

# **FINDING OF NO SIGNIFICANT IMPACT FOR THE MAINTENANCE AND REPAIR OF PATROL AND ACCESS ROADS ON BUREAU OF LAND MANAGEMENT LANDS IN CALIFORNIA**

## **BACKGROUND**

In 1924, Congress created the U.S. Border Patrol (USBP) to serve as the law enforcement entity of the Immigration and Naturalization Service. On November 25, 2002, Congress transferred all Immigration and Naturalization Service responsibilities to the newly created DHS with the passage of the Homeland Security Act of 2002 (Public Law 107-296). Since the terrorist attacks of September 11, 2001, the focus of the USBP has changed to detection, apprehension, and/or deterrence of terrorists and terrorist weapons. Although the USBP has changed dramatically since its inception, its overall mission remains unchanged: to detect and prevent the illegal entry of aliens into the United States. Together with other law enforcement officers, the USBP helps maintain borders that work, facilitating the flow of legal immigration and goods while preventing the illegal trafficking of people and contraband.

The USBP law enforcement organization and responsibilities were transferred to the CBP component of DHS on March 1, 2003. The mission of CBP is to safeguard America's borders, thereby protecting the public from dangerous people and materials while enhancing the Nation's global economic competitiveness by enabling legitimate trade and travel. The priority mission of the USBP is preventing terrorists and terrorist weapons, including weapons of mass destruction, from entering the U.S.

The United States (U.S.) Customs and Border Protection (CBP), under the Department of Homeland Security (DHS), and the Bureau of Land Management (BLM), an agency of the Department of the Interior, have prepared a Draft Environmental Assessment (EA) for the proposed Maintenance and Repair of Patrol and Access Roads on BLM Lands in California (Proposed Action). The BLM and CBP are joint lead agencies, with the CBP requesting right-of-way (ROW) authorization for maintenance and repair activities and the BLM providing the ROW grant upon review and approval.

## **PROJECT LOCATION**

Under the Proposed Action, CBP would conduct maintenance and repair activities of approximately 33.7 miles of roads on BLM-administered public lands near the U.S./Mexico international border in California within three USBP sectors: San Diego, El Centro, and Yuma (Project Area). The USBP San Diego and El Centro sectors are entirely within California, and a portion of the Yuma sector is within California. Road maintenance and repair on BLM-administered public lands would be done to facilitate USBP patrol interdiction and emergency response along the border to deter and prevent illegal cross-border activity.

## **PURPOSE AND NEED**

The purpose of the Proposed Action for CBP is to maintain ground access routes for rapid response to detected threats in areas patrolled by the USBP San Diego, El Centro, and Yuma Sectors. For CBP to maintain effective control of the border and enhance the safety of USBP agents, it must have safe and reliable access within the Project Area.

The need for the Proposed Action for CBP is to enhance USBP's ability to respond to detected changing threats safely, efficiently, and effectively in order to secure the U.S./Mexico international border in California.

## ALTERNATIVES

**No Action Alternative:** CEQ regulations for implementing NEPA require that an agency “include the alternative of no action” as one of the alternatives it considers in an EA. Under the No Action Alternative, CBP would not maintain or repair several miles of roads on BLM lands within San Diego and Imperial counties. The No Action Alternative serves as a baseline against which the impacts of the Proposed Action and any alternatives are compared.

Under the No Action Alternative, the roads would remain in poor condition and in need of maintenance and repair, and would continue to deteriorate with continued USBP use and weather-related impacts. The lack of maintenance and repair of roads would result in diminished response time to detected threats as well as unsafe and unreliable routes by which USBP can access strategically valuable areas. The No Action Alternative would result in diminished USBP ability to detect threats safely, efficiently, and effectively to secure the U.S./Mexico international border. The No Action Alternative does not meet the Purpose and Need of the Proposed Action or minimum CBP mission needs.

**Proposed Action:** Under the Proposed Action, road maintenance and repair would include as-needed maintenance and repair activities (e.g., resolving damage from use or severe weather events) and preventive/scheduled maintenance and repair activities designed to ensure ongoing operability and environmental sustainability (e.g., soil erosion preventive measures) on 33.7 miles of existing roads on BLM lands within San Diego and Imperial counties. All maintenance and repair would occur via a periodic work plan based on anticipated situations within each sector and funding availability. Maintenance and repair requirements could change over time based on changes in usage or priority, but would not exceed the scope of this EA.

Within existing road segments that have the potential for sensitive habitats (Quino checkerspot butterfly [*Euphydryas editha quino*] and arroyo toad [*Bufo californicus*] habitats), maintenance and repair would be restricted to the existing road footprint. Specifically, the following road segments: Little Otay Truck Trail, End of Fence Spur, Reyes Road, Cameron Truck Trail, La Posta Circle, Track Access, 4x4 Course, Gloriosa Way, Cedillo Road, O’Neill Valley Access Road, and Elliot Mine Road.

Within existing road segments outside sensitive habitats, road maintenance and repair would remain primarily within existing road footprints. These road segments are considered operations roads used by USBP, but were not constructed by CBP as part of tactical infrastructure and are not covered under the most recent Tactical Infrastructure Design Standards (CBP 2020); however, when possible, roads would be maintained to an FC-4 standard. Maintenance and repair would occur within existing road disturbed areas; however, limited areas that no longer meet minimum width requirements may require cut and fill work to achieve the desired road operating and safety standards and to be restored to their intended functional classification.

Maintenance and repair would consist of grading and resurfacing areas of the existing graded earth roads and two-track roads that have been heavily eroded by surface water flows. Maintenance and repair of roads would consist primarily of filling of potholes, removing protruding boulders, regrading

road surfaces, implementing improved water drainage measures, applying soil stabilization agents, controlling vegetation and debris, and adding lost road surface material to reestablish intended surface elevation, needed for adequate drainage. Trees and other vegetation within or overhanging the existing roadway would be trimmed, grubbed, or cut back to facilitate safe vehicle passage. Any vegetation that has established within the existing road would be removed, cleared, or trampled. The objective of these maintenance and repair activities would be to remain within the existing road and not increase the road width.

Some areas may include the addition of lost road surface material to reestablish intended surface elevation needed for adequate drainage. Nearby native soil from within the existing road footprint would be used as fill, or crusher fines would be brought in for use if native soil is not available. Imported aggregate material would be added to achieve a well-graded roadbed shaped with a defined crown section. All necessary materials such as gravel, topsoil, or fill would be obtained from existing developed or previously used sources, not from undisturbed areas adjacent to the project areas. Supplemental imported material may be required to improve the roads if erosion occurs from annual rainfall. All materials would be certified as weed-free as only sterile or weed-free sources would be used per Best Management Practices (BMPs; see Section 5.0 of the EA).

With the exception of roads within sensitive habitats, where mitigative design features require avoidance of areas outside the road footprint, some activities may need to be conducted in areas immediately adjacent to the existing road footprint (road edges). For example, equipment might need to be operated off existing roads to remove debris from culverts and ditches, and to access and maintain roads. Temporary impacts on vegetation and soil resulting from these activities would be minimized through appropriate heavy equipment operation techniques such as installation of temporary construction mats, reduced operating speeds, use of the initial ingress and egress points, and selection of appropriately sized equipment for the area and project. In those cases where equipment is not authorized outside of the road base, activities would be accomplished on foot to minimize the impacts that would be caused by heavy equipment. These activities would be limited to the existing road disturbed areas within Quino checkerspot butterfly and arroyo toad habitat (sensitive habitats).

Maintenance of the existing roads would be in accordance with the established maintenance and repair standards (Appendix C of the EA) and BLM Gold Book Standards, Chapter 4 (Road Maintenance). All the standards CBP would follow are developed based on comprehensive engineering analysis, established BMPs adopted by other Federal agencies, and mitigation measures derived from consultation with both regulatory and resource agencies. All maintenance and repair activities would also be performed in accordance with CBP BMPs to minimize or eliminate potential impacts to the environment. All necessary erosion-control BMPs would be adopted to ensure stabilization of repaired roads (per Section 6.0 of the EA).

Improved water drainage measures would be implemented, as needed, consisting of articulated concrete mats at low water crossings. Articulated concrete mats are a flexible, interlocking matrix of machine-compressed, cellular concrete blocks of uniform size, shape, and weight used for hard armor erosion control (see Figure 3 of the EA). Mats are typically 8 feet wide. Placement of mats would result in disturbance of approximately 20 feet on each side of the road centerline and 20 feet on each end (top and bottom) at low water crossings (10 feet of permanent disturbance and 10 feet of temporary disturbance to vegetation). For existing water-control features (such as ditches and culverts) activities

would include cleaning, maintaining, repairing, or replacing features, as needed. Implementing improved water drainage measures includes ensuring road crowns shed water and runoff flows to established drainage ditches, culverts, or other water-control features as needed to control runoff and prevent deterioration to existing infrastructure or surrounding land. Best Management Practices and Avoidance Measures, as outlined in Section 2.4.2 of the EA, would be incorporated to avoid impacts to sensitive habitats.

The stabilization of roads may require the use of soil stabilization agents, e.g., PennzSuppress or Soiltac™ (Safety Data Sheets for these are found in Appendix D of the EA), soil binders, which would function to reduce erosion and improve road strength. The application of the soil stabilization agent would be completed on an annual basis or less frequently, depending on need.

Heavy equipment would be needed for activities such as grading, filling, and compacting. Equipment staging would occur within existing established laydown yards used for various CBP projects or within the existing road footprint disturbed areas. Materials are typically only stored for 24 hours or less within the existing road footprint/disturbed areas. All equipment would be hauled into sites as needed. Standard equipment needed would likely include an excavator, dump truck, road grader, backhoe, dozer, drum roller/compactor, and water trucks. A backhoe may be needed in some areas where low water crossings require excavation. Water trucks would be employed to aid in dust suppression.

Initial maintenance and repair of the roads would be completed within a 120-day period between November and February. Maintenance of aggregate roads requires annual inspections with supplemental inspections after storm events. Repairs and maintenance include blading to remove ruts or wash-boarding and placing additional material as needed (CBP 2020). All maintenance and repair would occur according to a periodic work plan based on anticipated situations within each sector and funding availability. Maintenance and repair requirements could change over time based on changes in usage or priority but would not exceed the scope of the Proposed Action as described in the EA. Future road maintenance would also be performed as needed between November and February. The roads would be used year-round.

**Alternative Considered but Eliminated:** Two additional alternatives were considered but eliminated from consideration, upgrade of existing roads to functional class 2 all-weather roads and maintenance of roads on BLM-administered public lands in California, including Wilderness Areas. These alternatives and reason for elimination are summarized below.

**Upgrade Existing Roads to Functional Class 2 All-Weather Roads:** Under this alternative, all existing roads would be upgraded to Functional Class 2 all-weather road classification, which are unpaved, all-weather two-lane roads consisting of a surface of imported aggregate material such as milled bituminous material or processed stone and gravel, with a total road width of 24 feet. Adopting this alternative would be cost-prohibitive and cause significant environmental impacts. This alternative would greatly enhance CBP's capability to improve border security; however, this alternative was eliminated from further detailed study due to prohibitive costs and significant environmental impacts.

**Maintenance and Repair of Patrol and Access Roads within BLM-Administered Public Lands in California, Including Wilderness Areas:** Under this alternative, maintenance and repair would occur on patrol and access roads within BLM-administered public lands in southern California, including within federally designated Wilderness areas. The Wilderness Act states that Wilderness is an area "of

undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation.” Wilderness has minimal evidence of modern human occupation or modification. This quality is impaired by the presence of structures or installations, and by use of motor vehicles, motorized equipment, or mechanical transport that increases the public’s ability to occupy or modify the environment.

Maintenance and repair of roads within Wilderness areas on BLM-administered public lands would likely be prohibited under the Wilderness Act and would cause significant adverse impacts to the primeval character of Wilderness areas as well as environmental impacts. This alternative would enhance CBP’s capability to improve border security; however, this alternative was eliminated from further detailed study due to the significant impacts to Wilderness areas and the environment.

## **ENVIRONMENTAL CONSEQUENCES**

The Proposed Action would potentially result in negligible to minor short-term and long-term adverse impacts to ephemeral washes/channels, vegetation communities, Federally listed threatened and endangered species, BLM Sensitive species, migratory birds, cultural resources, and paleontological resources. No impacts to other resources would be expected.

### **Natural Resources:**

**Jurisdictional Waters.** Based on definition of jurisdictional Waters of the U.S., the potentially jurisdictional non-wetland waters surveyed were determined to consist entirely of ephemeral washes which are excluded from Clean Water Act jurisdiction (non-wetland, non-jurisdictional). Potential short-term adverse impacts could occur to non-jurisdictional ephemeral washes/channels from grading and resurfacing activities, vegetation trimming, and debris removal, which could cause the deposition of fill materials or increased sedimentation into ephemeral desert channels (non-wetland waters). Maintenance and repair activities within the approximately 8.40 acres (3.36 miles/17,761 linear feet) ephemeral wash areas would be impacted and may also result in a short-term potential increase of erosion and sedimentation if rain events occur during construction activities. Once maintenance and repair activities are completed, and culverts have been cleaned and repaired, erosion and sedimentation would decrease over the long-term. It is not anticipated that the ephemeral wash areas would be significantly altered or lost due to maintenance and repair activities. Impacts during maintenance and repair activities would be mitigated with the use of erosion-control BMPs.

**Vegetation Communities.** The Proposed Action would result in short-term negligible adverse impacts to vegetation communities during road maintenance and repair activities. It is anticipated that vegetation communities would recover in a relatively short period of time from any direct disturbance, and no long-term adverse impacts are anticipated. BMPs would be implemented to reduce sedimentation and runoff, reducing the potential for invasive species and fire, and minimizing impacts from fugitive dust on vegetation communities.

**Federally Listed Threatened and Endangered Species.** The Proposed Action would have no adverse impact on Mojave Desert tortoise, least Bell’s vireo, southwestern willow flycatcher, California condor, Mexican flannelbush, Otay traplant, Peirson’s milk-vetch, San Diego ambrosia, and San Diego thornmint. The Proposed Action may affect, but would not likely adversely affect arroyo toad, coastal California gnatcatcher, and peninsular bighorn sheep. The Proposed Action may affect, and is likely to adversely

affect, the Quino checkerspot butterfly. A Biological Assessment has been prepared as part of Section 7 of the Endangered Species Act consultation with the U.S. Fish and Wildlife Service. The Proposed Action would have no adverse impact on proposed threatened and endangered species.

**BLM Sensitive Species.** Under the Proposed Action, burrowing owl (*Athene cunicularia*) protocol surveys and burrowing owl avoidance measures would be implemented to avoid and minimize potential adverse impacts within road segments where these owls have potential to occur. If burrowing owls are found in the vicinity of identified road segments with potential for this species, the Proposed Action would not likely result in habitat degradation as minimal vegetation removal and disturbance would occur, and direct and indirect adverse impacts to this species would be short-term and negligible.

All roadway segments occur within the distribution range of golden eagles; however, no golden eagle or nests were observed near roadway segments. Based on the California Natural Diversity Database reviewed in 2020, no golden eagle nests are located within five miles of the Project Area road segments. Road maintenance and repair activities would not likely result in direct or indirect impacts to golden eagles, nest sites, or foraging habitat.

Several road segments within the Project Area have the potential for occurrence of BLM Sensitive bat species; however, minimal potential roosting and foraging habitat exists within and adjacent to the roadways. Most of the maintenance and repair activities would occur within previously disturbed roadways with minimal disturbance to vegetation and no loss or disturbance to bat roosting and foraging habitat would occur. In addition, all maintenance and repair activities would occur during daylight hours; no nighttime work would occur and no lighting would be needed. Impacts to BLM sensitive bat species with the potential to occur are not likely under the Proposed Action.

Most of the road maintenance and repair activities within flat-tailed horned lizard (FTHL) suitable habitat, including the Yuha Desert FTHL Management Area and nearby East Mesa FTHL Management Area, would occur within the currently disturbed roadway, with minimal disturbance of vegetation and soils adjacent to the roadways. No activities would occur during the night and no lighting would be used. Potential direct and indirect adverse impacts to FTHL would be avoided or minimized by implementation of measures identified in the FTHL Rangewide Management Strategy, as well as vegetation and biological resource BMPs. Potential adverse impacts of the Proposed Action on FTHL would be short-term, and with implementation of BMPs, would be negligible.

Direct and indirect impacts to BLM Sensitive reptiles and amphibians with the potential to occur would be like those discussed above for FTHL. Surveys for FTHL within the suitable FTHL habitat may also result in detection of other BLM Sensitive reptile and amphibian species that may be present. Along Canal and Poleline Extension, visual encounter walking surveys would be conducted to avoid and minimize impacts to Colorado fringe-toed lizards. Potential adverse impacts of the Proposed Action on BLM Sensitive reptiles and amphibians would be short-term, and with implementation of FTHL, vegetation, and biological resource BMPs, would be negligible.

Due to a lack of potential habitat for Thorne's hairstreak butterfly, the Proposed Action would have no effect on this species.

Vegetation trimming and clearing activities in suitable habitat for Wiggin's croton and Algodones Dunes sunflower would be avoided in areas with potential for occurrence unless their absence has been

confirmed by a survey conducted by a qualified biologist during the blooming season. With implementation of BMPs, the Proposed Action would result in negligible short-term impacts to BLM listed sensitive plant species.

The Proposed Action would not likely cause habitat degradation, and direct and indirect adverse effects to migratory bird species would be negligible. The Proposed Action could result in short-term, but negligible adverse impacts to migratory bird species, with no long-term adverse impacts anticipated. Implementation of avoidance and minimization measures for migratory birds and biological resources would avoid and minimize potential adverse impacts.

#### **Cultural Resources:**

Under the Proposed Action, and with the incorporation of design features, road maintenance and repair activities would not impact six National Register of Historic Places-eligible properties within the Area of Potential Effect. In four avoidance areas (1 through 4 in Table 3.9 and Section 6.0 of the EA), properties are located within the APE, but outside of and adjacent to the road footprint. CBP would ensure avoidance by briefing maintenance equipment operators and providing maps with descriptions and avoidance requirements. In Avoidance Area 5, protection of the archaeological site would be ensured by installing permanent protective fencing along both edges of the access road where it bisects the site, and CBP informing maintenance staff of the limitation. Archaeological testing in Avoidance Area 6 confirmed that the site contains artifacts located on the surface outside of the access road, and subsurface below the access road.

The subsurface resources will be preserved in place by capping the road in accordance with a capping plan that has been developed in consultation with CBP. Capping comprises importing soil, gravel, or Class II base to raise the surface grade by a minimum of 3 feet across the 14-foot-wide road and tapering down to grade. Geotextile would be placed between the native soil and the fill, to prevent further grading of native soils. A qualified archaeologist and a Native American monitor would be present during construction of the permanent protective fencing and for the capping. The raised roadbed will protect the subsurface resources that would otherwise be impacted by grading, and the raised road will also serve to define where activities must remain in the road prism and cannot occur adjacent to the raised road, unless the work is accomplished on foot.

In addition to these design features, standard BMPs regarding inadvertent discoveries of resources or human remains would be required in accordance with California law, and BLM policy. Through avoidance, Environmentally Sensitive Area (ESA) fencing, capping and CBP project managers ensuring maintenance contractors are informed of avoidance requirements, the Proposed Action would not adversely affect formally determined or assumed historic properties as defined under Section 106. There is a potential for long-term, less than significant, beneficial impacts to cultural resources because of the added protection measures.

The California State Historic Preservation Officer (SHPO) was consulted regarding the Proposed Action (February 22, 2021) and in their response letter did not object to the finding of No Adverse Effect for the proposed undertaking (April 5, 2021).

**Paleontological Resources:** Due to the potential for maintenance and repair activities within roadway segments classified as Potential Fossil Yield Class (PFYC) 4-5 to remove protruding rocks and boulders

and the need to achieve the desired road operating and safety standards, it is possible that road maintenance and repair activities could uncover previously undisturbed rock formations. Therefore, road maintenance and repair activities within road segments classified as PFYC 4-5 has the potential to cause direct adverse impacts to paleontological resources through the damage or destruction of fossils or the disturbance of the geologic content in which they are located. To avoid and minimize potential adverse impacts, activities would be monitored by a qualified (trained) paleontological monitor within roadway segments classified as PFYC 4-5, allowing for the discovery and recovery of any larger fossil remains exposed by earth-moving activities. The Proposed Action would result in no or negligible adverse effects on paleontological resources.

## **BEST MANAGEMENT PRACTICES**

The following BMPs would be implemented under the Proposed Action. CBP would use an established planning and work development process to identify the BMPs that must be implemented for the project. All necessary erosion-control BMPs would be adopted to ensure stabilization of repaired roads.

To identify species-specific BMPs that must be implemented, Environmental Subject Matter Experts (ENV SMEs) would identify which species potentially occur in the geographic location of each maintenance and repair activity. They would then consider other available sources of information, such as prior survey data, aerial photographs, site visits, and previously developed environmental documentation, to evaluate whether suitable habitat for threatened and endangered species may occur at each project location. The ENV SME would also determine if pre-construction surveys conducted by a qualified biologist are required prior to maintenance and repair activities to determine if species or habitat is present and require a BMP. If necessary, the ENV SMEs would conduct further consultation with U.S. Fish and Wildlife Service (USFWS) to clarify any compliance requirements.

It is the responsibility of the CBP to ensure that all personnel performing maintenance to comply with the BMPs, any required mitigation measures, and BLM Conservation and Management Actions (CMAs), unless otherwise noted. BMPs apply to all maintenance and repair activities.

### **Land Use**

1. CBP will notify the BLM at least five days in advance of any scheduled maintenance and repair activities on BLM-administered lands. Monitors required to ensure protection for biological, paleontological, or cultural resources during project activities shall be approved in advance by the BLM. In addition, archaeological and paleontological monitors must have an approved Fieldwork Authorization issued by the BLM Field Office.

### **Soil Resources**

1. Silt fencing and floating silt curtains should be installed and maintained to prevent movement of soil and sediment and to minimize turbidity increases in water during maintenance and repair activities.
2. Implement routine road maintenance practices to avoid making wind rows with the soils once grading activities are complete and use any excess soils on site to raise and shape the road surface.

3. Only apply soil-binding agents during the late summer/early fall months to avoid impacts on federally listed species. Do not apply soil-binding agents in or near (within 100 feet) surface waters (e.g., wetlands, perennial streams, intermittent streams, washes). Only apply soil-binding agents to areas that lack any vegetation.
4. Obtain materials such as gravel, topsoil, or fill from sources that are compatible with the project area and are from legally permitted sites, and are certified weed free. Materials from undisturbed areas adjacent to the project site will not be used.
5. Use construction and installation techniques, as approved by BLM, appropriate for the specific activity/project and site, that minimize new site disturbance, soil erosion and deposition, soil compaction, disturbance to topography, and removal of vegetation. Where possible, side casting shall be avoided where road construction requires cut- and-fill procedures. Cut material will be used as fill elsewhere as needed or disposed of off-site.
6. Vehicle refueling and maintenance will be limited to upland areas with established spill prevention equipment in place (e.g., straw wattles, lined or paved areas, areas with no direct drainage).

#### **Air Quality**

1. Good modern practices for earth moving/excavating activities would be implemented. These include using approved dust suppressants or adhesive soil stabilizers, paving, covering, landscaping, continuous wetting, or detouring maintenance and repair areas, barring access to maintenance and repair areas, or other acceptable means of reducing significant amounts of airborne dust. All Federal, state, county, and local ordinances would be adhered to during maintenance and repair of road segments.
2. Stabilize all disturbed areas with water, tarps, or dust suppressants.
3. During maintenance and repair activities, roads will be watered as a standard practice.

#### **Noise**

1. All Occupational Safety and Health Administration requirements would be followed with respect to maintenance and repair noise impacts. Ensure all motorized equipment possess properly working mufflers and are kept properly tuned to reduce backfires. Ensure all motorized generators will be in baffle boxes (a sound-resistant box that is placed over or around a generator), have an attached muffler, or use other noise-abatement methods in accordance with industry standards. For activities involving heavy equipment, seasonal restrictions might be required to avoid impacts on threatened or endangered species in areas where these species or their potential habitat occur. See species-specific BMPs.

#### **Roadways and Traffic**

1. To the maximum extent practicable, confine vehicular traffic to designated open routes of travel to and from the project site. Prohibit, within project boundaries, cross- country vehicle and equipment use outside of approved designated work areas to prevent unnecessary ground and vegetation disturbance. Ensure all parking is in designated disturbed areas. For longer-term projects, mark designated travel corridors with easily observed removable or biodegradable markers.
2. All contractors and maintenance personnel would operate within the designed/approved maintenance corridor.

## **Hazardous Materials and Waste Management**

1. Where hazardous and regulated materials are handled, workers should collect and store all fuels, waste oils, and solvents in clearly labeled closed tanks and drums within a secondary containment system that consists of an impervious floor and bermed sidewalls capable of containing the volume of the largest container stored therein.
2. Implement proper and routine maintenance of all vehicles and other maintenance equipment such that emissions are within the design standards of all maintenance equipment.
3. Minimize site disturbance and avoid attracting predators by promptly removing waste materials, wrappers, and debris from the site. Any waste that must remain on site more than 12 hours should be properly stored in closed containers until disposal.
4. In compliance with BLM CMAs, implement construction site standard practices to prevent toxic chemicals, hazardous materials, and other fluids from entering vegetation type streams, washes, and tributary networks through water runoff, erosion, and sediment transport by, at a minimum, implementing the following:
  - On project sites, vehicles and other equipment will be maintained in proper working condition and only stored in designated containment areas where runoff is collected or controlled and that are located outside of streams, washes, and distributary networks to minimize accidental fluids and hazardous materials spills.
  - Hazardous material leaks, spills, or releases will be immediately cleaned and equipment will be repaired upon identification. Removal and disposal of spill and related clean-up materials will occur at an approved off-site landfill.
  - Maintenance and operations vehicles will carry the appropriate equipment and materials to isolate, clean up, and repair any hazardous material leaks, spills, or releases.
5. In compliance with BLM CMAs, activity-specific drainage, erosion, and sedimentation control actions, which meet the approval of BLM and the applicable regulatory agencies, will be carried out during all appropriate phases of the approved project. These actions, as needed, will address measures to ensure the proper protection of water quality, site-specific stormwater and sediment retention, and design of the project to minimize site disturbance, including the following:
  - Implement measures to maintain natural drainages and to maintain hydrologic function in the event drainages are disturbed.
  - Reduce the amount of area covered by impervious surfaces through use of permeable pavement or other pervious surfaces. Direct runoff from impervious surfaces into retention basins.
  - Stabilize disturbed areas following grading in the manner appropriate to the soil type so that wind or water erosion is minimized.
  - Conduct regular inspections and maintenance of long-term erosion control measures to ensure long-term effectiveness.

## **Socioeconomic Resources, Environmental Justice, and Protection of Children**

The Proposed Action would occur in unpopulated, remote locations. Therefore, there would be no impact to or displacement of any low-income or minority populations. No BMPs were identified for socioeconomic resources, environmental justice, or the protection of children.

## **Biological Resources**

### Water Resources

If biological monitors are required for any reason, the monitors will need to be approved by the BLM in advance of any work or project activities.

1. The CBP ENV SME must be consulted to validate the need for site-specific storm water pollution prevention plans (SWPPPs), spill protection plans, and regulatory approvals. Site-specific SWPPPs and spill protection plans would be prepared and regulatory approval sought, if necessary, in cases of highly sensitive work sites and large scopes of work that pose a significant risk. Where a site-specific SWPPP is not necessary, the personnel performing the maintenance would comply with a generic SWPPP and spill protection plan that covers most routine maintenance and repair activities. Prior to arrival on the work site, key personnel would understand correct implementation of these BMPs and their responsibility to address deficiencies.
2. The CBP ENV SME would provide locations that have the potential for wetlands or other waters of the United States. Prior to conducting any activities that have the potential to affect wetlands and other waters of the United States, all Federal and state Clean Water Act (CWA) Section 404 individual or applicable nationwide permits and 401 and other applicable permits would be obtained.
3. Prepare and implement a SWPPP prior to applicable maintenance activities (greater than one acre of exposed dirt or as required by BLM). Implement BMPs described in the SWPPP to reduce erosion. Consider areas with highly erodible soils when planning the maintenance activities and incorporate measures such as waddles, aggregate materials, and wetting compounds in the erosion-control BMPs.
4. Coordinate with the CBP ENV SME to determine which maintenance activities occur within the 100-year floodplain. Maintenance activities within the 100-year floodplain would be conducted in a manner consistent with Executive Order 11988 and other applicable regulations.
5. All maintenance contractors and personnel would review the CBP-approved spill protection plan and implement it during maintenance and repair activities.
6. Contact the CBP ENV SME to coordinate with waterway permitting agencies when performing work below the ordinary high-water mark.
7. Wastewater from pressure washing must be collected. A ground pit or sump can be used to collect the wastewater. Wastewater from pressure washing must not be discharged into any surface water.
8. If soaps or detergents are used, the wastewater and solids must be pumped/cleaned out and disposed of in an approved facility. If no soaps or detergents are used, the wastewater must first be filtered or screened to remove solids before being allowed to flow off site. Detergents and cleaning solutions must not be oversprayed onto or discharged into surface waters.
9. If the surrounding area has dense, herbaceous cover (primarily grasses) and there are no listed plant species or habitat for such, the wastewater (with or without detergent) could be discharged directly to the grassy area without collection or filtering as long as it is well dispersed and all the wastewater can percolate into the grass and soil. If wastewater runs off the grassy area, it must be filtered.

10. Prevent runoff from entering drainages or storm drains by placing fabric filters, sandbag enclosures, or other capture devices around the work area. Empty or clean out the capture device at the end of each day and properly dispose of the wastes.
11. Avoid contaminating natural aquatic and wetland systems with runoff by limiting all equipment maintenance, staging, laydown, and dispensing hazardous liquids (e.g., fuel and oil) to designated upland areas.
12. Avoid contamination of ground and surface waters by storing concrete wash water in open containers and frequently disposing of it on site by application as a binder to riprap areas. Avoid contamination of ground and surface waters by storing any water that has been contaminated (e.g., with maintenance materials, oils, equipment residue) in closed containers onsite until removed for disposal. In upland areas, storage tanks must be on-ground containers.
13. Avoid contamination of ground and surface waters by ensuring that water tankers that convey untreated surface water do not discard unused water where it has the potential to enter any aquatic or wetland habitat.
14. Cease work during heavy rains and do not resume work until conditions are suitable for the movement of equipment and materials.
15. Except for emergency repairs required to protect human life, limit work within drainages to dry periods to reduce effects on downstream water quality.
16. Rip-rap should be placed on a layer of geotextile fabric to prevent underlying sediment from being washed out through the openings of the rip-rap.
17. Rip-rap should be keyed into the wash/streambed to ensure its stability and effectiveness.

#### Vegetation

1. If mechanical methods are used to remove invasive plants, the entire plant should be removed and placed in a disposal area. If herbicides are used, the plants would be left in place. All chemical applications on federally managed land must be used in coordination with the Federal land manager. Training to identify nonnative invasive plants would be provided for CBP personnel or contractors, as necessary.
2. CBP will notify BLM ten days prior to implementing vegetation control activities.
3. Where vegetation to be controlled is on a levee, the method of removal would ensure that the integrity of the levee is maintained.
4. Coordinate with the CBP ENV SME to determine if the maintenance activities occur in a highly sensitive area or an area that poses an unacceptable risk of transmitting diseases and invasive species. If it is determined that maintenance activities occur in such an area, follow the CBP cleaning protocol. CBP cleaning protocol: all contracts would require cleaning of road maintenance and repair vehicles and equipment prior to entry into the Project Area. If operations occur at sites within the Project Area infested with non-native invasive species, all vehicles and equipment would also be cleaned prior to moving to new sites. If vehicle or equipment cleaning must be done onsite, clean with water only in a designated bermed or covered area where the wash water will not be discharged into storm drains or surface waters.
5. Promote appropriate levels of dead and downed wood on the ground, outside of campground areas, to provide wildlife habitat, seed beds for vegetation establishment, and reduce soil erosion, as determined appropriate on an activity-specific basis.

6. In compliance with BLM CMAs, creosote bush rings larger than five meters in diameter (longest diameter if the “ring” forms an ellipse rather than a circle) shall be avoided.
7. In compliance with BLM CMAs, consistent with BLM state and Federal policies and guidance, integrated weed management actions will be carried out during all phases of activities, as appropriate, and at a minimum will include the following:
  - Thoroughly clean the tires and undercarriage of vehicles entering or reentering the project site to remove potential weeds.
  - Store project vehicles on site in designated areas to minimize the need for multiple washings whenever vehicles re-enter the project site.
  - Properly maintain vehicle wash and inspection stations to minimize the introduction of invasive weeds or subsidy of invasive weeds.
  - Closely monitor the types of materials brought onto the site to avoid the introduction of invasive weeds and non-native species.
  - Reestablish native vegetation quickly on disturbed sites.
  - Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions to avoid the spread of invasive weeds and non-native species on site and to adjacent off-site areas.
  - Use certified weed-free mulch, straw, hay bales, or equivalent fabricated materials for installing sediment barriers.
8. A fire prevention and suppression plan will be developed and implemented for all maintenance and repair activities that require welding or otherwise have a risk of starting a wildfire.
9. Identify fill material, sandbags, hay bales, and mulch brought in from outside the project area by its source location. Use sources that are sterile or weed-free to avoid the introduction of invasive weeds and non-native species.
10. Clearly demarcate the perimeter of all new areas to be disturbed during vegetation-control activities using flagging or temporary construction fencing. Do not allow any disturbance outside that perimeter.
11. Riparian vegetation removal should be minimized to maintain a buffer area around aquatic habitats and continuity of wildlife migration corridors during maintenance activities.
12. Avoid the removal of mature trees providing shade or bank stabilization within the riparian area of any waterway during maintenance or repair activities.
13. If vegetation must be removed, use methods that allow natural regeneration of native plants by keeping root systems intact rather than removing the plants entirely, such as: cutting vegetation with hand tools, mowing, trimming, or through implementation of crush and drive.
14. Vegetation targeted for retention would be flagged for avoidance to reduce the likelihood of being treated.
15. Periodic inspections of tactical infrastructure by the CBP ENV SME would be conducted to evaluate and document conditions, including erosion and to ensure that prescriptions are followed and performed in the appropriate community types. As necessary, maintenance will be scheduled to minimize erosion and correct other adverse conditions.

16. Control of riparian vegetation will not occur within 100 feet of aquatic habitats to provide a buffer area to protect the habitat from sedimentation.

#### Wildlife

1. Minimize animal collisions during maintenance and repair activities by not exceeding speed limits of 35 miles per hour (mph) on major unpaved roads (i.e., graded with ditches on both sides) and 15 mph on all other unpaved roads. During periods of decreased visibility (e.g., night, poor weather, curves), do not exceed speeds of 15 mph.
2. No maintenance and repair activities will occur at night.
3. To prevent entrapment of wildlife species, ensure excavated, steep-walled holes or trenches are either completely covered by plywood or metal caps at the close of each work day or provided with one or more escape ramps (at no greater than 1,000-foot intervals and sloped less than 45 degrees) constructed of earth fill or wooden planks.
4. In compliance with BLM CMAs, subsidized predator standards, approved by BLM, in coordination with the USFWS and CDFW, will be implemented during all appropriate phases of activities to manage predator food subsidies, water subsidies, and breeding sites including the following:
  - Common raven management actions will be implemented for all activities to address food and water subsidies and roosting and nesting sites specific to the common raven. These include identification of monitoring reporting procedures and requirements; strategies for refuse management; as well as design strategies and passive repellent methods to avoid providing perches, nesting sites, and roosting sites for common ravens.
  - The application of water and/or other palliatives for dust abatement in construction areas and during project operations and maintenance will be done with the minimum amount of water necessary to meet safety and air quality standards and in a manner that prevents the formation of puddles, which could attract wildlife and wildlife predators.
  - Following the most recent national policy and guidance, the contractor will take actions to not introduce, dispose of, or release any non-native species into areas of native habitat, suitable habitat, and natural or artificial waterways/water bodies containing native species.
  - All activity work areas will be kept free of trash and debris. Particular attention will be paid to "micro-trash" (including such small items as screws, nuts, washers, nails, coins, rags, small electrical components, small pieces of plastic, glass or wire, and any debris or trash that is colorful or shiny) and organic waste that may subsidize predators. All trash will be covered, kept in closed containers, or otherwise removed from the project site at the end of each day or at regular intervals prior to periods when workers are not present at the site.
5. In compliance with BLM CMAs, implement the following for controlling nuisance animals and invasive species:
  - No fumigant, treated bait, or other means of poisoning nuisance animals including rodenticides will be used in areas where Focus and BLM Special Status Species are known or suspected to occur.

6. In compliance with BLM CMAs, for activities that may impact Focus or BLM Special Status Species, implement the following CMA for noise:
  - To the extent feasible, and determined necessary by BLM to protect Focus and BLM sensitive wildlife species, locate stationary noise sources that exceed background ambient noise levels away from known or likely locations of and BLM sensitive wildlife species and their suitable habitat.
  - Use noise controls on standard construction equipment including mufflers to reduce noise.

#### Migratory and Resident Birds

1. Vegetation trimming and clearing activities should be timed to avoid the migration, breeding, and nesting season of migratory and resident birds (February 1 through September 1). When initial mechanical or subsequent trimming and clearing activities must be implemented during February 1 through September 1, a survey for nesting migratory birds will be conducted immediately prior to the start of activities. If an active nest is found, a buffer zone will be established around the nest by a qualified biologist and no activities will occur within that zone until nestlings have fledged and abandoned the nest. Setbacks will be 200 feet for unlisted species, 300 feet for listed species, 500 feet for raptors, and 250 feet for burrowing owls. BLM will be consulted for species specific setbacks.
2. If maintenance is scheduled to occur during the bird-nesting season, a survey for migratory birds will also be conducted prior to all other maintenance and repair activities to be implemented during the nesting period in areas where birds might be nesting.
3. If maintenance is scheduled to occur during the bird-nesting season, take steps to prevent birds from establishing nests in the potential impact area. These steps could include covering equipment and structures, trimming vegetation to reduce suitability for nesting, and use of various excluders (e.g., noise). Once a nest is established, it must be protected until all young have fledged and left the nest site. If nesting birds are found during the supplemental survey, defer construction or intrusive maintenance activities until the birds have left the nest. Confirmation that all young have fledged should be made by a BLM approved qualified biologist.

#### Threatened and Endangered Species and Other Protected Species

##### General BMPs

1. Pre-construction surveys by a qualified biologist will be conducted to determine if sensitive resources are present, identify and delineate resources setbacks, and determine which BMPs need to be implemented prior to construction activities.
2. In areas where there are threatened and endangered or other species of concern, prior to beginning work, the maintenance crew supervisor will coordinate with the Contracting Officer's Representative (COR) or CBP ENV SMEs and the BLM to determine which threatened and endangered species could occur in the vicinity of planned maintenance activities. In areas where there are no threatened and endangered or other species concerns, the personnel performing the maintenance activity are responsible for monitoring the implementation of general maintenance and repair BMPs to avoid impacts on the environment.
3. Qualified biological monitors will be present during construction activities in areas where there is potential to encounter sensitive species.

4. To protect individuals of listed species that are observed within the Project Area, all work would be suspended in the immediate vicinity of the species until it moves out of harm's way on its own, or a qualified biologist (individuals or agency personnel with a permit to handle the species and approved by the BLM) is enlisted to relocate the animal out of harm's way in accordance with accepted species-handling protocols.
5. In compliance with BLM CMAs, all pertinent information and training materials for biological resources for the areas where maintenance activities would occur will be presented in a Worker Environmental Awareness Program (WEAP) to be developed and implemented by a qualified biologist approved by the BLM. The WEAP will be presented to all project personnel prior to any ground-disturbing activities associated with the project. A record of training attendance should be kept with the construction supervisor. Ensure key personnel understand the proper BMPs to implement should threatened and endangered species be encountered in the Project Area, penalties for violation of state and Federal laws, and reporting requirements. As appropriate based on the activity, the WEAP will contain information about the following:
  - Site-specific biological and non-biological resources.
  - Information on the legal protection for protected resources and penalties for violation of federal and state laws and administrative sanctions for failure to comply with CMA requirements intended to protect site-specific biological and non-biological resources.
  - The required CMAs and project-specific measures for avoiding and minimizing effects during all project phases, including but not limited to resource setbacks, trash, speed limits, etc.
  - Reporting requirements and measures to follow if protected resources are encountered, including potential work stoppage and requirements for notification of the designated biologist.
  - Measures that personnel can take to promote the conservation of biological and non-biological resources.
6. Visible space underneath and around all maintenance vehicles and heavy equipment will be checked for listed species and other wildlife prior to moving vehicles and equipment at the beginning of each workday and after vehicles have sat idle for more than 15 minutes.
7. CBP cleaning BMPs will be implemented at all locations/road segments.
8. Non-hazardous soil stabilization agents would be applied for the stabilization of roads. Prior to application, Safety Data Sheets for all agents will be provided to the BLM for review and approval. Non-hazardous soil stabilizer will be applied when the temperature is a minimum of 40 degrees Fahrenheit and when there is a minimum of 72 hours before the next forecasted rain. The application of the soil stabilization agent would be completed on an annual basis or less frequently, depending on need.
9. Chemicals and hazardous materials will be stored in proper containers and within spill containment areas.
10. Spill clean-up kits and drip pans will be maintained during maintenance and repair activities.
11. CBP will equip water trucks with calibrated soil stabilizer spray bars that minimizes or avoids impacts to adjacent vegetation from overspray and pooling of non-hazardous soil stabilizer liquid within the roadway.

12. In compliance with BLM CMAs, delineate the boundaries of areas to be disturbed using temporary construction fencing and flagging prior to construction and confine disturbances, project vehicles, and equipment to the delineated project areas to protect vegetation types and focus and BLM Special Status Species.
13. In compliance with BLM CMAs, to the maximum extent practicable, restrict construction activity to existing roads, routes, and utility corridors to minimize the number and length/size of new roads, routes, disturbance, laydown, and borrow areas.
14. In compliance with BLM CMAs, implement the following general standard practices to protect Focus and BLM Special Status Species:
  - Feeding of wildlife, leaving of food or trash as an attractive nuisance to wildlife, collection of native plants, or harassing of wildlife on a site is prohibited.
  - Any wildlife encountered during the course of an activity, including construction, operation, and decommissioning will be allowed to leave the area unharmed.
  - Domestic pets are prohibited on sites. This prohibition does not apply to the use of domestic animals (e.g., dogs) that may be used to aid in official and approved monitoring procedures/protocols, or service animals (dogs) under Title II and Title III of the American with Disabilities Act.
  - All construction materials will be visually checked for the presence of wildlife prior to their movement or use. Any wildlife encountered during the course of these inspections will be allowed to leave the construction area unharmed.
  - All steep-walled trenches or excavations used during the project will be covered, except when being actively used, to prevent entrapment of wildlife. If trenches cannot be covered, they will be constructed with escape ramps, following up-to-date design standards to facilitate and allow wildlife to exit, or wildlife exclusion fencing will be installed around the trench(s) or excavation(s). Open trenches or other excavations will be inspected by a designated biologist immediately before backfilling, excavation, or other earthwork.
  - Minimize natural vegetation removal through implementation of crush and drive or cut or mow vegetation rather than removing entirely.

#### Species-Specific BMPs

##### *Quino Checkerspot Butterfly*

These measures apply to maintenance activities along the following road segments: Little Otay Truck Trail; End of Fence Spur; Reyes Road; Cameron Truck Trail; La Posta Circle; Track Access; 4x4 Course; Gloriosa Way; Cedillo; O'Neill Valley Access Road; and Elliot Mine Road.

1. Maintenance and repair activities will occur outside the Quino checkerspot butterfly reproduction season (December 1 to May 31) within the above mentioned road segments.
2. CBP will temporarily fence the limits of the maintenance and repair areas, including staging areas and access routes, to prevent habitat impacts and install erosion control devices to prevent the spread of silt from the maintenance and repair zones into adjacent habitat to be avoided. Erosion control devices (e.g., fiber rolls and bonded fiber matrix) will be made from biodegradable materials such as jute, with no plastic mesh, to avoid creating a wildlife entanglement. Fencing and erosion control devices will be installed in a manner that does not impact habitats to be avoided. CBP will submit to the USFWS and the BLM for approval, at least

14 days prior to maintenance and repair, the final plans for maintenance and repair activities. These final plans will include photographs that show temporary fencing and erosion control devices. If work occurs beyond the fenced limits of impact, all work will cease until the problem has been remedied to the satisfaction of the USFWS and the BLM. Temporary fencing and erosion control devices will be removed upon completion of maintenance and repair activities.

3. Road segments specified above would not be widened outside the existing road disturbance area and vegetation trimming would be minimized to the extent feasible. Vegetation that has established within the existing road would only be removed, cleared, or trampled once host plant surveys are completed (see Measure 4 below).
4. A Quino checkerspot butterfly and host plant survey will be conducted during the host plant/nectar plant flowering season and adult flight season (December 1 through June 30) by a qualified biologist prior to implementing all maintenance activities within designated critical habitat and occupied habitat within 3,280 feet of all known Quino checkerspot butterfly occurrences along these specified road segments. Where there are property access rights, an ocular survey using binoculars will be conducted.

If Quino checkerspot butterfly or host plants are identified in the survey area, the following measures will apply:

- A qualified biologist will salvage and/or relocate any Quino checkerspot butterfly adults, larvae, and host plants containing eggs and larvae found in the impact area to a location supporting suitable Quino checkerspot butterfly habitat that will not be impacted. The USFWS will be notified of any Quino checkerspot butterfly relocation within 24 hours following relocation.
  - All maintenance and repair activities within Quino checkerspot butterfly critical habitat would be restricted to within the existing road footprint. Vegetation clearing outside of previously disturbed areas would not occur in Quino checkerspot butterfly designated critical habitat.
- 5. CBP will staff a biologist approved by the USFWS and the BLM who will be responsible for monitoring and reporting compliance with avoidance and minimization measures for Quino checkerspot butterfly. The biologist must be knowledgeable of Quino checkerspot butterfly biology and ecology. CBP will submit the biologist's name, address, telephone number, and work schedule for the specified road segments to the USFWS and the BLM at least five days prior to initiating road maintenance and repair activities. The biologist will perform the following duties:
  - a. Be on site during all maintenance and repair work within specified road segments.
  - b. Oversee installation of and inspect the fencing and erosion control measures a minimum of once per week and daily during all rain events to ensure that any breaks in the fence or erosion control measures are repaired immediately.
  - c. Conduct Quino checkerspot butterfly and host plant surveys in the impact area within one week prior to maintenance and repair activities. If found, host plants will be flagged and avoided to the maximum extent practicable. If host plants cannot be avoided, CBP will contact the USFWS and BLM for further consultation.
  - d. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust.

- e. Train all contractors and construction personnel on the Quino checkerspot butterfly and ensure that training is implemented by construction personnel. At a minimum, training will include: (i) the purpose for resource protection within Quino checkerspot butterfly habitat; (ii) a description of Quino checkerspot butterfly and their habitat; (iii) the conservation measures that should be implemented during road maintenance and repair activities, including strictly limiting activities, vehicles, equipment, and materials to the existing road disturbed area to avoid sensitive resource areas; (iv) the protocol to resolve conflicts that may arise at any time during the road maintenance and repair process; (v) the general provisions of the Act, the need to adhere to the provisions of the Endangered Species Act, the penalties associated with violating the Act.
- f. Halt work, if necessary, and confer with the USFWS and BLM to ensure the proper implementation of Quino checkerspot butterfly and habitat protection measures. The biologist will report any violation to the USFWS and BLM within 24 hours of its occurrence.
- g. Submit weekly email reports (including photographs) to the USFWS and BLM during road maintenance and repair activities within the specified road segments. The weekly reports will document that maintenance and repair remained within the existing road disturbance area and general compliance with all conditions. The reports will also outline the duration of monitoring, the location of maintenance and repair activities, the type of activities that occurred, and equipment used. These reports will specify numbers and locations of Quino checkerspot butterfly observed, if any, and remedial measures employed to avoid, minimize, and mitigate impacts. Raw field notes should be available upon request by the USFWS.
- h. Submit a final report to the USFWS and BLM within 60 days of road maintenance and repair completion that includes: photographs of habitat areas that were to be avoided and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with all conditions of this consultation was achieved.

#### *Arroyo Toad*

These measures apply to maintenance activities along the Reyes Road segment, which is located within potential arroyo toad dispersal habitat; no breeding habitat occurs in the Project Area:

1. If maintenance or repair activities are necessary outside the existing project footprint in suitable arroyo toad dispersal habitat from January through September, impacts on arroyo toads will be minimized by constructing temporary exclusionary fencing along the perimeter of the activity footprint to minimize potential impacts on dispersing juveniles and adults. The fence will be a silt-screen type barrier composed of a minimum 24-inch high fence with the remainder (minimum 12 inches) anchored parallel along the ground. The fence locations will be identified by a qualified biologist and adjusted as necessary. Exclusionary fencing will be monitored during installation and daily by a qualified biologist and maintained in its original condition by construction personnel for the entire length of the construction period in suitable dispersal or occupied toad habitat.
2. A qualified biologist approved by BLM will conduct a minimum of three nighttime clearance surveys inside the exclusionary fence and remove all arroyo toads found within the perimeter. The qualified biologist will continue to survey until there have been two consecutive nights without toads found within the fencing. After the clearance surveys have been completed the qualified biologist will conduct daily surveys each morning prior to maintenance activities. Any toads found will be relocated out of harm's way into adjacent suitable habitat.

3. High-velocity water releases from project activities (during and after maintenance) that could degrade breeding habitat will be avoided.
4. Any use or storage of chemicals or fuels at project sites will be kept 3,280 feet away from toad habitat (i.e., areas of known arroyo toad occurrence, arroyo toad breeding habitat [in-stream and immediately adjacent], or critical habitat).

#### *Coastal California Gnatcatcher*

These measures apply to maintenance activities along the following road segments: Little Otay Truck Trail, End of Fence Spur Road, and Reyes Road.

1. Clearing and trimming back of trees or other vegetation in coastal California gnatcatcher suitable habitat with potential to impact this species will be limited to the minimum necessary to maintain drivable access and patrol roads. This limited vegetation clearing and trimming will be conducted outside of the nesting season (February 1-July 31), unless a qualified biologist has conducted focused surveys in accordance with USFWS protocols and it has been determined that the area is not occupied and does not contain the primary constituent elements of the designated habitat.
2. For all other maintenance activities to be conducted within coastal California gnatcatcher suitable habitat during the nesting season (February 1-July 31), the following avoidance measures will apply. A qualified biologist will conduct a survey prior to initiating maintenance activities. If coastal California gnatcatcher are detected, a qualified biologist will survey for nests approximately once per week within 500 feet of the maintenance area for the duration of the activity. If an active nest is found, no maintenance will be conducted within 500 feet of the nest until the young have fledged.
3. All maintenance vehicles will be limited to 35 mph on major unpaved roads (i.e., graded with ditches on both sides) and 25 mph on all other unpaved roads.

#### *Bighorn Sheep-Peninsular Ranges*

These measures apply to maintenance activities along the following road segments: O'Neill Valley Access Road; Elliot Mine Road, Mica Mine Road, Davie's Valley Road, and Mica Davie's Crossover Road – possibly West Desert Drag Road west end.

1. During maintenance activities within the above-listed road segments, a qualified biologist will monitor a 1-mile area surrounding the segments for presence of sheep. If a sheep is observed within 3,000 feet of the activity all work that could disturb it will cease until the sheep has moved out of the area. For vehicle operations, this will entail stopping the vehicle until the sheep moves away. Vehicles may continue at reduced speeds (10 to 15 mph) once the sheep has moved away or retreated from the area in the direction from which they came. A survey using binoculars will be conducted in any area within the 1-mile monitoring buffer that is not accessible due to access authorizations or topographical restrictions.
2. Access to, and use of, designated water sources for desert bighorn sheep will not be impeded by activities in designated and new utility corridors.

#### BLM Special Status Species

##### Flat-tailed Horned Lizard

Within the Yuha Basin FTHL Management Area (West Desert Drag Road, Roy's Road, Cat Exit 4, Signal Road Legacy Fence Road 1, Signal Road Legacy Fence Road 2, Signal Road Legacy and Fence Road 3) (see

Figure 7a of the EA). Two road segments are located within 2 miles of the East Mesa FTHL Management Area (see Figure 7b of the EA): Poleline Extension and Canal Road. Four road segments are located within FTHL suitable habitat (see Figure 7a of the EA): Mica Davie's Crossover, Mica Mine Road, Davie's Valley Road, and Davie's Clark Crossover:

1. Prior to road maintenance and repair activities initiation, an individual shall be designated as a field contact representative. The field contact representative shall have the authority to ensure compliance with protective measures for the FTHL and will be the primary agency contact dealing with these measures. The field contact representative shall have the authority and responsibility to halt activities that are in violation of these terms and conditions.
2. All project work areas shall be clearly flagged or similarly marked at the outer boundaries to define the limit of work activities. All construction workers shall restrict their activities and vehicles to areas that have been flagged to eliminate adverse impacts to the FTHL and its habitat. All workers shall be instructed that their activities are restricted to flagged and cleared areas.
3. Within the FTHL habitat, the area of disturbance of vegetation and soils shall be the minimum required for the project. Clearing of vegetation and grading shall be minimized. Wherever possible, rather than clearing vegetation and grading the ROW, equipment and vehicles shall use existing surfaces or previously disturbed areas. Where grading is necessary, surface soils shall be stockpiled and replaced following construction to facilitate habitat restoration. To the extent possible, disturbance of shrubs and surface soils due to stockpiling shall be minimized.
4. Designated roads shall be used for travel and equipment storage.
5. A biological monitor shall be present in each area of active surface disturbance throughout the workday from initial clearing through habitat restoration, except where the project is completely fenced and cleared of FTHL by a biologist.
6. A biological monitor approved by BLM will be present during road maintenance and repair activities that occur within FTHL habitat.
7. Comply with the conservation goals and objectives, criteria, and management planning actions identified in the most recent revision of the FTHL Rangeland Management Strategy (RMS). Activities will include appropriate design features using the most current information from the RMS and RMS Interagency Coordinating Committee to minimize adverse impacts during siting, design, pre-construction, construction, operation, and decommissioning; ensure that current or potential linkages and habitat quality are maintained; reduce mortality; minimize other adverse impacts during operation; and ensure that activities have a neutral or positive effect on the species.

#### Burrowing Owl

Within potential burrowing owl habitat (Canal Road and Poleline Extension):

1. Prior to road maintenance and repair activities, conduct burrowing owl surveys according to CDFW survey protocols (CDFW 2012). Each road segment with potential burrowing owl habitat should include a 500-foot (where practicable) survey area.

If burrowing owls are found:

- a. Avoid disturbing occupied burrow during the nesting period, from 1 February through 31 August.
- b. Avoid impacting burrows occupied during the non-breeding season by migratory or non-migratory resident burrowing owls.

- c. Develop and implement a worker awareness program to increase the on-site worker's recognition of and commitment to burrowing owl protection.
  - d. Place visible markers near burrows to ensure that farm equipment or other machinery does not collapse burrows.
  - e. If unoccupied burrows are found, owls may attempt to colonize or re-colonize the area. Ongoing surveillance at the project site during activities is recommended. The surveillance frequency/effort should be sufficient to detect burrowing owls if they return. Subsequent to their new occupancy or return to the site, take avoidance measures should be implemented.
  - f. To protect occupied burrows/burrow surrogates, implement buffer zones, visual screens, or other measures while project activities are occurring to minimize disturbance (per CDFW guidelines).
2. If burrowing owls are present, a designated biologist will conduct appropriate activity-specific biological monitoring to ensure avoidance of occupied burrows and establishment of the 656 feet (200 meters) setback to sufficiently minimize disturbance during the nesting period on all activity sites, when practical.
  3. If burrows cannot be avoided on-site, passive burrow exclusion by a designated biologist through the use of one-way doors will occur according to the BMP specifications or the most up-to-date agency BLM or CDFW specifications. Before exclusion, there must be verification that burrows are empty as specified in the most up-to-date BLM or CDFW protocols. Confirmation that the burrow is not currently supporting nesting or fledgling activities is required prior to any burrow exclusions or excavations.
  4. Activity-specific active translocation of burrowing owls may be considered, in coordination with CDFW.

#### Colorado Fringe-toed Lizard

1. Conduct visual encounter walking surveys prior to road maintenance and repair activities.

#### BLM Sensitive Plants

1. Conduct special status native plant botanical surveys according to CDFW protocols. Conduct botanical field surveys when:
  - a. Natural (or naturalized) vegetation occurs in an area that may be directly or indirectly affected by a project (project area), and it is unknown whether or not special status plants or sensitive natural communities occur in the project area;
  - b. Special status plants or sensitive natural communities have historically been identified in a project area; or
  - c. Special status plants or sensitive natural communities occur in areas with similar physical and biological properties as a project area.
2. Conduct botanical field surveys in a manner which maximizes the likelihood of locating special status plants and sensitive natural communities that may be present. Botanical field surveys should be floristic in nature, meaning that every plant taxon that occurs in the project area is identified to the taxonomic level necessary to determine rarity and listing status (CDFW 2018).

## Cultural Resources

Any cultural resources monitors must be approved in advance by the BLM and are required to hold a current BLM Cultural Resources Use Permit and Field Authorization.

1. At Avoidance Areas 1 and 2, ensure these very visible resources are avoided by providing a map to maintenance staff and descriptions of the canal and roads resources that are to be avoided during maintenance work.
2. At Avoidance Areas 3 and 4, ensure equipment remains on roadbed and level surface adjacent to roadbed. Do not make any cuts or remove soil for fill from the sides or surface of raised terraces and alluvial fans adjacent to roads. In strict accordance with a prepared plan (RECON 2020d), construct a tapered cap atop access road that is at least three feet above grade along road footprint. Archaeological and Native American monitors are to be present during installation of cap.
3. At Avoidance Area 5, install permanent protective fencing along both sides of road edge where it passes through site, with archaeological and Native American monitors present. The signs should read "habitat restoration area" to minimize any potential to attract looters.
4. At Avoidance Area 6, in strict accordance with a prepared plan (RECON 2020d), construct a tapered cap atop access road that is at least three feet above grade along road footprint. Archaeological and Native American monitors are to be present during installation of cap. A qualified archaeologist and a Native American monitor would be present during construction of the permanent protective fencing and for the capping.
5. CBP would ensure avoidance by briefing maintenance equipment operators and providing maps with descriptions and avoidance requirements. In Avoidance Area 5, protection of the archaeological site would be ensured by installing permanent protective fencing along both edges of the access road where it bisects the site, and CBP informing maintenance staff of the limitation. Archaeological testing in Avoidance Area 6 confirmed that the site contains artifacts located on the surface outside of the access road, and subsurface below the access road.
6. In the event of a discovery, work would be stopped within the immediate area of the find until a professional archaeologist can determine the nature of the resources discovered. If any previously unrecorded human remains are inadvertently discovered during maintenance and repair activities, Federal law (Native American Graves Protection and Repatriation Act, Public Law 101-601; 25 United States Code § 3001-3013, 43 Code of Federal Regulations §10.4) and CBP policy would be followed.
7. If human remains are discovered during maintenance and repair of tactical infrastructure, CBP will adhere to the stipulations of Public Resources Code Section 5097.98 and Health and Safety Code 7050 and stop work within 15 meters (50 feet) of the discovery. CBP will then contact the BLM, the county coroner and a professional archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards in archaeology or history to determine the significance of the discovery. If appropriate, CBP and the BLM would coordinate and adhere to the Native American Graves Protection and Repatriation Act and its implementing regulations (43 Code of Federal Regulations 19). Depending on the recommendations of the coroner or the archaeologist, the BLM will consult with culturally affiliated tribes and the California SHPO regarding their management and disposition in compliance with Native American Graves Protection and Repatriation Act. Obtain all pertinent training materials for cultural resources for the areas where maintenance and repair activities would occur. Prior to arrival on the work site,

ensure key personnel are aware of the cultural resources potentially occurring in the Project Area and understand the proper BMPs to implement should cultural resources be encountered in the Project Area.

**Paleontological Resources**

- To avoid and minimize potential adverse impacts, grading activities within road segments would be monitored by a qualified (trained) paleontological monitor within roadway segments classified as Potential Fossil Yield Class 4/5, allowing for the discovery and recovery of any larger fossil remains exposed by earth-moving activities. These road segments are: West Desert Drag Road (0.73 mile segment); Cat Exit 4 (0.89 mile segment); Signal Road/Legacy Fence Access Road 1 (0.4 mile segment); Signal Road/Legacy Fence Access Road #2 (0.07 mile segment); and, Signal Road/Legacy Fence Access Road #3 (0.08 mile segment) (see Figure 9). Any paleontological monitoring shall be authorized under a BLM permit and Fieldwork authorization.

**FINDING**

Based on the results of the Environmental Assessments and the BMPs to be incorporated as part of the Proposed Action, it has been concluded that the Proposed Action will not have a significant effect on the environment. Therefore, no further NEPA analysis (i.e., Environmental Impact Statement) is warranted.

---

Loren Flossman Date  
Director  
Program Management Office Directorate  
U.S. Customs and Border Protection

---

Dennis Counihan Date  
Acting Director  
Facilities Management and Engineering  
U.S. Customs and Border Protection