not been identified as the appropriate geographic scale for any resource area. Therefore, consideration of other USBP Sectors would not be appropriate.

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61	DOW Letter 1-24-08	The proposed location for the fence sections bisect two Flat-tailed horned lizard (FTHL) management areas (the Yuha Desert and East Mesa FTHL management areas), a BLM Area of Critical Environmental Concern and the Algodones Dunes. The two FTHL areas are part of 5 areas managed by the BLM and considered critical for the conservation of the lizard. In the 2003 FTHL conservation strategy, the experts specifically stated that "activities in the Yuha Desert...that would prevent interchange of FTHLs across the International Bridge shall be prohibited."	The fence is not anticipated to function as a barrier to movement of the mentioned taxa. This species would be able to disperse through the fence.
62	DOW Letter 1-24-08	The DEA's cumulative effects analysis provides only the vaguest of generalities regarding existing actions that already impact the human and natural environment within the lower Imperial Valley. No attempt is made to provide detail on what these actions actually are, or the cumulative effect such activities have on specific natural resources such as imperiled plant and wildlife species. For example, the DEA provides no information on the expected cumulative effects of the border wall construction on the imperiled FTHL. Despite the direct threat posed to the FTHL by the proposed wall construction, and its already precarious status from the additive effects of other past and present activities, the DEA simply contains no attempt to address such cumulative effects.	The BSR and BRP examines the impact of the Project on threatened and endangered species.

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63	DOW Letter 1-24-08	Rather than presenting a purpose and need statement that reflects the larger goal of improving border security, and then evaluating different means to achieve that goal, DHS in this case has instead defined border wall construction itself as the goal. By so radically narrowing the scope of the project's purpose, DHS has impermissibly constricted the range of alternatives considered.	The purpose and need statement (given in Section 1.2 of the DEA) briefly specifies the underlying issue to which CBP is responding with its Project. The context of Goals and Objectives (Chapter 1.3) has been expanded for the ESP.
64	DOW Letter 1-24-08	DHS is obviously attempting to ram through an ineffective, costly, and highly controversial border wall project without considering the many alternatives that could meet the important purpose of improving border security with much less damaging environmental impacts. This course of action is clearly deficient and the DEA must be withdrawn and replaced with a full EIS, including an analysis of the full range of reasonable alternatives available to DHS to achieve the overarching goal of improving border security.	On April 1, 2008, the Secretary of DHS, pursuant to his authority under Section 102(c) of IIRIRA of 1996, as amended, exercised his authority to waive certain environmental and other laws in order to ensure the expeditious construction of tactical infrastructure along the U.S./Mexico international border. Although the Secretary's waiver means that CBP no longer has any specific legal obligations for alternatives analysis under NEPA, the Secretary committed DHS to continue responsible environmental stewardship of our valuable natural and cultural resources. CBP has worked with resource agencies to consider alternative designs and locations that would minimize environmental impacts.
65	DOW Letter 1-24-08	The contention on page ES-5 that "short- and long-term negligible to moderate adverse and minor beneficial impacts [to wildlife and aquatic resources] would expected" is, quite simply, wrong.	Table ES-1 has been revised and updated in the ESP.

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66	DOW Letter 1-24-08	Indeed, the DEA acknowledges that the survey period for the endangered plant species, Algodones dune sunflower and Pierson's milkvetch, was during a very dry year and not optimal (page 3-37). The fact that DHS would be able to draw any meaningful conclusions from a six-day, unreplicated, presence/absence survey outside the breeding season (when most wildlife species are most active, visible, audible) clearly illuminates the predetermined conclusion of the DEA, in stark violation of NEPA, to construct border walls at any and all cost to the integrity of sensitive biological resources.	Subsequent surveys for Peirson's milkvetch and Algodones dune sunflower have been conducted and the results are incorporated in the ESP and the BSR.
67	DOW Letter 1-24-08	The indirect environmental effects of shifting illegal immigration patterns caused by enforcement efforts have not been considered or analyzed by DHS.	Construction, operation, and maintenance of tactical infrastructure will increase border security in the USBP El Centro Sector and may result in a change to illegal cross-border traffic patterns. However, changes to illegal cross-border traffic patterns result from a myriad of factors in addition to USBP operations and therefore are considered unpredictable and beyond the scope of this ESP.
68	DOW Letter 1-24-08	It is especially concerning that the DEA proposes no method to control or monitor the predictable and foreseeable introduction of noxious plants following construction of the proposed walls. The DEA neither evaluated the likelihood of non-native colonization, nor proposed measures to control or mitigate for the environmental damage that such colonization and subsequent spread would produce.	Treatment of non-native, invasive species is addressed as BMPs in Chapter 1.6 and Table ES-1. The BSR also discusses treatment of non-native, invasive species.

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69	DOW Letter 1-24-08	An EA must analyze the nature and severity of the environmental impacts. DHS has not done this, but instead has listed activities that may affect or have the potential for adverse impacts, but does not analyze the type or extent of the adverse impact, for itself or for the reader.	The nature and severity of impacts on each resource is included under environmental consequences for each resource area analyzed.

