

**FINAL**



**ENVIRONMENTAL ASSESSMENT  
FOR THE NEW FREER BORDER PATROL STATION  
U.S. BORDER PATROL FREER STATION  
LAREDO SECTOR, TEXAS**

**APRIL 2021**



**FINDING OF NO SIGNIFICANT IMPACT  
FOR  
CONSTRUCTION OF THE NEW FREER BORDER PATROL STATION  
U.S. BORDER PATROL FREER STATION, LAREDO SECTOR, TEXAS  
U.S. CUSTOMS AND BORDER PROTECTION  
DEPARTMENT OF HOMELAND SECURITY  
WASHINGTON, D.C.**

**INTRODUCTION:** United States (U.S.) Customs and Border Protection (CBP) prepared an Environmental Assessment (EA) that addresses the potential effects, beneficial and adverse, resulting from the proposed construction of a new U.S. Border Patrol Station (BPS) in Freer, Texas.

The new BPS would replace the current facility which does not have the capacity to meet current and future needs for USBP operations in the area. The new BPS would be constructed to accommodate 125 agents initially, with the capability to expand to 175 agents. The new BPS and associated supporting infrastructure are designed for continuous operation in support of the Border Patrol Strategic Plan to gain and maintain effective control of the borders of the United States.

The Freer BPS is one of nine stations comprising the Laredo Sector, along with the Cotulla, Dallas, Hebronville, Laredo North, Laredo South, Laredo West, San Antonio, and Zapata Stations in Texas. The Freer BPS's Area of Responsibility (AOR) encompasses 6,157 square miles within Duval, Jim Wells, Live Oak, McMullan, and Webb counties, Texas. The AOR assigned to the Freer BPS is bordered by U.S. Highway 281, U.S. Highway 59, State Highway 16, and State Highway 44.

The proposed new station will include some or all the following components:

- A BPS main administrative building with capability for 125 - agent and future expandability to 175 agents, to include single lane sally port and comprehensive processing/holding area in accordance with Border Patrol Facilities Guidelines Standards. The new facility will provide office space, storage space, weapons and ammunition storage, muster area, locker rooms, exercise facility (to include Mat Room designed for use of force exercises), and training area.
- Command Center (C2) with consoles
- 100-foot communications tower with infrared surveillance camera
- Parking area for 214 vehicles (i.e., 85 personal owned vehicles [POV] spaces, 103 government owned vehicles [GOV] spaces, and 9 visitors, 17 service vehicles), and a 13 vehicle impound lot.
- Short-stay kennel (eight [8] for twenty-four [24] canines)
- Two-point above-ground fueling island with 12,000-gallon tank
- Three-bay Vehicle Maintenance Facility, with two (2) vehicle bays and one (1) All-Terrain Vehicle (ATV) bay
- One (1) bay carwash facility with vacuum and prewash
- Equestrian facilities for ten (10) horses

- Fully functional heliport facility
- Fully designed FIPS201/HSPD-12 compliant security systems, including CCTV, access control, intrusion detection and alarm notification
- ATV shed facility for ten (10) ATVs
- Connection to Freer water system, treated water well, and anaerobic septic system
- Facility maintenance/administrative spaces with storage for materials and supplies, and work areas
- Fifty-yard, fully baffled, outdoor firing range with six lanes

**PROJECT LOCATION:** The new BPS would be constructed in the western portion of the city of Freer, Texas; approximately 63 miles northeast of the U.S.-Mexico border at Laredo, Texas. Freer is located in the southern portion of Texas, in Duval County. The project location is a 30-acre parcel of land west of Freer, Texas.

**PURPOSE AND NEED:** CBP proposes the construction, operation, and maintenance of a new BPS in the Freer Station AOR for the purpose of providing a facility that would support the operational capabilities of USBP in the Freer Station AOR, while facilitating the primary goals and objectives of USBP's strategy, which include the addition of as-needed new agents and personnel. Based upon the increasing trends in illegal border activities and the current insufficient facilities at the Freer BPS, additional USBP agents and other resources are required to enhance the operational capabilities of USBP within the Freer Station AOR. The site for the Proposed Action is approximately 4 miles west of the existing station. The proposed construction of an upgraded permanent facility would address the occupational health, safety, security, and operational deficiencies that are found at the existing Freer BPS.

The need for a new Freer BPS is due to the increasing number of agents that have been required to operate in the Freer AOR since its establishment to effectively support USBP's mission. The existing Freer BPS has 106 agents working in over-crowded and inefficient conditions. The original station was built in 1984 and intended for use by 25 USBP agents. Almost all categories of space requirements in the existing facilities have less than 1/3 of the space necessary for the agents to functionally perform their duties within the station. The severe space shortage forces compromises in space utilization and security practices relative to the security standards.

**ALTERNATIVES:** CBP analyzed two alternatives in the EA. Alternative 1 is the Proposed Action. The Proposed Action would construct a new Freer BPS on an approximately 30-acre parcel of land west of Freer, Texas. Based upon potential site designs, it has been determined that a 30-acre project site is sufficient to construct BPS main administrative building and associated infrastructure including but not limited to a fueling station, communications tower, parking area, outdoor shooting range, and maintenance facility.

Alternative 2 is the No Action Alternative, which would preclude the construction, operation, and maintenance of a new BPS. The existing station would continue to be inadequate for the support of operations within the Freer AOR and would have to accommodate the projected increase in USBP agents but would not be able to do so while operating in an effective manner. Consequently, this alternative would hinder USBP's ability to respond to high-levels of illegal border-related activity. The No Action Alternative does not meet the purpose and need for the

proposed project, but was carried forward for analysis, as required by Council of Environmental Quality regulations. The No Action Alternative describes the existing conditions in the absence of the Proposed Action.

**ENVIRONMENTAL CONSEQUENCES:** No effects would occur to cultural resources as none were found within the boundaries of the Proposed Action. Effects to biological resources such as soils, vegetation, wildlife, and protected species would range from none to minor, temporary to long-term. No impacts are expected to surface waters as none are present; however, groundwater resources (i.e., water used for municipality purposes) will be impacted negligibly due to the increase in usage associated with construction activities. No jurisdictional wetlands or waters of the United States would be impacted by construction of the new BPS. Best management practices (BMPs) and standard construction procedures would be implemented as construction occurs.

Temporary, minor increases in air pollution and noise would occur during construction activities. Negligible increases in demands on utilities would be expected as a result of the new BPS. Construction of the BPS would create temporary, minor impacts on roadways and traffic within the region. Vehicular traffic would increase near the proposed site to transport materials and work crews during construction activities. The Proposed Action would have negligible to minor impacts on socioeconomics through increased taxes, salaries, and buying of supplies during construction and operation of the new BPS. Further, the Proposed Action would not result in disproportionately high and adverse human health or environmental effects on minority populations or low income populations.

**BEST MANAGEMENT PRACTICES:** Best Management Practices were identified for each resource category that could be potentially affected. Many of these measures have been incorporated as standard operating procedures by CBP in similar past projects. The BMPs to be implemented are found below and in Section 4.0 of the EA.

### **GENERAL PROJECT PLANNING CONSIDERATIONS**

1. If required, night-vision-friendly strobe lights necessary for CBP operational needs will use the minimum wattage and number of flashes per minute necessary to ensure operational safety.
2. Avoid contamination of ground and surface waters by storing concrete wash water, and any water that has been contaminated with construction materials, oils, equipment residue, etc., in closed containers on-site until removed for disposal. This wash water is toxic to wildlife. Storage tanks must have proper air space (to avoid rainfall-induced overtopping), be on-ground containers, and be located in upland areas instead of washes.
3. Avoid lighting impacts during the night by conducting construction and maintenance activities during daylight hours only. If night lighting is unavoidable, 1) use special bulbs designed to ensure no increase in ambient light conditions, 2) minimize the number of lights used, 3) place lights on poles pointed down toward the ground, with shields on

lights to prevent light from going up into sky, or out laterally into landscape, and 4) selectively place lights so they are directed away from all native vegetative communities.

4. CBP will avoid the spread of non-native plants by not using natural materials (e.g., straw) for on-site erosion control. If natural materials must be used, the natural material would be certified weed and weed-seed free. Herbicides not toxic to listed species that may be in the area can be used for non-native vegetation control. Application of herbicides will follow Federal guidelines and can be used according to in accordance with label directions.
5. CBP will ensure that all construction will follow Department of Homeland Security Directive 025-01 for Sustainable Practices for Environmental, Energy, and Transportation Management.
6. CBP will place drip pans under parked equipment and establish containment zones when refueling vehicles or equipment.

## **SOILS**

1. Clearly demarcate the perimeter of all new areas to be disturbed using flagging or temporary construction fencing. Do not allow any disturbance outside that perimeter.
2. The area of disturbance will be minimized by limiting deliveries of materials and equipment to only those needed for effective project implementation.
3. Within the designated disturbance area, grading or topsoil removal will be limited to areas where this activity is needed to provide the ground conditions necessary for construction or maintenance activities.
4. Rehabilitation will include revegetating or the distribution of organic and geological materials (i.e., boulders and rocks) over the disturbed area to reduce erosion while allowing the area to naturally vegetate.

## **BIOLOGICAL RESOURCES**

1. Materials used for on-site erosion control will be free of non-native plant seeds and other plant parts to limit potential for infestation.
2. Identify by its source location any fill material, sandbags, hay bales, and mulch brought in from outside the project area. These materials will be free of non-native plant seeds and other plant parts to limit potential for infestation.
3. Native weed free seeds or plants will be used to revegetate temporarily disturbed areas.

4. Obtain materials such as gravel, topsoil, or fill from existing developed or previously used sources that are compatible with the project area and are from legally permitted sites. Do not use materials from undisturbed areas adjacent to the project area.
5. To prevent entrapment of wildlife species, ensure that excavated, steep-walled holes or trenches are either completely covered by plywood or metal caps at the close of each workday or provided with one or more escape ramps (at no greater than 1,000-foot intervals and sloped less than 45 degrees) constructed of earthen fill or wooden planks.
6. Each morning, before the start of construction or maintenance activities and before such holes or trenches are filled, ensure that they are thoroughly inspected for trapped animals. Ensure that any animals discovered are allowed to escape voluntarily (by escape ramps or temporary structures), without harassment, and before construction activities resume, or are removed from the trench or hole by a qualified person and allowed to escape unimpeded.
7. The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712, [1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989]) requires that Federal agencies coordinate with the USFWS if a construction activity would result in the take of a migratory bird. If construction or clearing activities are scheduled during nesting season (March 15 through September 15) within potential nesting habitats, surveys will be performed to identify active nests. If construction activities will result in the take of a migratory bird, then coordination with the U.S. Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department will be required and applicable permits would be obtained prior to construction or clearing activities. Other mitigation measures that would be considered are to install visual markers on any guy wires used, and to schedule all construction activities outside nesting season, negating the requirement for nesting bird surveys. The proposed remote video surveillance system and relay towers would also comply with USFWS guidelines for reducing fatal bird strikes on communications towers (Clark 2000), to the greatest extent practicable.
8. Anti-perching devices will be incorporated into the site design and installed on the tower.
9. CBP will not, for any length of time, permit any pets inside the project area or adjacent native habitats. This BMP does not pertain to law enforcement animals.
10. The least amount of ingress and egress roads necessary for entering and leaving the project site would be utilized to complete the construction of the project.

## **CULTURAL RESOURCES**

1. In the event that unanticipated archaeological resources are discovered during construction or any other project-related activities, or should known archaeological resources be inadvertently affected in a manner that was not anticipated, the project proponent or contractor shall immediately halt all activities in the immediate area of the

discovery and take steps to stabilize and protect the discovered resource until it can be evaluated by a qualified archaeologist.

2. In the event that human remains are inadvertently discovered all ground-disturbing activity would cease immediately. The Project Manager would immediately notify CBP. CBP would notify state police within 24 hours of the discovery and follow their directions for securing the site pending examination of a medical examiner/coroner. Law enforcement and the coroner would determine whether or not the discovery constitutes a crime scene. CBP would coordinate with the state police and the coroner regarding where construction activities can resume. No work may proceed without the written authorization of CBP. CBP would notify the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer or Tribal Historic Preservation Officer, any impacted Indian Tribe, and any impacted federal agency of the discovery in writing within two business days. NAGPRA would be followed if the discovery is determined to be of Native American origin. CBP's established standard operating procedures for inadvertent discoveries would be adhered to in all cases.

## **AIR QUALITY**

1. Soil watering will be utilized to minimize airborne particulate matter created during construction activities. Bare ground may be covered with hay or straw to lessen wind erosion during the time between construction and the revegetation of temporary impact areas with a mixture of native plant seeds or nursery plantings (or both). All construction equipment and vehicles will be kept in good operating condition to minimize exhaust emissions.

## **WATER RESOURCES**

1. Wastewater is to be stored in closed containers on-site until removed for disposal. Wastewater is water used for project purposes that is contaminated with construction materials or from cleaning equipment and thus carries oils or other toxic materials or other contaminants as defined by Federal or state regulations.
2. Avoid contamination of ground and surface waters by collecting concrete wash water in open containers and disposing of it off-site.
3. Avoid contaminating natural aquatic and wetland systems with runoff by limiting all equipment maintenance, staging, and laydown and dispensing hazardous liquids, such as fuel and oil, to designated upland areas.
4. Cease work during heavy rains and do not resume work until conditions are suitable for the movement of equipment and materials.
5. Erosion control measures and appropriate BMPs, as required and promulgated through a site-specific Stormwater Pollution Prevention Plan (SWPPP) and engineering designs, will be implemented before, during, and after soil-disturbing activities.

6. Areas with highly erodible soils will be given special consideration when preparing the SWPPP to ensure incorporation of various erosion control techniques, such as straw bales, silt fencing, aggregate materials, wetting compounds, and rehabilitation, where possible, to decrease erosion.
7. All construction and maintenance contractors and personnel will review the CBP-approved spill protection plan and implement it during construction and maintenance activities.
8. 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.
9. If soaps or detergents are used, the wastewater and solids must be pumped or 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 sprayed over or discharged into surface waters.

## **NOISE**

1. Avoid noise impacts during the night by conducting construction and maintenance activities during daylight hours only.
2. All Occupational Safety and Health Administration (OSHA) requirements will be followed. To lessen noise impacts on the local wildlife communities, construction will only occur during daylight hours. All motor vehicles will be properly maintained to reduce the potential for vehicle-related noise.

## **SOLID AND HAZARDOUS WASTES**

1. BMPs will be implemented as standard operating procedures during all construction activities, and will include proper handling, storage, and/or disposal of hazardous and/or regulated materials. To minimize potential impacts from hazardous and regulated materials, all fuels, waste oils, and solvents will be collected and stored in tanks or 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. The refueling of machinery will be completed in accordance with accepted industry and regulatory guidelines, and all vehicles will have drip pans during storage to contain minor spills and drips. Although it is unlikely that a major spill would occur, any spill of reportable quantities will be contained immediately within an earthen dike, and the application of an absorbent (e.g., granular, pillow, sock) will be used to absorb and contain the spill.



2. CBP will contain non-hazardous waste materials and other discarded materials, such as construction waste, until removed from the construction and maintenance sites. This will assist in keeping the project area and surroundings free of litter and reduce the amount of disturbed area needed for waste storage.
3. CBP will minimize site disturbance and avoid attracting predators by promptly removing waste materials, wrappers, and debris from the site. Any waste that must remain more than 12 hours should be properly stored until disposal.
4. All waste oil and solvents will be recycled. All non-recyclable hazardous and regulated wastes will be collected, characterized, labeled, stored, transported, and disposed of in accordance with all applicable Federal, state, and local regulations, including proper waste manifesting procedures.
5. Solid waste receptacles will be maintained at the project site. Non-hazardous solid waste (trash and waste construction materials) will be collected and deposited in on-site receptacles. Solid waste will be collected and disposed of by a local waste disposal contractor.
6. Disposal of used batteries or other small quantities of hazardous waste will be handled, managed, maintained, stored, and disposed of in accordance with applicable Federal and state rules and regulations for the management, storage, and disposal of hazardous materials, hazardous waste and universal waste. Additionally, to the extent practicable, all batteries will be recycled locally.
7. All rainwater collected in secondary containment will be pumped out, and secondary containment will have netting to minimize exposure to wildlife.
8. A properly licensed and certified hazardous waste disposal contractor will be used for hazardous waste disposal, and manifests will be traced to final destinations to ensure proper disposal is accomplished.

## **ROADWAYS AND TRAFFIC**

1. Construction vehicles will travel and equipment will be transported on established roads with proper flagging and safety precautions.

**FINDING:** On the basis of the findings of the EA, which is incorporated by reference, and which has been conducted in accordance with the National Environmental Policy Act, the Council on Environmental Quality regulations, and DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, Rev. 01, Implementation of the National Environmental Policy Act and after careful review of the potential environmental impacts of implementing the proposal, we find there would be no significant impact on the quality of the human or natural environments; therefore, there is no requirement to develop an Environmental Impact Statement. Further, we commit to implement BMPs and environmental design measures identified in the EA and supporting documents.

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Date: 2021.04.27 11:43:20  
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Bartolome Mirabal  
Director  
Facilities Division  
U.S. Border Patrol

Date

 Digitally signed by John  
R. Dickerson  
Date: 2021.04.28  
06:13:52 -04'00'

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John Dickerson  
Acting Director  
Facilities Management and Engineering Division  
U.S. Customs and Border Protection

Date

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FOR  
THE NEW FREER BORDER PATROL STATION  
U.S. BORDER PATROL LAREDO SECTOR, TEXAS  
U.S. CUSTOMS AND BORDER PROTECTION  
DEPARTMENT OF HOMELAND SECURITY  
WASHINGTON, D.C.**

**APRIL 2021**

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

Points of Contact: Mr. John Petrilla  
U.S. Customs and Border Protection  
Border Patrol & Air and Marine  
Program Management Office  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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## EXECUTIVE SUMMARY

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### INTRODUCTION

U.S. Customs and Border Protection (CBP) is the law enforcement component of the Department of Homeland Security (DHS) responsible for securing the border and facilitating lawful international trade and travel. U.S. Border Patrol (USBP) is the uniformed law enforcement component within CBP responsible for securing the Nation's borders against the illegal entry of people and goods between ports of entry.

CBP is proposing to construct a new Border Patrol Station (BPS) in Freer, Texas. The new BPS would replace the current facility which does not have the capacity to meet current and future needs for USBP operations in the area. The new BPS and associated supporting infrastructure are designed for continuous operation in support of the Border Patrol Strategic Plan to gain and maintain effective control of the borders of the United States. The new BPS would be located approximately 4-miles west of the existing Freer BPS.

### PROJECT LOCATION

The proposed BPS would be constructed in the western portion of the city of Freer, Texas, approximately 63 miles northeast of the U.S.-Mexico border at Laredo, Texas. Based on potential site designs, the 30-acre project site is sufficient to construct the BPS main administrative building and associated infrastructure including a fueling station, communications tower, parking area, and maintenance facility.

### PURPOSE AND NEED

CBP proposes the construction of a new BPS in Freer, Texas (the Proposed Action) for the purpose of facilitating the primary goals and objectives of USBP's strategy, which include the addition of as-needed new agents and personnel. Based upon the increasing trends in illegal border activities and the current insufficient facilities at the Freer BPS, additional USBP agents and other resources are required to enhance the operational capabilities of USBP within the Freer Station Area of Responsibility (AOR). The site for the Proposed Action is approximately 4 miles west of the existing station. The proposed construction of an upgraded permanent facility would address the occupational health, safety, security, and operational deficiencies that are found at the existing Freer BPS.

The need for a new Freer BPS is due to the increasing number of agents that have been required to operate in the Freer AOR since its establishment to effectively support USBP's mission. The existing Freer BPS has 106 agents working in over-crowded and inefficient conditions. The original station was built in 1984 and intended for use by 25 USBP agents. Almost all categories of space requirements in the existing facilities have less than 1/3 of the space necessary for the agents to functionally perform their duties within the station. The severe space shortage forces compromises in space utilization and security practices relative to the security standards.

## **PROPOSED ACTION AND ALTERNATIVES**

The Proposed Action and one alternative (No Action Alternative) were identified and considered during the planning stages of the proposed project. The Proposed Action consists of the construction of a new Freer BPS and associated infrastructure that meet the purpose of and need for the project. As required by National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations, the No Action Alternative reflects conditions within the project site should the Proposed Action not be implemented. One potential BPS site was carried forward for evaluation in the EA.

## **AFFECTED ENVIRONMENT AND CONSEQUENCES**

No effects would occur to cultural resources as none were found within the boundaries of the Proposed Action. Effects to biological resources such as soils, vegetation, wildlife, and protected species would range from none to minor, temporary to long-term. The Proposed Action would have minimal impacts on ground water resources. No impacts are expected to surface waters as none are present; however, groundwater resources (i.e., water used for municipality purposes) would be impacted negligibly due to the increase in usage in the Freer area. No jurisdictional wetlands or waters of the United States would be impacted by construction of the BPS.

Temporary and minor increases in air pollution and noise would occur during construction activities. Negligible increases in demands on utilities would be expected as a result of the new BPS. Construction of the BPS would create long-term, minor impacts on roadways and traffic within the region. Vehicular traffic would increase near the proposed site to transport materials and work crews during construction activities. An increase in the number of personnel traveling to the new BPS would also occur after construction was completed.

The Proposed Action would have minor to negligible impacts on socioeconomics through increased taxes, salaries, and buying of supplies during construction and operation of the BPS. Further, the Proposed Action would not result in disproportionately high and adverse human health or environmental effects on minority populations or low income populations.

## **FINDINGS AND CONCLUSIONS**

Based upon the analyses of the Environmental Assessment (EA) and the Best Management Practices (BMPs) to be implemented, the Proposed Action would not have a significant effect on the environment. Therefore, no further analysis or documentation (i.e., Environmental Impact Statement) is warranted. CBP, in implementing this decision, would employ all practical means to minimize the potential for adverse impacts on the human and natural environments.

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## **1.0 PURPOSE OF AND NEED FOR THE PROPOSED ACTION**

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### **1.1 INTRODUCTION**

United States (U.S.) Customs and Border Protection (CBP) is preparing an Environmental Assessment (EA) that will address the potential effects, beneficial and adverse, resulting from the proposed construction and operation of a new U.S. Border Patrol Border Patrol Station (BPS) in Freer, Texas. The proposed new BPS would be constructed to accommodate 125 agents initially, with the capability to expand to 175 agents. The new facility would replace the current Freer BPS which does not have the capacity to meet current and future needs for U.S. Border Patrol (USBP) operations in the area. The new facility would be located 4-miles west of the existing facility (Figure 1-1). The new BPS and associated supporting infrastructure are designed for continuous operation in support of the Border Patrol Strategic Plan to gain and maintain effective control of the borders of the United States (CBP 2012).

The Freer BPS is one of nine stations comprising the Laredo Sector, along with the Cotulla, Dallas, Hebbronville, Laredo North, Laredo South, Laredo West, San Antonio, and Zapata Stations in Texas (CBP 2020). The Freer BPS's Area of Responsibility (AOR) encompasses 6,157 square miles within Duval, Jim Wells, Live Oak, McMullan, and Webb counties, Texas. The AOR assigned to the Freer BPS includes the corridors of U.S. Highway 281, U.S. Highway 598, State Highway 16, and State Highway 44.

With the newly established South Texas Campaign, Laredo Sector (LRT) has seen a shift in illegal alien and narcotic traffic from the Rio Grande Valley (RGV) into the Laredo Sector AOR. This is impacting the Freer Border Patrol AOR. Freer responsibilities include traffic checkpoint, roving patrol and sign cutting operations, and covering the seam between RGV and LRT while providing back-up to the Falfurrias Border Patrol Checkpoint, which is the nation's busiest checkpoint and currently undergoing expansion.

### **1.2 PROJECT LOCATION**

The proposed 125-agent BPS would be constructed in the western portion of the city of Freer, Texas, approximately 63 miles northeast of the U.S.-Mexico border at Laredo, Texas (see Figure 1-1). Figure 1-1 also shows the location of the existing Freer BPS. Freer is located in the southern portion of Texas, in Duval County, and is considered to be within the South Texas Plains ecoregion (Texas Parks and Wildlife Department [TPWD] 2018).

### **1.3 PURPOSE OF THE PROPOSED ACTION**

CBP and USBP propose the construction, operation, and maintenance of a new BPS in the Freer Station AOR for the purpose of providing a facility that would support the operational capabilities of USBP in the Freer Station AOR, while facilitating the primary goals and objectives of USBP's strategy, which include the addition of as-needed new agents and personnel. Based upon the increasing trends in illegal border activities and the current insufficient facilities at the Freer BPS, additional USBP agents and other resources are required to enhance the operational capabilities of USBP within the Freer Station AOR.

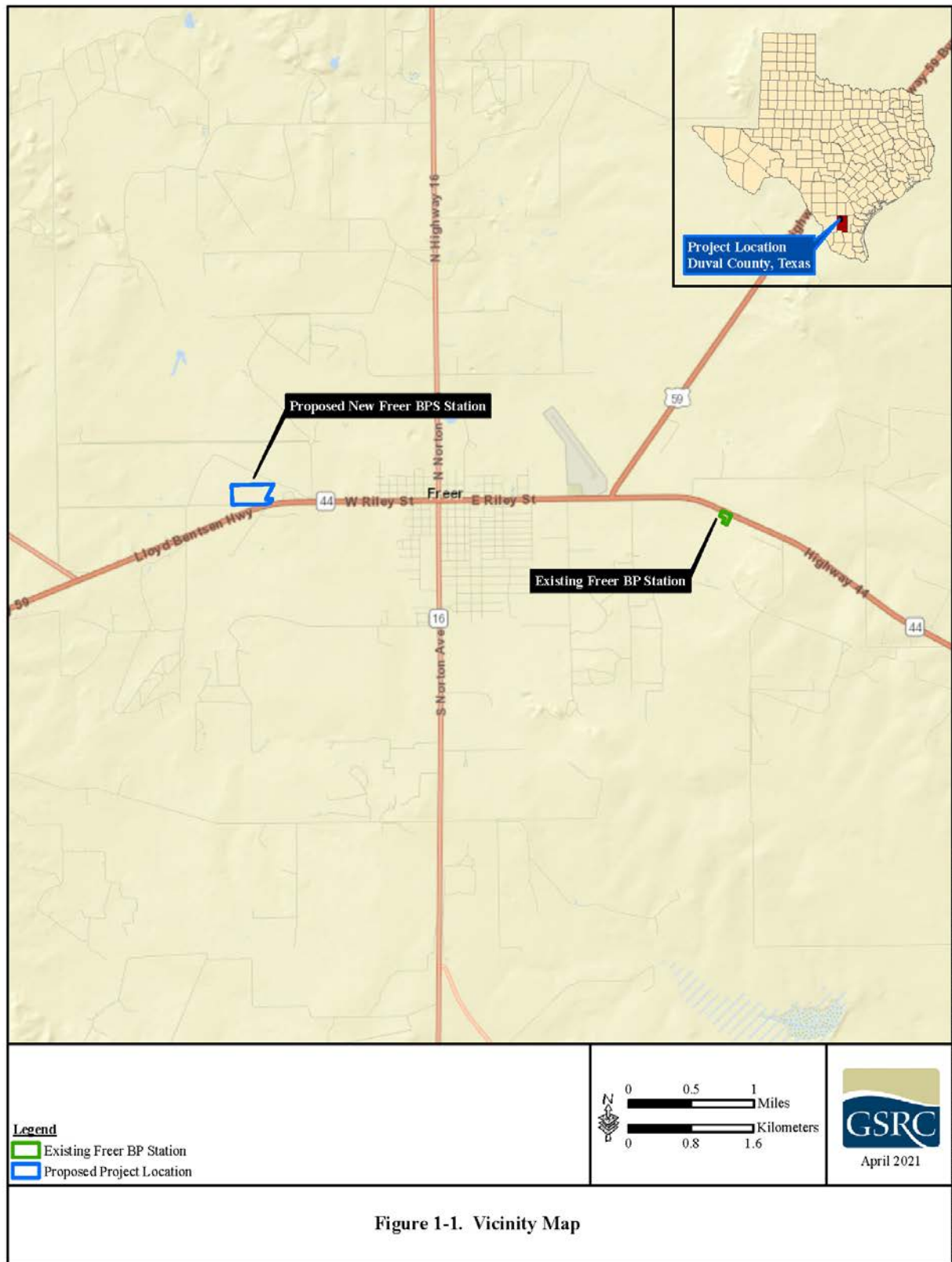


Figure 1-1. Vicinity Map

The proposed construction of an upgraded permanent facility would address the occupational health, safety, security, and operational deficiencies that are found at the existing Freer BPS.

The existing station is located approximately 4 miles east of the Proposed Action, being able to provide adequate facilities (Proposed Action) within the USBP Freer AOR as a base of USBP operations is mission critical in USBP's commitment to maintain law and order on the Southern Border, stop potential terrorists, and prevent the illicit trafficking of people and contraband between the official ports of entry into the United States. The Proposed Action (Preferred Alternative) would enhance the overall safety and efficiency of current and future operations within USBP Freer Station's AOR, as well as the safety of communities in the area.

#### **1.4 NEED FOR THE PROPOSED ACTION**

The need for a new Freer BPS is due to the increasing number of agents that have been required to operate in the Freer AOR since its establishment to effectively support USBP's mission. The existing Freer BPS property and buildings are currently leased by CBP from the General Services Administration (GSA) and will be returned to GSA upon completion of the Proposed Action. The existing Freer BPS has 106 agents working in over-crowded and inefficient conditions. The original station was built in 1984 and intended for use by 25 USBP agents. Almost all categories of space requirements in the existing facilities have less than 1/3 of the space necessary for the agents to functionally perform their duties within the station. The severe space shortage forces compromise in space utilization and security practices relative to the security standards.

#### **1.5 SCOPE OF ENVIRONMENTAL ANALYSIS AND DECISIONS TO BE MADE**

The scope of the EA includes an evaluation of the effects on the natural, cultural, social, economic, and physical environments resulting from the construction, installation, operation, and maintenance of a new BPS within the Freer AOR (see Figure 1-1). This evaluation will review and discuss environmental trends or reasonably foreseeable planned actions with the potentially affected areas. This analysis does not include an assessment of operations conducted in the field and away from the station. The potentially affected natural and human environment is limited to resources associated with the City of Freer and Duval County, Texas. Most potential effects will be limited to the construction site and immediately adjacent resources.

This EA assesses environmental impacts of the Proposed Action and alternatives. This EA allows decision makers to determine if the Proposed Action would or would not have effects on the natural, cultural, social, economic, and physical environment, as well as whether the action can proceed to the next phase of project development or if an Environmental Impact Statement (EIS) is required. The process for developing this EA allows for input and comments on the Proposed Action from the concerned public, interested non-governmental groups, and interested government agencies to inform agency decision making. The EA has been prepared as follows:

1. Conduct interagency and intergovernmental coordination for environmental planning. The first step in the National Environmental Policy Act (NEPA) process is to solicit comments from Federal, state, and local agencies, as well as Federally recognized tribes, about the proposed project to ensure that their concerns are included in the analysis.
2. Prepare a draft EA. CBP reviewed and addressed relevant comments and concerns received from any Federal, state, and local agencies or Federally recognized tribes during preparation of the draft EA.
3. Announce that the draft EA has been prepared. A Notice of Availability (NOA) was published in the *Laredo Morning Times* newspaper on December 17, 2020 (Appendix A) to announce the public comment period and the availability of the draft EA and Finding of No Significant Impact (FONSI).
4. Provide a public comment period. The draft EA was available to the public for a 30-day review beginning December 17, 2020. The draft EA was available for download from the CBP internet web page at the following URL address:  
<http://www.cbp.gov/about/environmental-cultural-stewardship/nepa-documents/docs-review>. Two comment letters were received, one from the USEPA and one from TPWD, Appendix B.
5. Prepare a final EA. This final EA has been prepared following the public comment period. The final EA addresses relevant comments and concerns received from all interested parties during the public comment period.
6. Issue a Determination. The final step in the NEPA process is the signature of a FONSI if the environmental analysis supports the conclusion that impacts on the quality of the human and natural environments from implementing the Proposed Action would not be significant. In this case, no EIS would be prepared.

## **1.6 APPLICABLE ENVIRONMENTAL GUIDANCE, STATUTES, AND REGULATIONS**

CBP follows applicable Federal laws and regulations for environmental protection and management. The EA was developed in accordance with the requirements of NEPA, updated regulations issued by the Council on Environmental Quality (CEQ) published in 40 Code of Federal Regulations (CFR) Parts 1500-1508 and 1515-1518 (CEQ 2020), and Department of Homeland Security (DHS) Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, Rev. 01, Implementation of the National Environmental Policy Act and other pertinent environmental statutes, regulations, and compliance requirements. The EA is the vehicle for compliance with all applicable environmental statutes, such as the Endangered Species Act (ESA) of 1973, 16 United States Code (U.S.C.) Part §1531 et seq., as amended, and the National Historic Preservation Act (NHPA) of 1966, 16 U.S.C. §470a et seq., as amended.

## 1.7 PUBLIC INVOLVEMENT

In accordance with 40 CFR §1501.9, 1503, 1506.6, and 1508.1 (k), CBP is consulting, and will continue to consult, with appropriate local, state, Tribal, and federal government agencies throughout the EA process. Coordination has been conducted with the following agencies through review of the Draft EA and is included in Appendix B:

### Federal Agencies:

- United States Fish and Wildlife Service (USFWS)
- United States Environmental Protection Agency (USEPA)
- United States Army Corps of Engineers (USACE)
- United States Department of the Interior (DOI)

### State Agencies:

- Texas Parks and Wildlife Department (TPWD)
- Texas Historical Commission (THC)
- Texas Department of Transportation (TxDOT)
- Texas Commission on Environmental Quality (TCEQ)

### Tribal:

- Alabama-Coushatta Tribe of Texas
- The Comanche Nation
- The Osage Nation
- Mescalero Apache Tribe of the Mescalero Reservation
- Kiowa Tribe of Oklahoma
- Tonkawa Tribe of Indians of Oklahoma
- Fort Sill Apache Tribe of Oklahoma
- White Mountain Apache Tribe of the Fort Apache Reservation
- Alabama-Quassarte Tribal Town
- Apache Tribe of Oklahoma
- Cherokee Nation
- Coushatta Tribe of Louisiana
- Kialegee Tribal Town
- Poarch Band of Creeks
- The Quapaw Tribe of Indians
- The Seminole Nation of Oklahoma
- Thlopthlocco Tribal Town
- Tunica-Biloxi Indian Tribe
- Wichita and Affiliated Tribes

Local:

- Duval County
- City of Freer

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## 2.0 PROPOSED ACTION AND ALTERNATIVES

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The Proposed Action and one alternative (No Action Alternative) were identified and considered during the planning stages of the proposed project. The Proposed Action consists of the construction of a new Freer BPS and associated infrastructure that meet the purpose of and need for the project. As required by NEPA and CEQ regulations, the No Action Alternative reflects conditions within the project site should the Proposed Action not be implemented. One potential BPS site was carried forward for evaluation in the EA.

### 2.1 CRITERIA FOR SITE SELECTION

The site selection process for the Proposed Action began with the identification of a seven potential construction sites based on suggestions from CBP and the USACE. This operationally preferred site location was selected based on knowledge of the terrain, environment, land ownership, and operational requirements. The seven sites were compared for suitability by CBP personnel. All seven sites are located adjacent to Highway 59 west of Freer, Texas and have been given the following site names: 1) Lundell Inc. Site, 2) Southard Site, 3) Whitworth Site, 4) Barker Site, 5) Lundell Ranch Site, 6) Killam Ranch Site, and (7) Cantu Site.

Six of the sites (Lundell Inc, Southard, Whitworth, Barker, Lundell Ranch, and Killam) were part of an original EA completed in May 2019 to collocate a New Freer BPS and Border Patrol Checkpoint (*Environmental Assessment for the New Freer Border Patrol Station and Border Patrol Checkpoint, U.S. Border Patrol, Laredo Sector Texas*). At the time the Southard site was the Preferred Site; however, this site was later deemed unusable by CBP. CBP applied the same criteria for site selection when choosing the location of the Proposed Action presented in this EA.

Evaluation criteria were developed for the selected site in order to determine that it meets the needs of CBP for a new BPS. Evaluation considerations include, but were not limited to, the following:

- **Adequate size and site shape, Anti-terrorism Force Protection (ATFP) standards:** The station campus will be of adequate size and shape to provide for the initial and expected, future programmed functions, allow for future expansion of parking, and allow for necessary buffer zones for special initiatives and for future facility expansion.
- **Proper location:** The station should be located and situated in such a way as to not compromise the security and safety of the station and agents. Additionally, the station should be located as close as possible to the geographic center of the BPS's AOR and to the area where the heaviest workload is generated.
- **Ease of access:** The station should have ease of access which includes access from more than one entry point for emergency egress purposes, access for emergency response services, close access to highways, and location away from significant obstructions.
- **Constructability**
- **No obvious detrimental cultural or environmental influences**

- **Anticipated time and cost required to purchase**
- **Access to public utilities**
- **Appropriate zoning**
- **Meets 2020 Guiding Principles for Sustainable Federal Building (Guiding Principles) for New Construction or Modernization**

## **2.2 PROPOSED ACTION**

The Proposed Action would construct a new Freer BPS on an approximately 30-acre parcel of land west of Freer, Texas (Figure 2-1). Based upon potential site designs, it has been determined that a 30-acre project site is sufficient to construct the BPS main administrative building and associated infrastructure including a fueling station, communications tower, parking area, and maintenance facility.

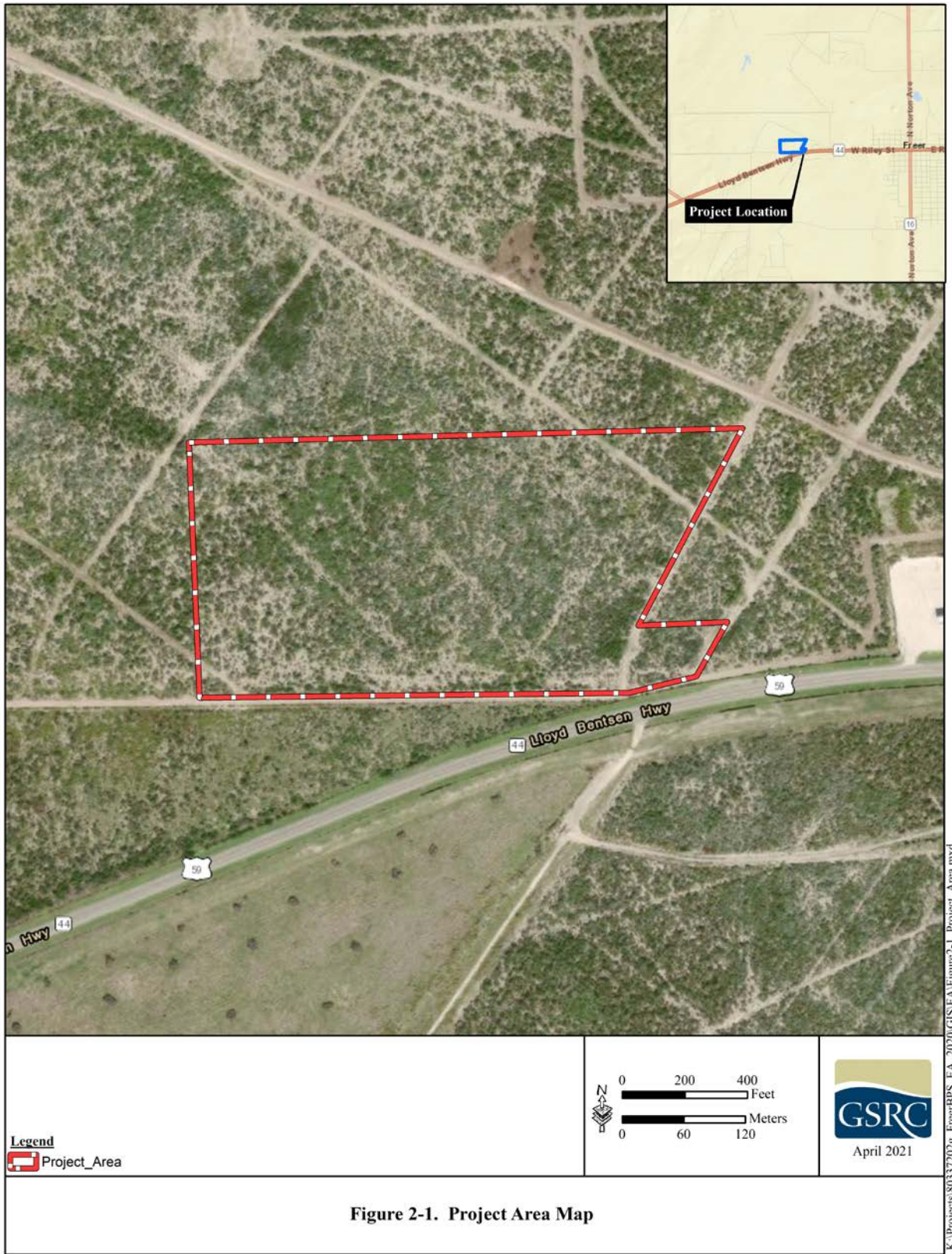
### **2.2.1 Proposed Station Design**

The new station is currently planned for 125 agents with the capability for future expandability to 175 agents total to meet current and future increased labor demands to meet the objectives of USBP in the Freer Station's AOR. Additionally, the site would have the capability to house the vehicles, animals, equipment, and other materials necessary to meet the objectives of the Freer BPS. The proposed station design and construction would meet USBP facilities guidelines and security standards. The new facilities are being designed in accordance with the *2020 Guiding Principles for Sustainable Federal Buildings (Guiding Principles) for New Construction or Modernization* and will meet Metrics 1 to 20 of this regulatory documentation (U.S. Department of Energy [DOE] 2016). A conceptual design layout of the proposed BPS is included in Figure 2-2.

The proposed new station will include some or all of the following components:

- A BPS main administrative building with capability for 125 - agent and future expandability to 175 agents, to include single lane sally port and comprehensive processing/holding area in accordance with Border Patrol Facilities Guidelines Standards. The new facility will provide office space, storage space, weapons and ammunition storage, muster area, locker rooms, exercise facility (to include Mat Room designed for use of force exercises), and training area.
- Command Center (C2) with consoles
- 100-foot communications tower with infrared surveillance camera
- Parking area for 214 vehicles (i.e., 85 personal owned vehicles [POV] spaces, 103 government owned vehicles [GOV] spaces, and 9 visitors, 17 service vehicles), and a 13 vehicle impound lot.
- Short-stay kennel (eight [8] for twenty-four [24] canines)
- Two-point above-ground fueling island with 12,000-gallon tank
- Three-bay Vehicle Maintenance Facility, with two (2) vehicle bays and one (1) All-Terrain Vehicle (ATV) bay
- One (1) bay carwash facility with vacuum and prewash







- Equestrian facilities for ten (10) horses
- Fully functional heliport facility
- Fully designed FIPS201/HSPD-12 compliant security systems, including CCTV, access control, intrusion detection and alarm notification
- ATV shed facility for ten (10) ATVs
- Connection to Freer water system, treated water well, and anaerobic septic system
- Facility maintenance/administrative spaces with storage for materials and supplies, and work areas
- Fifty-yard, fully baffled, outdoor shooting range with six lanes

Public power, communication systems, water utilities, and gas utilities would be utilized by the BPS; additionally, a treated well water and an anaerobic septic system would be installed as part of the Proposed Action. The entire facility would be provided with automatically controlled emergency back-up power, as well as an uninterruptible power system for critical loads.

### 2.3 NO ACTION ALTERNATIVE

The No Action Alternative would preclude the construction, operation, and maintenance of a new BPS. The existing station would continue to be inadequate for the support of operations within the Freer AOR and would have to accommodate the projected increase in USBP agents but would not be able to do so while operating in an effective manner. Consequently, this alternative would hinder USBP's ability to respond to high-levels of illegal border-related activity. The No Action Alternative does not meet the purpose and need for the proposed project but will be carried forward for analysis as required by CEQ regulations. The No Action Alternative describes the existing conditions in the absence of the Proposed Action.

### 2.4 ALTERNATIVES SUMMARY

The two alternatives selected for further analysis are the Proposed Action (Preferred Alternative) and the No Action Alternative. The Proposed Action fully meets the purpose of and need for the project, and the preferred construction site offers the best combination of terrain, environment, land ownership, and operational requirements to serve as a command center for conducting USBP's operations within the Freer AOR. An evaluation of how the Proposed Action meets the project's purpose and need is provided in Table 2-1.

**Table 2-1. Alternatives Matrix: Purpose of and Need for Alternatives**

<b>Purpose and Need</b>	<b>Proposed Action</b>	<b>No Action Alternative</b>
Appropriate facilities to allow the USBP to operate more efficiently, safely and securely - resulting in more effective deployment of required assets in the area of responsibility to prevent illegal activities - and ensure chain of custody.	Yes	No
Facilities that will enable the USBP to attain and maintain compliance with standards, regulations, and mandates.	Yes	No
Facilities will enable the USBP to provide safer handling of detainees with dedicated and isolated air supply systems, separation from secured storage areas, including weapons storage, and will result in overall safer operations.	Yes	No

Purpose and Need	Proposed Action	No Action Alternative
Provide additional space and facilities for expansion of the station to a 125-agent station, plus support staff.	Yes	No
Provide facilities necessary for an increased effectiveness of USBP agents in the performance of their duties (e.g., vehicle maintenance shop, fuel storage, vehicle parking, detention and processing space, secure vehicle seizure lot, dog kennels, stables and associated equestrian facilities, helicopter pad, and communication tower).	Yes	No
Provide an opportunity for future expansion as necessary.	Yes	No

## 2.5 RECENT, ONGOING, AND REASONABLY FORESEEABLE PROJECTS WITHIN THE GEOGRAPHIC BASELINE OF THE PROPOSED ACTION

Recent, ongoing, and reasonably foreseeable proposed projects were identified in the development of this EA. These projects include CBP projects, as well as other agencies that could have projects within the geographic baseline of the Proposed Action. If a proposed project presumptively would have effects that are reasonably foreseeable and have a close causal relationship with the Proposed Action or alternatives it is included in the affected environment and consequences section of this EA. However, if the effects of the proposed project is remote in time, geographically remote, or would be a result of a lengthy causal chain the proposed project was not included in the affected environment and consequences section of this EA per 40 CFR §1508.1(g).

The following projects were reviewed and CBP has determined that the effects of these projects are remote in time, geographically remote, or would be a result of a lengthy causal chain and are not included in the environmental consequences section of this EA.

### *CBP Projects*

- Maintenance and repair of tactical infrastructure along the U.S./Mexico international border in the El Paso, Big Bend, Del Rio, Laredo, and Rio Grande Valley sectors.
- Construction and maintenance of 32 RVSS towers and associated roads within the Falfurrias, Brownsville, Harlingen, Fort Brown, and Kingsville Station's AORs.
- Construction and maintenance of 40 RVSS and three relay towers and associated roads within the Rio Grande City, McAllen, and Weslaco Stations' AORs.
- Construction and maintenance of 70 RVSS and 14 relay towers and associated roads with the Laredo North, Laredo South, Laredo West, Zapata, Cotulla, Hebronville, and Freer Stations' AORs.
- Construction of approximately 65 miles of border wall in RGV Sector.
- Construction of the Freer Checkpoint Health and Life Safety Improvements on a 10-acre site will include signage and safety measures to address access and egress traffic, additional secure parking, equipment storage, relocating vehicle lift inspection equipment, and a vehicle impound area.

CBP determined not to include these ongoing and planning projects for discussion in the environmental consequences section of this EA because the potential effects of these projects are geographically remote (i.e., over 20 miles), remote in time, or the result of a lengthy causal chain when considering effects relating to the Proposed Action.

### ***Other Agency Projects***

In 2008, the Texas Transportation Commission created the I-69 Advisory and five I-69 Segment Committees to increase citizen and community input in the planning of I-69 in Texas. Segment Five Committee encompasses portions of U.S. Highway 59, U.S. Highway 77, U.S. Highway 281, and State Highway 44 and includes the counties of Duval, Jim Wells, Live Oak, McMullen, Nueces, San Patricio, Webb, and Zapata. Within Duval County, approximately 32.8 miles of U.S. Highway 59 and approximately 20.6 miles of SH 44 will be improved to prepare for the implementation of I-69 (TxDot 2018). As of 2018, no funding or programming has been completed for any portion of Segment five that is within 20 miles of the Proposed Action; therefore, the potential effects from the improvement of U.S. Highway 59 near the proposed BPS are considered remote in time and would be from a lengthy causal chain.

### 3.0 AFFECTED ENVIRONMENT AND CONSEQUENCES

#### 3.1 PRELIMINARY IMPACT SCOPING

This section describes the natural and human environments that exist within the region of influence (ROI) and the potential impacts of the No Action Alternative and the Proposed Action outlined in Section 2.0 of this document. The ROI for the new Freer BPS is the City of Freer and Duval County, Texas. The Proposed Action would be located on Federal land acquired from a private seller. Only those issues that have the potential to be affected by any of the alternatives are described, per CEQ guidance (40 CFR § 1501.9 [3]).

Some topics are limited in scope due to the lack of effect from the Proposed Action on the resource or because that particular resource is not located within the project site (Table 3-1).

**Table 3-1. Resources Analyzed in the Environmental Impact Analysis Process**

<b>Resource</b>	<b>Potential to Be Affected by Implementation of the Proposed Action</b>	<b>Analyzed in This EA</b>	<b>Rationale for Elimination</b>
Wild and Scenic Rivers	No	No	No rivers designated as Wild and Scenic Rivers (16 U.S.C. § 551, 1278[c], 1281[d]) are located within or near the project site
Land Use	Yes	Yes	Not Applicable
Geology	No	No	No geologic resources would be affected
Soils	Yes	Yes	Not Applicable
Prime Farmlands	No	No	No prime farmlands would be affected
Water Resources	Yes	Yes	Not Applicable
Floodplains	No	Yes	Not Applicable
Vegetative Habitat	Yes	Yes	Not Applicable
Wildlife Resources	Yes	Yes	Not Applicable
Threatened and Endangered Species	No	Yes	Not Applicable
Cultural, Archaeological, and Historical Resources	No	Yes	Not Applicable
Air Quality	Yes	Yes	Not Applicable
Noise	Yes	Yes	Not Applicable
Utilities and Infrastructure	Yes	Yes	Not Applicable
Radio Frequency Environment	Yes	Yes	Not Applicable
Roadways and Traffic	Yes	Yes	Not Applicable
Aesthetic and Visual Resources	No	No	No aesthetic or visual resources would be affected
Hazardous Materials	Yes	Yes	Not Applicable
Unique and Sensitive Areas	No	No	No unique or sensitive areas would be affected

<b>Resource</b>	<b>Potential to Be Affected by Implementation of the Proposed Action</b>	<b>Analyzed in This EA</b>	<b>Rationale for Elimination</b>
Socioeconomics	No	Yes	Not Applicable
Environmental Justice and Protection of Children	No	Yes	Not Applicable

Per 40 CFR §1508.1(g), effects are defined as changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and have a close causal relationship to the proposed action or alternatives, including those effects that occur at the same time and place as the proposed action or alternatives and may include effects that are later in time or farther removed in distance from the proposed action or alternatives.

For this EA, per 40 CFR §1508.1(g) effects are not considered if they are remote in time, geographically remote, or would be as a result of a lengthy causal chain. They were also not considered if CBP has no ability to prevent the effect or if the effect would occur regardless of the Proposed Action. Also, per 40 CFR §1501.3(b)(2), CBP has considered as appropriate to the Proposed Action whether effects would be short-term, long-term, beneficial or adverse. CBP also considered the effects on public health and safety and whether effects would violate federal, state, tribal, or local law protecting the environment.

Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects. Effects may also include those resulting from actions that may have both beneficial and detrimental effects, even if on balance the agency believes that the effect would be beneficial. As discussed in this section, the alternatives may create temporary, short-term, long-term, or permanent effects.

Whether an effect is significant depends on the potentially affected environment and degree of effects of the action (1501.3(b)). The potentially affected environment refers to the setting in which the impact occurs and may include society as a whole, the affected region, the affect interests, and the locality. Effects on each resource can vary in degree or magnitude from a slightly noticeable change to a total change in the environment. For the purpose of this analysis, the intensity of effects would be classified as negligible, minor, moderate, or major. The intensity thresholds are defined as follows:

- **Negligible:** A resource would not be affected or the effects would be at or below the level of detection, and changes would not be of any measurable or perceptible consequence.
- **Minor:** Effects on a resource would be detectable, although the effects would be localized, small, and of little consequence to the sustainability of the resource. Mitigation measures, if needed to offset adverse effects, would be simple and achievable.
- **Moderate:** Effects on a resource would be readily detectable, long-term, localized, and measurable. Mitigation measures, if needed to offset adverse effects, would be extensive and likely achievable.

- Major: Effects on a resource would be obvious and long-term and would have substantial consequences on a regional scale. Mitigation measures to offset the adverse effects would be required and extensive, and success of the mitigation measures would not be guaranteed.

The following discussions describe and, where possible, quantify the potential effects of each alternative on the resources within or near the project site. It is assumed that the entire tract of land where the Proposed Action is located would be used by CBP resulting in a permanent impact of 30 acres. All construction activities, staging areas, and final siting of the various BPS components would occur within the 30-acre tract of land.

## **3.2 LAND USE**

The existing land use at the Preferred Alternative site is rangeland. Nearby existing land use includes residential communities and rangeland.

Duval County encompasses approximately 1,149,440 acres, with the majority of the county being classified as rangeland. A total of 1,367 farms are located within Duval County, and these farms comprise nearly 836,283 acres. Eighty percent of the farms in Duval County are classified as pastureland for the production of cattle, sheep, hogs, and horses; twelve percent of farms are being used as woodland; five percent of farms are in use as cropland; and the remaining three percent of farms are classified as other (United States Department of Agriculture [USDA] 2017).

### **3.2.1 Alternative 1: Proposed Action**

Implementation of the Proposed Action would result in a change from the current land use of rangeland to a developed area in the form of the new Freer BPS. The closest developed area is Freer, Texas, and it is approximately 0.5 miles east of the proposed site. Adjacent land uses include oil and gas production and rangelands, the city of Freer is located to the east of the proposed site with the closest residential area being almost 1-mile east of the proposed site. Although the Proposed Action would convert approximately 30 acres of undeveloped land to a developed use, much of the AOR even if developed near the Proposed Action would remain undeveloped rangelands. The Proposed Action would have no significant impacts on land use within the immediate or surrounding areas.

### **3.2.2 Alternative 2: No Action Alternative**

The No Action Alternative would have no impacts, either beneficial or detrimental, on the area's land use. The site could be potentially developed at some time in the future, regardless of whether the USBP uses the site, or the site could remain as rangeland. No construction activities would occur as part of the No Action Alternative; therefore, no land use impacts would occur.

## **3.3 SOILS**

There are two soil types associated with the new Freer BPS. Mirasol very gravelly sandy loam, 1 to 8 percent slopes (MgD) and Lomart loam, 1 to 5 percent slopes (LoC) are the only soils located within the 30-acre site.



MgD soils are typically very shallow and shallow to indurated or strongly cemented duripans. It is a well-drained, permeable soil with high surface runoff. Mirasol soil is mostly used for wildlife habitat and livestock grazing. (USDA 2020). LoC soils are well-drained loamy to silt loam soils that are moderately permeable with a low runoff. The soil is primarily used for livestock grazing and wildlife habitat (USDA 2020). Neither soil is considered to be a prime farmland soil.

### **3.3.1 Alternative 1: Proposed Action**

Under the Proposed Action, approximately 30 acres of soils (of which none are considered prime farmland soils) would be permanently disturbed or removed from biological production at the new BPS. The effects from the disturbance and removal from biological production of approximately 30 acres of soil would be negligible due to the small size of the project footprint relative to the amount of the same soils throughout the ROI. Upon completion of construction, all temporary disturbance areas would be revegetated with a mixture of native plant seeds or nursery plantings or allowed to revegetate naturally, if applicable.

The Proposed Action could result in long-term beneficial impacts on soils within the ROI by reducing the adverse impacts of illegal CBV activities in the project site. The proposed BPS would enhance CBP's detection and threat classification capabilities and increase the efficiency of operational activities within the Freer AOR. Over time, the enhancement of detection capabilities and an increase in operational efficiency could increase the deterrence of illegal CBV activity within the area.

Pre- and post-construction SWPPP measures would be implemented to control soil erosion. The permanent impact on 30 acres of soils from the Proposed Action would not be considered a significant effect.

### **3.3.2 Alternative 2: No Action Alternative**

No ground-disturbing activities would occur as a result of this alternative. Therefore, the No Action Alternative would have no impacts, either beneficial or adverse, on soils.

## **3.4 VEGETATIVE HABITAT**

The project site is located in the South Texas Brush Country as characterized by TPWD (TPWD 2020a). This ecoregion exists from east of the Rio Grande and south of the Balcones Escarpment. The average temperature is 73 degrees Fahrenheit, with an average annual rainfall ranging from 16 inches in the west to 30 inches in the east. The South Texas Brush Country Ecoregion is a diverse ecoregion because it has elements of three converging vegetative communities: Chihuahuan Desert to the west, Tamaulipan thornscrub and subtropical woodlands along the Rio Grande, and coastal grasslands to the east. It is transected by numerous arroyos and streams and is generally covered in low-growing thorny vegetation (TPWD 2020a). Within the project site there were a total of three vegetation communities: Tamaulipan mixed shrubland, disturbed grassland, and bare ground. Tamaulipan mixed shrubland was the largest community (93 percent of the project site) followed by bare ground (6 percent) and disturbed grasslands (1 percent).

Common tree species for the area includes pecan (*Carya illinoensis*), sugarberry tree (*Celtis laevigata*), anacua tree (*Ehretia anacua*), Texas ebony tree (*Pithecellobium flexicaule*), sabal palm (*Sabal palmetto*), black willow (*Salix nigra*), Texas persimmon (*Diospyros texana*), honey mesquite (*Prosopis glandulosa var. glandulosa*), lotebush (*Ziziphus obtusifolia*), huisache (*Acacia farnesiana*), and Texas wild olive (*Cordia boissieri*). Shrubs that are most common in this ecoregion include fiddlewood (*Citharexylum berlandieri*), desert yaupon (*Schaefferia cuneifolia*), Rio Grande abutilon (*Abutilon hypoleucum*), bee bush (*Aloysia gratissima*), agarita (*Mahonia trifoliolata*), American beauty-berry (*Callicarpa americana*), lantana (*Lantana urticoides*), cenizo (*Leucophyllum frutescens*), Turk's cap (*Malvaviscus drummondii*), rose pavonia (*Pavonia lasiopetala*), and autumn sage (*Salvia greggii*). Common vines, grasses, and wildflowers according to the TPWD are marsh's pipevine (*Aristolochic sp.*), old man's beard (*Clematis drummondii*), sideoats grama (*Bouteloua curtipendula*), slender grama (*Bouteloua repens*), buffalograss (*Buchloe dactyloides*), inland sea-oats (*Chasmanthium latifolium*), plains lovegrass (*Eragrostis intermedia*), little bluestem (*Schizachyrium scoparium*), heartleaf hibiscus (*Hibiscus matianus*), scarlet sage (*Salvia coccinea*), red prickly poppy (*Argemone sanguinea*), and purple phacelia (*Phacelia bipinnatifida*) (TPWD 2020a). A complete list of flora species observed during biological surveys of the Freer BPS is included in Table 3-2.

**Table 3-2. Observed Flora Species of the Proposed Freer BPS**

<b>Common name</b>	<b>Scientific name</b>
Indian mallow	<i>Abutilon fruticosum</i>
Lozano's false Indian mallow	<i>Allowisadula lozannii</i>
Cuman ragweed	<i>Ambrosia psilostachya</i>
Prairie broomweed	<i>Amphiachyris dracunculoides</i>
Fishhook cactus	<i>Ancistrocactus scheeri</i>
Three awn	<i>Aristida sp.</i>
Spiny hackberry	<i>Celtis ehrenbergiana</i>
Coastal sandbur	<i>Cenchrus spinifex</i>
Windmill grass	<i>Chloris sp.</i>
Cow-itch vine	<i>Cissus trifoliata</i>
Brasil	<i>Condalia hookeri</i>
Grassland croton	<i>Croton dioicus</i>
Three seed croton	<i>Croton linderheimerianus</i>
Tasajillo	<i>Cylindropuntia leptocaulis</i>
Bermuda grass	<i>Cynodon dactylon</i>
Bearded prairie clover	<i>Dalea Pogonathera</i>
Cudweed	<i>Diaperia sp.</i>
Texas persimmon	<i>Diospyros texana</i>
Horse cripler	<i>Echinocactus texensis</i>
Strawberry cactus	<i>Echinocereus enneacanthus</i>
Texas kidneywood	<i>Eysenhardtia texana</i>
Pink thoroughwort	<i>Fleischmannia incarnata</i>
Elbowbush	<i>Forestiera angustifolia</i>
Sunflower	<i>Helianthus sp.</i>
Snake apple	<i>Ibervillea lindheimeri</i>
Leatherstem	<i>Jatropha dioica</i>

<b>Common name</b>	<b>Scientific name</b>
Hairy tube tongue	<i>Justicia pilosella</i>
Brushland lantana	<i>Lantana achyranthifolia</i>
Cenizo	<i>Leucophyllum frutescens</i>
Berlandier's wolfberry	<i>Lycium berlandieri</i>
Little nipple cactus	<i>Mammillaria heyderi</i>
Spearleaf	<i>Matelea parvifolia</i>
Devil's bouquet	<i>Nyctaginea capitata</i>
Texas prickly pear	<i>Opuntia engelmannii</i>
Gray's feverfew	<i>Parthenium confertum</i>
Buffelgrass	<i>Pennisetum ciliare</i>
Honey mesquite	<i>Prosopis glandulosa</i>
Pigeonberry	<i>Rivina humilis</i>
Prickly Russian thistle	<i>Salsola tragus</i>
Shrubby blue sage	<i>Salvia ballotiflora</i>
Desert yaupon	<i>Schaefferia cuneifolia</i>
Guajillo	<i>Senegalia berlandieri</i>
Plains bristlegrass	<i>Setaria leucopila</i>
Saffron plum	<i>Sideroxylon celastrinum</i>
Coastal germander	<i>Teucrium cubense</i>
Woolly tidestromia	<i>Tidestromia lanuginosa</i>
Woody crinklemat	<i>Tiquilia canescens</i>
Black brush	<i>Vachellia rigidula</i>
Schaffner's wattle	<i>Vachellia schaffneri</i>
Spanish dagger	<i>Yucca treculeana</i>
Lotebush	<i>Ziziphus obtusifolia</i>

### 3.4.1 Alternative 1: Proposed Action

The Proposed Action would have a permanent, minor impact on vegetation in the project site. Approximately 30 acres of South Texas Brush Country vegetative community would be permanently impacted as a result of the construction of the proposed BPS. The South Texas Brush Country vegetative community that would be impacted by the construction of the proposed BPS is both locally and regionally common, and the permanent loss of the limited amount of acreage would not adversely affect the population viability of any plant species in the region. In order to ensure that the Proposed Action does not actively promote the establishment of non-native and invasive species in the area, best management practices (BMPs; described in Section 4.0) would be implemented to minimize the spread and reestablishment of nonnative vegetation. Upon completion of construction, all temporary disturbance areas would be revegetated with a mixture of native plant seeds or nursery plantings or allowed to revegetate naturally. These BMPs, as well as measures protecting vegetation in general, would reduce potential impacts from non-native invasive species to a negligible amount.

The South Texas Brush Country ecoregion encompasses approximately 28,000 square miles in south Texas. Therefore, due to the permanent impact of only 30 acres on native vegetation, in conjunction with other past, ongoing and proposed regional projects, the Proposed Action would not create a significant effect on vegetative habitat in the region. The Proposed Action could result in reasonably foreseeable long-term beneficial impacts on vegetative habitat by reducing the adverse impacts of illegal cross-border violator activities in the Freer AOR. The proposed BPS would enhance CBP's detection and threat classification capabilities and increase the efficiency of operational activities. Over time, the enhancement of detection capabilities and an increase in operational efficiency could increase the deterrence of illegal cross-border violator activity.

### **3.4.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, no impacts on vegetative habitat would occur as construction activities would not be completed. Under the No Action Alternative, CBP's detection and threat classification capabilities would not be enhanced and operational efficiency would not be improved within the Freer BPS's AOR, so illegal cross-border violator activities would continue to impact vegetative habitat in the AOR.

## **3.5 WILDLIFE RESOURCES**

The ROI is within the Southwest Plateau and Plains Dry Steppe and Shrub Province (United States Forestry Service [USFS] 2015). Common mammals within this province include the coyote (*Canis latrans*), ringtail (*Bassariscus astutus*), American hog-nosed skunk (*Conepatus leuconotus*), white-tailed deer (*Odocoileus virginianus*), Mexican ground squirrel (*Spermophilus mexicanus*), Texas pocket gopher (*Geomys personatus*), southern plains woodrat (*Neotoma micropus*), raccoon (*Procyon lotor*), gray fox (*Urocyon cinereoargenteus*), bobcat (*Lynx rufus*), collared peccary (*Pecari tajacu*), striped skunk (*Mephitis mephitis*), nine-banded armadillo (*Dasypus novemcinctus*), eastern cottontail (*Sylvilagus floridanus*), desert cottontail (*Sylvilagus audubonii*), fulvous harvest mouse (*Reithrodontomys fulvescens*), and hispid cotton rat (*Sigmodon hispidus*) (TPWD 2019).

Bird species are especially abundant in this region as the Central and Mississippi flyways converge in south Texas. Additionally, south Texas is the northernmost range for many of the Neotropical species of Central America. Approximately 500 avian species, including Neotropical migrants, shorebirds, raptors, and waterfowl can occur in south Texas. Common birds that frequent south Texas include the plain chachalaca (*Ortalis vetula*), green kingfisher (*Chloroceryle americana*), common nighthawk (*Nyctidromus albicollis*), elf owl (*Micrathene whitneyi*), white-winged dove (*Zenaida asiatica*), tropical kingbird (*Tyrannus melancholicus*), buff-bellied hummingbird (*Amazilia yucatanensis*), green jay (*Cyanocorax yncas*), long-billed thrasher (*Toxostoma longirostre*), white-collared seedeater (*Sporophila torqueola*), groove-billed ani (*Crotophaga sulcirostris*), great kiskadee (*Pitangus sulphuratus*), and olive sparrow (*Arremonops rufivirgatus*) (TPWD 2016).

Common reptiles and amphibians include the blue spiny lizard (*Sceloporus serrifer*), Laredo striped whiptail (*Aspidocheilus laredoensis*), prairie racerunner (*Aspidocheilus sexlineata viridis*), Texas spiny softshell turtle (*Apalone spinifer emoryi*), Rio Grande cooter (*Pseudemys gorzugi*), Rio Grande leopard frog (*Lithobates berlandieri*), Rio Grande chirping frog (*Eleutherodactylus cystignathoides*), Gulf Coast toad (*Incilius valliceps*), and the giant (marine) toad (*Rhinella marina*) (TPWD 2019).

A list of wildlife observed during biological surveys is included in Table 3-3.

**Table 3-3. Observed Wildlife Species of the Proposed Freer BPS**

Common Name	Scientific Name
<b>Mammals</b>	
White-tailed deer	<i>Odocoileus virginianus</i>
Mexican ground squirrel	<i>Ictidomys mexicanus</i>
American badger	<i>Taxidea taxus</i>
Desert cottontail rabbit	<i>Sylvilagus audubonii</i>
<b>Reptiles</b>	
Reticulate collared lizard	<i>Crotaphytus reticulatus</i>
Texas spotted whiptail	<i>Aspidoscelis gularis</i>
Six-lined racerunner	<i>Aspidoscelis sexlineata</i>
Texas spiny lizard	<i>Sceloporus olivaceus</i>
<b>Birds</b>	
White-winged dove	<i>Zenaida asiatica</i>
Greater roadrunner	<i>Geococcyx californianus</i>
Black vulture	<i>Coragyps atratus</i>
Turkey vulture	<i>Cathartes aura</i>
Harris's hawk	<i>Parabuteo unicinctus</i>
Crested caracara	<i>Caracara cheriway</i>
Scissor-tailed flycatcher	<i>Tyrannus forficatus</i>
White-eyed vireo	<i>Vireo griseus</i>
Chihuahuan raven	<i>Corvus cryptoleucus</i>
Verdin	<i>Auriparus flaviceps</i>
Northern rough-winged swallow	<i>Stelgidopteryx serripennis</i>
Barn swallow	<i>Hirundo rustica</i>
Cave swallow	<i>Petrochelidon fulva</i>
Blue-gray gnatcatcher	<i>Polioptila melanura</i>
Bewick's wren	<i>Thryomanes bewickii</i>
Cactus wren	<i>Campylorhynchus brunneicapillus</i>
Curve-billed thrasher	<i>Toxostoma curvirostre</i>
Northern mockingbird	<i>Mimus polyglottos</i>
Black-throated sparrow	<i>Amphispiza bilineata</i>
Northern cardinal	<i>Cardinalis cardinalis</i>
Pyrrhuloxia	<i>Cardinalis sinuatus</i>
<b>Butterflies and Moths</b>	
Lyside sulphur	<i>Kricogonia lyside</i>

Common Name	Scientific Name
American snout	<i>Libytheana carinenta</i>
Common mestra	<i>Mestra amymone</i>
Queen	<i>Danaus gilippus</i>
Black swallowtail	<i>Papilio polyxenes</i>
Mimosa yellow	<i>Eurema nise</i>

### 3.5.1 Alternative 1: Proposed Action

The permanent loss of approximately 30 acres would have a long-term, negligible impact on wildlife. Soil disturbance and operation of heavy equipment could result in the reasonably foreseeable impact to less mobile individuals such as lizards, snakes, and ground-dwelling species such as mice and rats. However, most wildlife would avoid any harm by escaping to surrounding habitat. The degradation and loss of habitat could also impact burrows and nests, as well as cover, forage, and other important wildlife resources. The loss of these resources would result in the displacement of individuals that would then be forced to compete with other wildlife for the remaining resources. Although this competition for resources could result in a reduction of total population size, such a reduction would be extremely minimal in relation to total population size and would not result in long-term effects on the sustainability of any wildlife species. The wildlife habitat present in the project site is both locally and regionally common, and the permanent loss of approximately 30 acres of wildlife habitat would not adversely affect the population viability or fecundity of any wildlife species in the region. Additionally, upon completion of construction, all temporary disturbance areas would be revegetated with a mixture of native plant seeds or nursery plantings or allowed to revegetate naturally.

The Migratory Bird Treaty Act (MBTA) requires that Federal agencies coordinate with USFWS if a construction activity would result in the “take” of a migratory bird. In accordance with compliance measures of the MBTA, BMPs identified in Section 4.0 would be implemented if construction or clearing activities were scheduled during the nesting season (typically March 1 to September 1).

Lighting would attract or repel various wildlife species within the vicinity of the project site. The presence of lights within the project site could also produce some long-term behavioral effects, although the magnitude of these effects is not presently known. Some species, such as insectivorous bats, may benefit from the concentration of insects that would be attracted to the lights. Continual exposure to light has been proven to slightly alter circadian rhythms in mammals and birds. Studies have demonstrated that under constant light, the time an animal is active, compared with the time it is at rest, increases in diurnal animals, but decreases in nocturnal animals (Carpenter and Grossberg 1984). Outdoor lighting can disturb flight, navigation, vision, migration, dispersal, oviposition, mating, feeding and crypsis in some moths. In addition, it may disturb circadian rhythms and photoperiodism (Frank 1988). It has also been shown that, within several weeks under constant lighting, mammals and birds would quickly stabilize and reset their circadian rhythms back to their original schedules (Carpenter and Grossberg 1984). While the number of lights within the boundary of the proposed BPS site is not presently known, artificial lighting concentrated around a single 30-acre developed area would not significantly disrupt activities of wildlife populations across the region, since similar

habitat is readily available to the north, east, west and south for wildlife relocation. Lighting BMPs would be applied to all outdoor lighting once construction is complete, further minimizing the potential impacts. Finally, construction activities would be limited primarily to daylight hours, whenever possible; therefore, construction impacts on wildlife would be insignificant, since the highest period of movement for most wildlife species occurs during night-time or low daylight hours.

Periodic noise from construction activities and subsequent operational activities, such as helicopter takeoffs and landings, would have moderate and intermittent impacts on the wildlife communities located adjacent to the project site. However, because similar habitat is readily available, wildlife would easily relocate. Vehicle traffic on Highway 59 currently influences the behavioral responses of wildlife in the area. Upon completion of the proposed BPS, the number of vehicles would increase slightly, yet would not result in a substantial increase in vehicle noise. A behavioral response to noise varies among species of animals and even among individuals of a particular species. Variations in response may be due to temperament, sex, age, or prior experience. Minor responses include head-raising and body-shifting, and usually, more disturbed mammals would travel short distances. Panic and escape behavior results from more severe disturbances, causing the animal to leave the area (Fletcher and Busnel 1978). Over the long term, wildlife populations that have not already habituated to noise generated by Highway 59 would adapt to the normal operations conducted at the new BPS, and would typically avoid human interaction. BMPs as outlined in Section 4.0 would reduce noise associated with operation of the construction equipment and everyday vehicle traffic associated with the new BPS.

*USFWS Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance, and Decommissioning* (USFWS 2018) would be implemented to reduce nighttime atmospheric lighting and the potential adverse effects of nighttime lighting on migratory bird and nocturnal flying species.

There is a possibility that the proposed RVSS tower could pose hazards to migratory birds and even some bird mortality through bird strikes with the tower. The loss of a few individual birds from the tower operation would not adversely affect the population viability or fecundity of bird species in the region. The number and extent of bird strikes in relation to the size of migratory bird populations and the extent of the migratory flyway would be minor and would not affect sustainability of migratory bird populations in the region. The Proposed Action would, however, have a long-term, negligible adverse effect on migratory birds.

BMPs would be implemented to reduce disturbance and loss of wildlife such as surveys prior to construction activities scheduled during nesting season and covering or providing an escape ramp for all steep-walled holes or trenches left open at the end of the construction workday. The proposed RVSS tower could provide raptor perch and nesting sites, but BMPs would also be used to discourage this activity.

### **3.5.2 Alternative 2: No Action Alternative**

No wildlife or aquatic resources would be adversely affected by the No Action Alternative.

### 3.6 THREATENED AND ENDANGERED SPECIES

The ESA was enacted to protect and recover imperiled species and the ecosystems upon which these species (endangered and threatened) depend for their survival. All Federal agencies are required to implement protective measures for designated species and to use their authorities to further the purposes of the ESA. The Secretary of the Interior and the Secretary of Commerce (marine species) are responsible for the identification of threatened or endangered species and development of any potential recovery plan. USFWS is the primary agency responsible for implementing the ESA, and is responsible for birds and other terrestrial and freshwater species. USFWS responsibilities under the ESA include (1) the identification of threatened and endangered species; (2) the identification of critical habitats for listed species; (3) implementation of research on, and recovery efforts for, these species; and (4) consultation with other Federal agencies concerning measures to avoid harm to listed species.

An endangered species is a species officially recognized by USFWS as being in danger of extinction throughout all or a significant portion of its range. A threatened species is a species likely to become endangered within the foreseeable future throughout all or a significant portion of its range. Proposed species are those that have been formally submitted to Congress for official listing as threatened or endangered. Species may be considered eligible for listing as endangered or threatened when any of the five following criteria occur: (1) current/imminent destruction, modification, or curtailment of their habitat or range; (2) overuse of the species for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; and (5) other natural or human-induced factors affecting their continued existence.

In addition, USFWS has identified species that are candidates for listing as a result of identified threats to their continued existence. The candidate designation includes those species for which USFWS has sufficient information to support proposals to list as endangered or threatened under the ESA; however, proposed rules have not yet been issued because such actions are precluded at present by other listing activity. Although not afforded protection by the ESA, candidate species may be protected under other Federal or state laws.

#### *Federally Listed Species*

There are a total of five federally-listed species known to occur within Duval County (USFWS 2020). A list of these species is presented in Table 3-4. Biological surveys of the proposed BPS site were conducted by Gulf South Research Corporation in August 2020. These investigations included surveys for all federal and state-listed species potentially occurring at or near the proposed BPS site. During the investigations no federally-listed species were observed. CBP has coordinated with USFWS regarding the potential impacts as they relate to the construction of the Proposed Action (see Appendix B).



**Table 3-4. Federally Listed Species for Duval County, Texas**

Common Name	Status	Habitat	Potential to Occur at Site	Effect Determination
<b>Mammals</b>				
Gulf Coast Jaguarondi ( <i>Puma yagouarondi cacomitli</i> )	E	Dense, thorny scrub, especially near water.	No	No effect.
Ocelot ( <i>Leopardus pardalis</i> )	E	Dense, thorny shrub lands of the Lower Rio Grande Valley and Rio Grande Plains. Deep, fertile clay or loamy soils are generally needed to produce suitable habitat.	No	No effect.
<b>Birds</b>				
Least Tern ( <i>Sterna antillarum</i> )	E	Exposed islands and sandbars along river banks.	No	No effect.
Red Knot ( <i>Calidris canutus rufa</i> )	T	Coastal habitats and islands.	No	No effect.
<b>Flowering Plants</b>				
Walker's Manioc ( <i>Astrophytum asterias</i> )	E	Dense stands of native brush, or small openings of areas that are relatively shady and moist.	No	No effect.

Source: USFWS 2020

**State-Listed Species**

TPWD lists several state-listed threatened and endangered species that may also occur within or near the project site in Duval County (TPWD 2020b). One state-listed threatened or endangered species, American badger (*Taxidea taxus*), was observed during biological surveys (TPWD 2020b, 45 TexReg 2188). Appendix C has a complete list of all state-listed species with the potential to occur in Duval County.

**Critical Habitat**

The ESA also calls for the conservation of what is termed critical habitat, the areas of land, water, and air space that an endangered species needs for survival. Critical habitat also includes such things as food and water, breeding sites, cover or shelter, and sufficient habitat area to provide for normal population growth and behavior. One of the primary threats to many species is the destruction or modification of essential habitat by uncontrolled land and water developments. No Critical Habitat is designated for any of the federally listed species found within Duval County (USFWS 2020).

**3.6.1 Alternative 1: Proposed Action**

Under the Proposed Action, there would be no reasonably foreseeable impacts on any threatened or endangered species or their habitat. The ocelot and jaguarondi could potentially wander into the project site; however, South Texas Brush Country is not the prototypical habitat for either species and it is highly unlikely that either cat would occupy or use the site. As mentioned previously, both cats prefer to inhabit thick thornscrub habitats near water with restrictive canopy cover, ground cover, and vertical cover limitations that do not exist at the project site. Therefore, CBP has determined that no reasonably foreseeable effects to the ocelot or jaguarondi would occur as a result of the Proposed Action. It is not expected that least tern or red knot would be

present in the project site as no water bodies or habitat associated with the least tern are present. As a result, no reasonably foreseeable effects to the least tern would occur as a result of the Proposed Action. No Walker's manioc was observed during biological surveys and the habitat at the proposed site is not preferred by walker's manioc; therefore, no reasonably foreseeable effects would occur to the Walker's manioc as a result of the Proposed Action.

TPWD lists several state-listed species that may occur within or near the project site. Under the Proposed Action, approximately 30 acres of South Texas Brush Country vegetative habitat would be permanently impacted. Mobile species such as the Texas horned lizard and Texas indigo snake (*Drymarchon melanurus*) may be temporarily displaced by BPS construction activities; however, these highly mobile species typically utilize large expanses of suitable habitat and the effects of disturbance and alterations to small segments are likely to be minimal to negligible to populations of these species. Grubbing, digging, clearing, or ground-leveling activities at the BPS site may result in the incidental take of some individuals of more sedentary state-listed species such as the Texas tortoise (*Gopherus berlandieri*). The impacts on sedentary state-listed species would be negligible due to the BMPs to be implemented and because of the limited amount of disturbance to habitat relative to the amount of similar habitats within the ROI.

### **3.6.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, there would be no impacts on threatened or endangered species or their habitats as no construction activities would occur.

## **3.7 GROUNDWATER**

The project site is located within the Yegua-Jackson aquifer, a minor aquifer that crosses 34 counties in the southeastern part of Texas (Texas Water Development Board [TWDB] 2020). The aquifer covers 10,932 square miles from the Texas-Louisiana border to Mexico. The Yegua-Jackson aquifer has a reported annual groundwater availability of 100,988 acre-feet and an annual groundwater supply of 16,462 acre-feet per year (TWDB 2017).

This aquifer is composed of interbedded sand, silt, and clay layers. The water quality varies greatly due to sediment composition in the aquifer formations; the Yegua-Jackson aquifer becomes highly mineralized with increased depth. However, groundwater is produced from the sand units within the aquifer, which contains 50-1,000 milligrams per liter of dissolved solids. Shallow wells occur over most of the Yegua-Jackson aquifer for domestic and livestock purposes. In addition to livestock, water from this aquifer is also used in municipal, industrial, irrigation purposes (TWDB 2020).

Drinking water at the site would be provided by the City of Freer through the public water system; additionally, a new water well and water storage tank for fire suppression would be installed by CBP. The well would be properly permitted in accordance with TCEQ potable water requirements.

### **3.7.1 Alternative 1: Proposed Action**

The proposed new Freer BPS would be connected to the City of Freer's public water system as part of the new BPS construction. A new water well and associated water storage tank would

also be constructed as part of the new BPS. The connection to the City of Freer's public water system and the drilling and operation of the new well would comply with the Texas Administrative Code Rules and Regulations for Public Water Systems (30 TAC 290), as well as TCEQ potable water requirements. Water usage for the new BPS is estimated to be approximately 5,000 gallons per day for a total of approximately 1.85 million gallons per year. As mentioned previously, the annual groundwater supply is approximately 8,354 acre-feet per year, which is a total of approximately 2.7 billion gallons per year. It should be noted that some of the water would be recycled and used for washing vehicles and other uses. Because the new BPS would only use approximately 0.067 percent of the annual groundwater available within the aquifer per year, it is anticipated that impacts to water availability would be long-term and negligible. No impacts on groundwater quality would occur.

### **3.7.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, no construction activities would occur; therefore, no impacts to groundwater would occur.

## **3.8 SURFACE WATER AND WATERS OF THE UNITED STATES**

The Clean Water Act (CWA) §303[d][1][A] requires that each state monitor surface waters and compile a "303[d] List" of impaired streams and lakes. The proposed BPS is located in southern Texas and is located in the Nueces River Basin. The Nueces River Basin travels 315 miles from Nueces Bay to the Gulf of Mexico near Corpus Christi; the total drainage area is 16,950 square miles (TCEQ 2016). The TCEQ 2020 303(d) report states that there are no stream reaches and no impaired streams near the project site.

Waters of the United States are defined within the CWA, and jurisdiction is addressed by USACE and USEPA. There could be temporary impacts to waters of the United States if drainage structures within agricultural ditches need replacement. Wetlands are a subset of the waters of the United States that may be subject to regulation under Section 404 of the CWA (40 CFR 230.3). Wetlands are those areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The Proposed Action site is not located within or near a jurisdictional wetland or waters of the United States.

### **3.8.1 Alternative 1: Proposed Action**

The Proposed Action may potentially have temporary, negligible impacts on surface waters as a result of increases in erosion and sedimentation during periods of construction. Disturbed soils and hazardous substances (i.e., antifreeze, fuels, oils, and lubricants) could have the potential to impact water quality during a rain event. However, due to the lack of surface waters present at the proposed BPS and through the use of BMPs these effects would be minimized and negligible. A Construction Stormwater General Permit would be obtained prior to construction, and this would require approval of a site-specific Storm Water Pollution Prevention Plan (SWPPP). A site-specific Spill Prevention, Control and Countermeasure Plan (SPCCP) would also be in place prior to the start of construction. BMPs outlined in these plans would reduce potential migration of soils, oil and grease, and construction debris into local surface waters. Once the construction project is complete, any temporary construction footprints would be revegetated with native

vegetation, as outlined in the SWPPP, which would mitigate the potential of non-point source pollution to enter local surface waters. No waters of the United State nor wetlands exists within the project site; therefore, there would be no net loss of wetlands or waters of the United States and the Proposed Action would be in compliance with Executive Order (EO) 11990.

### **3.8.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, no construction would occur; therefore, no impacts to surface waters or waters of the United States would occur.

## **3.9 FLOODPLAINS**

A floodplain is the area adjacent to a river, creek, lake, stream, or other open waterway that is subject to flooding when there is a major rain event. Floodplains are further defined by the likelihood of a flood event. If an area is in the 100-year floodplain, there is a 1-in-100 chance in any given year that the area will flood. Federal Emergency Management Agency (FEMA) floodplain maps were reviewed to identify if the project site is located within mapped floodplains. None of the project site is located within the 100-year floodplain; there is minimal flood hazard within the entire project boundary (FEMA 2016).

### **3.9.1 Alternative 1: Proposed Action**

The Proposed Action would not increase the risk or impact of floods on human safety, health, and welfare, or adversely impact the beneficial values that floodplains serve. Additionally, the Proposed Action would not increase duration, frequency, elevation, velocity or volume of flood events because the project site is not located within a floodplain. Therefore, the Proposed Action would have no impacts on floodplains and would be in compliance with EO 11988.

### **3.9.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, no construction activities would occur; therefore, there would be no impacts on floodplains.

## **3.10 AIR QUALITY**

The USEPA established National Ambient Air Quality Standards (NAAQS) for specific pollutants determined to be of concern with respect to the health and welfare of the general public. Ambient air quality standards are classified as either "primary" or "secondary." The major pollutants of concern, or criteria pollutants, are carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), ozone (O<sub>3</sub>), particulate matter less than 10 microns (PM-10), particulate matter less than 2.5 microns (PM-2.5) and lead. NAAQS represent the maximum levels of background pollution that are considered safe, with an adequate margin of safety, to protect the public health and welfare. The NAAQS are included in Table 3-5.

**Table 3-5. National Ambient Air Quality Standards**

Pollutant	Primary Standards		Secondary Standards	
	Level	Averaging Time	Level	Averaging Time
Carbon Monoxide	9 ppm (10 mg/m <sup>3</sup> )	8-hour <sup>(1)</sup>	None	None
	35 ppm (40 mg/m <sup>3</sup> )	1-hour <sup>(1)</sup>	None	None
Lead	0.15 µg/m <sup>3</sup> <sup>(2)</sup>	Rolling 3-Month Average	Same as Primary	Same as Primary
	1.5 µg/m <sup>3</sup> <sup>(3)</sup>	Quarterly Average	Same as Primary	Same as Primary
Nitrogen Dioxide	53 ppb <sup>(4)</sup>	Annual (Arithmetic Average)	Same as Primary	Same as Primary
	100 ppb	1-hour <sup>(5)</sup>	None	None
Particulate Matter (PM-10)	150 µg/m <sup>3</sup>	24-hour <sup>(6)</sup>	Same as Primary	Same as Primary
Particulate Matter (PM-2.5)	12.0 µg/m <sup>3</sup>	Annual <sup>(7)</sup> (Arithmetic Average)	15.0 µg/m <sup>3</sup>	Annual <sup>(7)</sup> (Arithmetic Average)
	35 µg/m <sup>3</sup>	24-hour <sup>(8)</sup>	Same as Primary	Same as Primary
Ozone	0.070 ppm (2015 std)	8-hour <sup>(9)</sup>	Same as Primary	Same as Primary
Sulfur Dioxide	75 ppb <sup>(10)</sup>	1-hour	0.5 ppm	3-hour <sup>(1)</sup>

Source: USEPA 2020a at <https://www.epa.gov/criteria-air-pollutants/naaqs-table>

Units of measure for the standards are parts per million (ppm) by volume, parts per billion (ppb - 1 part in 1,000,000,000) by volume, milligrams per cubic meter of air (mg/m<sup>3</sup>), and micrograms per cubic meter of air (µg/m<sup>3</sup>).

<sup>(1)</sup> Not to be exceeded more than once per year.

<sup>(2)</sup> Final rule signed October 15, 2008.

<sup>(3)</sup> In areas designated nonattainment for the Pb standards prior to the promulgation of the current (2008) standards, and for which implementation plans to attain or maintain the current (2008) standards have not been submitted and approved, the previous standards (1.5 µg/m<sup>3</sup> as a calendar quarter average) also remain in effect.

<sup>(4)</sup> The official level of the annual NO<sub>2</sub> standard is 0.053 ppm, equal to 53 ppb, which is shown here for the purpose of clearer comparison to the 1-hour standard

<sup>(5)</sup> To attain this standard, the 3-year average of the 98th percentile of the daily maximum 1-hour average at each monitor within an area must not exceed 100 ppb (effective January 22, 2010).

<sup>(6)</sup> Not to be exceeded more than once per year on average over 3 years.

<sup>(7)</sup> To attain this standard, the 3-year average of the weighted annual mean PM<sub>2.5</sub> concentrations from single or multiple community-oriented monitors must not exceed 15.0 µg/m<sup>3</sup>.

<sup>(8)</sup> To attain this standard, the 3-year average of the 98th percentile of 24-hour concentrations at each population-oriented monitor within an area must not exceed 35 µg/m<sup>3</sup> (effective December 17, 2006).

<sup>(9)</sup> (a) To attain this standard, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.070 ppm. (effective December 28, 2015).

(b) The previous (2008) O<sub>3</sub> standards (0.075 ppm) additionally remain in effect in some areas.

<sup>(10)</sup> The previous SO<sub>2</sub> standards (0.14 ppm 24-hour and 0.03 ppm annual) will additionally remain in effect in certain areas: (1) any area for which it is not yet 1 year since the effective date of designation under the current (2010) standards, and (2) any area for which an implementation plan providing for attainment of the current (2010) standard has not been submitted and approved and which is designated nonattainment under the previous SO<sub>2</sub> standards or is not meeting the requirements of a SIP call under the previous SO<sub>2</sub> standards (40 CFR 50.4(3)). A SIP call is an EPA action requiring a state to resubmit all or part of its State Implementation Plan to demonstrate attainment of the required NAAQS.

Areas that do not meet these NAAQS standards are called non-attainment areas; areas that meet both primary and secondary standards are known as attainment areas. The Federal Conformity Final Rule (40 CFR Parts 51 and 93) specifies criteria and requirements for conformity determinations of Federal projects. The Federal Conformity Rule was first promulgated in 1993 by the USEPA, following the passage of Amendments to the Clean Air Act in 1990. The rule mandates that a conformity analysis be performed when a Federal action generates air pollutants

in a region that has been designated a non-attainment or maintenance area for one or more NAAQS.

A conformity analysis is the process used to determine whether a Federal action meets the requirements of the General Conformity Rule. It requires the responsible Federal agency to evaluate the nature of a Proposed Action and associated air pollutant emissions and calculate emissions that may result from the implementation of the Proposed Action. If the emissions exceed established limits, known as *de minimis* thresholds, the proponent is required to perform a conformity determination and implement appropriate mitigation measures to reduce air emissions. The USEPA has designated Duval County as in attainment for all NAAQS (USEPA 2020b).

### **Greenhouse Gases and Climate Change**

Global climate change refers to a change in the average weather on the earth. Greenhouse Gases (GHG) are gases that trap heat in the atmosphere. They include carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), fluorinated gases including chlorofluorocarbons (CFC) and hydrochlorofluorocarbons (HFC), and halons, as well as ground-level O<sub>3</sub> (California Energy Commission 2007).

#### **3.10.1 Alternative 1: Proposed Action**

Temporary and minor increases in air pollution would occur from the use of construction equipment (combustion emissions) and the disturbance of soils (fugitive dust) during construction of the BPS. Particulate emissions would occur as a result of construction activities such as vehicle trips, bulldozing, compacting, truck dumping, and grading operations. Construction activities would also generate minimal hydrocarbon, NO<sub>2</sub>, CO<sub>2</sub>, and SO<sub>2</sub> emissions from construction equipment and support vehicles. Fugitive dust would be generated during these construction activities, especially during land clearing activities. Fugitive dust and other emissions would minimally increase as a result of construction; however, these emissions would be temporary and return to pre-project levels upon the completion of construction. Emissions as a result of the Proposed Action are expected to be below the *de minimus* threshold (i.e., 100 tons per year) and therefore would not be considered significant. BMPs, such as dust suppression and maintaining equipment in proper working condition would reduce the temporary construction impacts. Furthermore, due to the remote location of the proposed BPS, good wind dispersal conditions in the AOR, and because Duval County is in attainment, impacts to air quality are expected to be minimal under the Proposed Action.

#### **3.10.2 Alternative 2: No Action Alternative**

The No Action Alternative would not result in any impacts on air quality because there would be no construction activities.

### **3.11 NOISE**

Noise is generally described as unwanted sound, which can be based either on objective effects (i.e., hearing loss, damage to structures) or subjective judgments (e.g., community annoyance). Sound is usually represented on a logarithmic scale in a unit called the decibel (dB). Sound on the decibel scale is referred to as sound level. The perceived threshold of human hearing is 0 dB,

and the threshold of discomfort or pain is around 120 dB (USEPA 1974). The A-weighted sound level (dBA) is a measurement of sound pressure adjusted to conform to the frequency response of the human ear.

Noise levels occurring at night generally produce a greater annoyance than do the same levels occurring during the day. It is generally agreed that people perceive intrusive noise at night as being 10 dBA louder than the same level of intrusive noise during the day, at least in terms of its potential for causing community annoyance. This perception is largely because background environmental sound levels at night in most areas are also about 10 dBA lower than those during the day. Long-term noise levels are computed over a 24-hour period and adjusted for nighttime annoyances to produce the day-night average sound level (DNL). DNL is the community noise metric recommended by the USEPA and has been adopted by most Federal agencies (USEPA 1974).

Noise within the project site in general is limited due to the remote nature of the project site; however, noise levels can vary dependent upon traffic volumes on Highway 59.

### 3.11.1 Alternative 1: Proposed Action

The construction of the proposed BPS would require the use of common construction equipment. Table 3-6 describes noise emission levels for construction equipment that range from 47 dBA to 85 dBA at a distance of 50 feet (FHWA 2007).

**Table 3-6. A-Weighted (dBA) Sound Levels of Construction Equipment and Modeled Attenuation at Various Distances<sup>1</sup>**

Noise Source	50 feet	100 feet	200 feet	500 feet	1000 feet
Bulldozer	82	76	70	62	56
Concrete mixer truck	85	79	73	65	59
Crane	81	75	69	61	55
Drill rig	85	79	73	65	59
Dump truck	84	78	72	64	58
Excavator	81	75	69	61	55
Front-end loader	79	73	67	59	53
Generator	47	41	35	26	20

Source: FHWA 2007

1. The dBA at 50 feet is a measured noise emission. The 100- to 1,000-foot results are GSRC modeled estimates.

Assuming the worst case scenario of 85 dBA from general construction equipment, the noise model predicts that noise emissions would have to travel 1,138 feet before they would be attenuated to acceptable levels equal to or below 57 dBA, which is the criterion for National Monument and Wildlife Refuges (23 CFR § 722, Table 3-6), or 482 feet to attenuate to 65 dBA, which is the criterion for residential receptors.

The project site is located in an area approximately 1-mile west of the nearest residential community. All construction noises would attenuate to acceptable levels prior to reaching the residential area. Also, helicopter takeoffs and landings, which would be periodic, would have

negligible and short-term noise effects on the project site. Therefore, impacts on noise would be short term, negligible, and insignificant.

### **3.11.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, no construction would occur; therefore, no impacts on noise would occur.

## **3.12 CULTURAL, HISTORICAL, AND ARCHAEOLOGICAL RESOURCES**

Cultural resources include historic properties, archaeological resources, and sacred sites. Historic properties are defined by the National Historic Preservation Act (NHPA) as any prehistoric or historic district site, building, structure, or object included on, or eligible for inclusion in the National Register of Historic Places (NRHP), including artifacts, records, and material remains relating to the district, site, building, structure, or object (National Park Service [NPS] 2006a). To be considered eligible for the NRHP, a property would need to possess integrity of location, design, setting, materials, workmanship, feeling, and association and must also meet at least one of the following four criteria (NPS 2002):

- A. Be associated with events that made a significant contribution to the broad pattern of our history
- B. Be associated with the lives of significant persons in our past
- C. Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction
- D. Have yielded, or be likely to yield, information important in history or prehistory

A Traditional Cultural Property (TCP) is a specific type of historic property that is eligible for inclusion in the NRHP because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining and continuing the cultural identity of the community (Parker and King 1998). Given the broad range in types of historic properties, historic properties can often include other types of cultural resources such as cultural items, archaeological resources, sacred sites, and archaeological collections.

Cultural items as defined by the Native American Graves Protection and Repatriation Act (NAGPRA) are defined as human remains, as well as both associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony or objects that have an ongoing historical, traditional, or cultural importance to a Native American group or culture (NPS 2006b). Archaeological resources, as defined by the Archaeological Resources Protection Act (ARPA), consist of any material remains of past human life or activities that are of archaeological interest and are at least 100 years of age. Such items include, but are not limited to, pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal remains, or any portion or piece of those items (NPS 2006c). Sacred sites are defined by EO 13007, Indian Sacred Sites, as any specific, discrete, narrowly delineated location on Federal land that is identified by a Native American tribe or Native American individual determined to be an appropriately authoritative



representative of a Native American religion as sacred by virtue of its established religious significance, or ceremonial use by, a Native American religion, provided that the tribe or appropriately authoritative representative of a Native American religion has informed the Federal land-owning agency of the existence of such a site (NPS 1996).

### **Existing Archaeological Site and Previously Conducted Archaeological Surveys**

One archaeological investigation was previously conducted within a 1-mile search radius of the proposed new Freer BPS location. This investigation consisted of the archaeological and aboveground resources survey of 30 acres which encompassed the proposed action site (Lindemuth 2020). The investigation included a pedestrian survey of the area which was supplemented by the excavation of 42 shovel test pits. This investigation resulted in the identification of three archaeological sites. Those archaeological sites included two multicomponent sites which represented two historic road and prehistoric lithic scatters and one sparse prehistoric lithic scatter. All three archaeological sites are recommended ineligible for the NRHP. No additional archaeological work was recommended for the archaeological sites recorded. One additional archaeological site was noted within the 1-mile search radius, 41DV161. This site consisted of a sparse surface lithic scatter of three pieces of lithic debitage. Site 41DV161 does not overlap with the Proposed Action site and would not be affected by the proposed construction. Consultation is currently being conducted with the Texas Historical Commission (THC) and the Federally recognized Native American tribes that claim a cultural affinity to the area regarding other known resources in the area, the results of the survey of the proposed action site, and CBP's effect determination for the sites that would be impacted from the development of the proposed action site. THC has concurred with CBP's determination of no effects to cultural resources, Appendix B.

#### **3.12.1 Alternative 1: Proposed Action**

Archaeological and aboveground resources surveys were conducted for the Proposed Action site. None of the resources identified were determined to be eligible for the NRHP and as a result, no historic properties, as defined by the NHPA, would be impacted by the Proposed Action. As a result, no significant impacts to cultural resources would occur from the implementation of the proposed action.

#### **3.12.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, no construction would occur; therefore, no impacts to cultural resources would be anticipated.

### **3.13 UTILITIES AND INFRASTRUCTURE**

American Electric Power, Texas Central Company, distributes electrical energy on behalf of the various Retail Electric Providers operating within the project site. Commercial grid power is currently available and would be used to power the proposed BPS.

Infrastructure near the project site is Highway 59. No new public infrastructure would be required for ingress or egress at the proposed BPS. Additionally, Highway 59 is scheduled to be expanded to meet interstate standards and be incorporated into the Interstate 69 (I-69) system. This system is intended to enhance transportation system operations and safety to accommodate

growth and economic development, maintain mobility, address emergency evacuation needs, and facilitate the efficient movement of freight. The I-69 system within Texas would connect Laredo, Texas to Texarkana, Texas.

Potable water would be supplied via the City of Freer's public water system or the new water well CBP would install. The connection to the City of Freer's public water system and drilling and operation of the new well would comply with the Texas Administrative Code Rules and Regulations for Public Water Systems (30 TAC 290), as well as TCEQ potable water requirements. Water usage for the new BPS is estimated to be approximately 5,000 gallons per day for a total of approximately 1.85 million gallons per year. As mentioned previously, the annual groundwater supply is approximately 8,354 acre-feet per year, which is a total of approximately 2.7 billion gallons per year. Because the new BPS would only use approximately 0.067 percent of the annual groundwater available within the aquifer per year, it is anticipated that impacts to water availability would be long-term and negligible.

Sewerage would be handled through the construction of a fully automated anaerobic septic system. All proper permits would be acquired prior to installation or operation of the septic system in compliance with TCEQ guidelines. The effects of installing the new septic system are considered insignificant.

### **3.13.1 Alternative 1: Proposed Action**

The Proposed Action would result in negligible effects on the availability of utilities throughout the ROI because the current amperage available through the existing grid power system can withstand the anticipated electrical load of the proposed BPS. Additionally, the BPS would be tied into existing and available service transmission lines. All sewerage and potable water would be installed with the proper permits for installation and operation of these systems. Through communication with CBP, the City of Freer has confirmed that the public water system can support the new BPS. Therefore, impacts on utilities and infrastructure associated with the new BPS would be long-term and negligible.

### **3.13.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, the proposed BPS would not be constructed. The No Action Alternative would not affect the availability of utilities or require construction of additional facilities.

## **3.14 ROADWAYS AND TRAFFIC**

Texas State Highway 16 is the main north-south route in Duval County, Texas. It is the longest state highway in Texas, extending 542 miles from Zapata, Texas to U.S Highway 281 (TxDOT 2020a). The main east-west routes through Duval County are U.S. Highway 59 and State Highway 44. U.S. Highway 59 runs the length of the country from Lancaster, Minnesota to Laredo, Texas. Although Highway 59 runs north-south across the country it runs east-west in Duval County, Texas. The proposed BPS site would be located directly off of U.S. Highway 59 just west of the town of Freer, Texas. According to TxDOT, the annual average daily traffic (AADT) for U.S. Highway 59 at the location of the proposed site was 4,799 in 2018 and 6,470 in 2013 (TxDOT 2020b).

### **3.14.1 Alternative 1: Proposed Action**

With the implementation of the Proposed Action, construction activities at the project site would have a temporary, minor impact on roadways and traffic adjacent to the project site. An increase of vehicular traffic along U.S. Highway 59 would occur from supplying materials, hauling debris, and from work crews commuting to the project site during construction activities. Upon completion of construction activities, the number of USBP agents traveling those roads to access the BPS would increase as well. This increase in volume of traffic associated with agents coming and going from the BPS would have negligible impacts on roadways and traffic as Highway 59 can withstand the projected volumes. Therefore, traffic impacts associated with construction and operation of the BPS would be long-term and negligible.

### **3.14.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, no impacts to roadways and traffic would occur.

## **3.15 HAZARDOUS MATERIALS**

Hazardous materials are substances that cause physical or health hazards (29 CFR 1910.1200). Materials that are physically hazardous include combustible and flammable substances, compressed gases, and oxidizers. Health hazards are associated with materials that cause acute or chronic reactions, including toxic agents, carcinogens, and irritants. Hazardous materials are regulated in Texas by a combination of mandated laws promulgated by the USEPA and the TCEQ.

A Phase I Environmental Site Assessment was conducted for the proposed project site in accordance with the American Society for Testing and Materials (ASTM) International Standard E1528-06. This assessment was performed to evaluate any potential environmental risk associated with the construction and operation of the proposed BPS. The assessment included a search of Federal and state records of known hazardous waste sites, potential hazardous waste sites, and remedial activities and included sites that are either on the National Priorities List or being considered for the list. According to information gathered from document searches, interviews, and the site reconnaissance, no recognized environmental conditions exist in the immediate vicinity of the subject property (W&M 2020).

### **3.15.1 Alternative 1: Proposed Action**

Construction of the proposed BPS as described in the Proposed Action would involve the use of heavy construction equipment. There is a potential for the release of hazardous materials such as fuels, lubricants, hydraulic fluids, and other chemicals during the construction activities. The impacts from spills of hazardous materials during construction would be minimized by utilizing BMPs during construction such as fueling only in controlled and protected areas away from surface waters, maintaining emergency spill cleanup kits at all sites during fueling operations, and maintaining all equipment in good operating condition to prevent fuel and hydraulic fluid leaks.

All hazardous and regulated wastes and substances generated by operation of the new BPS would be collected, characterized, labeled, stored, transported, and disposed of in accordance

with all Federal, state, and local regulations, including proper waste manifesting procedures. All other hazardous and regulated materials or substances would be handled according to materials safety data sheet instructions and would not affect water, soils, vegetation, wildlife, or the safety of USBP agents and staff. The fuel ASTs installed at the new BPS would be double walled and contained within all protective measures needed to prevent the release of any tank spills. The vehicle maintenance facility would be equipped with oil/water separators to collect any petroleum or other automotive fluids spilled, and waste automotive fluids would be collected and disposed of in accordance with state regulations. Therefore, hazardous and regulated materials and substances would not impact the public, groundwater, or general environment.

The potential impacts of the handling and disposal of hazardous and regulated materials and substances during construction activities would be insignificant when mitigation measures and BMPs as described in Section 4 are implemented.

### **3.15.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, no construction activities would occur; therefore, no existing hazardous materials risks would be encountered and no potential for hazardous materials spills during BPS construction would be realized. No impacts from hazardous materials would result from the No Action Alternative.

## **3.16 RADIO FREQUENCY ENVIRONMENT**

The radio frequency (RF) environment refers to the presence of EM radiation emitted by radio waves and microwaves on the human and biological environment. EM radiations are self-propagating waves of electric and magnetic energy that move through space via radio waves and microwaves emitted by transmitting antennas. RF is a frequency or rate of oscillation within the range of about 3 hertz and 300 gigahertz. This range corresponds to frequency of alternating current and electrical signals used to produce and detect radio waves. The EM radiation produced by radio waves and microwaves carry energy and momentum and can interact with matter.

The Federal Communications Commission (FCC) is responsible for licensing frequencies and ensuring that the approved uses would not interfere with television or radio broadcasts or substantially affect the natural or human environments. The FCC adopted recognized safety guidelines for evaluating RF exposure in the mid-1980s (Office of Engineering and Technology [OET] 1999). Specifically, in 1985, the FCC adopted the 1982 American National Standards Institute (ANSI) guidelines to evaluate exposure due to RF transmitters that are licensed and authorized by the FCC (OET 1999). In 1992, ANSI adopted the 1991 Institute of Electrical and Electronics Engineers (IEEE) standard as an American National Standard (a revision of its 1982 standard) and designated it as ANSI/IEEE C95.1-1992 (OET 1999). The FCC proposed to update its rules and adopt the new ANSI/IEEE guidelines in 1993, and in 1996 the FCC adopted a modified version of the original proposal.

The FCC's guidelines are also based on the National Council on Radiation Protection and Measurements (NCRP) exposure guidelines. The NCRP and ANSI/IEEE exposure criteria identify the same threshold levels at which harmful biological effects may occur. The whole-

body human absorption of RF energy varies with the frequency of the RF signal. The most restrictive limits on exposure are in the frequency range of 30 to 300 megahertz, where the human body absorbs RF energy most efficiently when exposed in the air field of an RF transmitting source (ANSI/IEEE C95.1-1992).

There are two tiers of exposure limits: occupational or “controlled” and general or “uncontrolled.” Controlled exposure is when people are exposed to RF fields as a part of their employment and they have been made fully aware of the potential exposure and can exercise control over their exposure. Uncontrolled exposure is when the general public is exposed or when persons employed are not made fully aware of the potential for exposure or cannot exercise control over their exposure.

In order for a transmitting facility or operation to be out of compliance with the FCC’s RF guidelines in an area where levels exceed Maximum Permissible Exposure (MPE) limits, it must first be accessible to the public. The MPE limits indicate levels above which people may not be safely exposed regardless of the location where those levels occur.

Adverse biological effects associated with RF energy are typically related to the heating of tissue by RF energy. This is typically referred to as a “thermal” effect, where the EM radiation emitted by an RF antenna passes through and rapidly heats biological tissue, similar to the way a microwave oven cooks food. The Health Physics Society indicates that numerous studies have shown that environmental levels of RF energy routinely encountered by the general public are typically far below levels necessary to produce significant heating and increased body temperature and are generally only associated with workplace environments near high-powered RF sources used for molding plastics or processing food products. In such cases, exposure of human beings to RF energy could be exceeded, thus requiring restrictive measures or actions to ensure their safety (Classic 2007).

There is also some concern that signals from some RF devices could interfere with pacemakers or other implanted medical devices. However, it has never been demonstrated that signals from a microwave oven are strong enough to cause such interference (OET 1999). Furthermore, EM shielding was incorporated into the design of modern pacemakers to prevent RF signals from interfering with the electronic circuitry in the pacemaker (OET 1999).

Other non-thermal adverse effects such as disorientation of passing birds by RF waves are also of concern. Past studies on effects of communications towers were noted by Beason (1999) during the 1999 Workshop on Avian Mortality at Communication Towers (Evans and Manville 2000). During this workshop, Beason (1999) noted that most research on RF signals produced by communications towers generally have no disorientation effects on migratory birds. However, more research is needed to better understand the effects of RF energy on the avian brain.

Currently, CBP, USFWS, local law enforcement agencies, and the military use 2-way radios as part of their daily operations in the project site. Further, several of these agencies operate and maintain radio repeaters within the ROI.

### **3.16.1 Alternative 1: Proposed Action**

The Proposed Action would install new communications equipment within the project site. As with any RF transmitter, all of these systems would emit RF energy and EM radiation; therefore, a potential for adverse effects could occur. However, any adverse effects on human safety and wildlife would likely be negligible due to the minimal exposure limits associated with both the type of equipment used and the tower site location. The risk of exposure is further minimized because the tower would be up to 100 feet tall. The distance between the antennas (on top of the tower) and human populations would be too great to present a significant exposure risk. Under normal operating conditions, maintenance personnel working near the tower site would not be exposed to any RF energy that exceeds MPE limits set by the FCC. All CBP tower climbers would have RF monitors that would alarm to indicate an unsafe RF environment. Additionally, RF hazard warning signage would be in place on the site.

Though greater research is required to have a better understanding of the effects of RF energy on the avian brain, the potential effects on passing birds are expected to be negligible as well. Any disorientating effect, if experienced, would be temporary and would occur only at distances close to the antennas.

No RF energy levels emitted from the proposed equipment are outside OSHA safety standards.

### **3.16.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, the new BPS would not be constructed. Daily radio operations by CBP and USFWS, and local law enforcement would continue within the ROI. The existing RF emitted would continue to have adverse, negligible impacts on the human or natural environments.

## **3.17 SOCIOECONOMICS**

This socioeconomics section outlines the basic attributes of population and economic activity in Duval and Webb Counties in Texas. The closest town to the proposed BPS is Freer, Texas, which is in Duval County. The location for the proposed BPS is also in Duval County; however, the much larger City of Laredo, located in Webb County, is approximately 50 miles from the proposed BPS location, and some of the new personnel would be expected to live in Laredo. As a result, both Duval and Webb are considered the ROI for socioeconomics.

The proposed Freer BPS would be designed for 125 agents initially with future expandability to 175 agents, an increase of 19 to 69 agents over the 106 agents working at the existing Freer BPS. This increase would be designed to accommodate the growth anticipated in Freer's AOR due to the development of I-69 and shifting illegal immigration patterns from enforcement initiatives further east along the southern border.

### **3.17.1 Affected Environment**

Demographic data, shown in Table 3-7, provide an overview of the socioeconomic environment in the ROI. In 2019, Duval County had an estimated population of 11,157 and Webb County had 276,652 (U.S. Census Bureau 2019). From 2010 to 2017, the population of Duval County declined at an average annual rate of -0.58 percent, while Webb County grew at an average

annual rate of 1.16 percent. In the same time frame, the population of Texas grew at an average annual rate of 1.7 percent, and the United States at a slower rate of 0.66 percent (U.S. Census Bureau 2019).

**Table 3-7. Population, Income, Labor Force, and Unemployment**

	<b>2019 Population Estimate*</b>	<b>Average Annual Growth Rate 2010-2019 (Percent)</b>	<b>Per Capita Income (Dollars) (2018)</b>	<b>Per Capita Income As a Percent of the United States (Percent)</b>	<b>Unemployment Rate (2018) (Percent)</b>
Duval County, Texas	11,273	-0.6	17,864	55	5.3
Webb County, Texas	274,794	1.4	17,326	53	3.8
Texas	28,304,596	1.8	30,143	92	3.8
United States	325,719,178	0.8	32,621	100	3.9

Source: U.S. Census Bureau 2019, BLS 2020a, BLS 2020b, BLS 2020c

Per capita income in the ROI is very low compared to Texas and the United States, with average per capita income in Duval County and Webb County approximately 55 and 53 percent of the United States, respectively. The unemployment rate in Duval County (5.3 percent) is well above Texas (3.8 percent) and the United States (3.9 percent); however, the unemployment rate in Webb County (3.8 percent) is in line with both Texas and the United States (U.S. Bureau of Labor Statistics [BLS] 2020a, BLS 2020b, BLS 2020c).

Impacts on socioeconomic conditions would be considered significant if they included displacement or relocation of residences or commercial buildings or increases in long-term demands for public services in excess of existing and projected capacities.

### **3.17.2 Alternative 1: Proposed Action**

The proposed Freer BPS would be located in a rural area directly off of U.S. 59, within 0.5 miles of Freer and 50 miles northeast of Laredo. The proposed Freer BPS could add up to 69 agents and their families moving into the area, needing homes, schools, and public services. Those agents and their families would be expected to live in Laredo or Freer. With an estimated population of 261,639, Laredo is a much larger city than Freer (population 2,734) and would offer many more options for housing, schools, shopping, and other amenities, leading many agents to choose to live further away in Laredo, which would be better able to handle the increased demand for housing and public services than Freer. With many of the 69 additional agents and their families expected to choose to live in Laredo, increases in the demand for public services in excess of existing and projected capacities would not be expected.

Temporary, minor, beneficial impacts in the form of jobs and income for area residents, revenues to local businesses, and sales and use taxes to Webb and Duval Counties, Laredo, Freer, and the State of Texas from locally purchased building materials could be realized if construction materials are purchased locally and local construction workers are hired for road construction.

### **3.17.3 Alternative 2: No Action Alternative**

Under the No Action Alternative, the proposed BPS would not be constructed in Duval County, so there would be no direct socioeconomic impacts. The USBP's ability to detect and interdict illicit cross-border activity would not be enhanced, so impacts from illegal activity would continue.

## **3.18 ENVIRONMENTAL JUSTICE AND PROTECTION OF CHILDREN**

EO 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, was issued by President Clinton on February 11, 1994. It was intended to ensure that proposed Federal actions do not have disproportionately high and adverse human health and environmental effects on minority and low-income populations and to ensure greater public participation by minority and low-income populations. It required each agency to develop an agency-wide environmental justice strategy. A Presidential Transmittal Memorandum issued with the EO states that "Each Federal agency shall analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by the NEPA 42 U.S.C. section 4321, et seq."

EO 12898 does not provide guidelines as to how to determine concentrations of minority or low-income populations. However, analysis of demographic data on race, ethnicity, and poverty provides information on minority and low-income populations that could be affected by the proposed actions. The 2010 Census reports numbers of minority individuals and the U.S. Census American Community Survey (ACS) provides the most recent poverty estimates available. Minority populations are those persons who identify themselves as Black, Hispanic, Asian American, American Indian/Alaskan Native, Pacific Islander, or Other. Poverty status is used to define low-income. Poverty is defined as the number of people with income below poverty level, which was \$26,200 for a family of four in 2020 (U.S. Department of Health and Human Services [HHS] 2020). A potential disproportionate impact may occur when the percent minority in the study area exceeds 50 percent and/or the percent low-income exceeds 20 percent of the population. Additionally, a disproportionate impact may occur when the percent minority and/or low-income in the study area are meaningfully greater than those in the region. The potential for impacts on the health and safety of children is greater in areas where projects are located near residential areas. U.S. Census data for minority population and poverty rates for the ROI are presented in Table 3-8.



**Table 3-8. Minority Population and Poverty Rates for the Region of Interest**

	<b>Minority Population (Percent)</b>	<b>All Ages in Poverty (Percent)</b>
Duval County	91.0	25.5
Webb County	96.4	25.7
Texas	58.5	14.9
United States	39.6	11.8

Source: U.S. Census Bureau 2019

**3.18.1 Alternative 1: Proposed Action**

Under the Preferred Alternative, the proposed Freer BPS would be located in a rural area, with limited residential structures located nearby. The additional 69 agents and their families would be expected to live in Laredo or Freer, which are located 50 and 0.5 miles, respectively, away from the proposed BPS. With no homes located in the area of the proposed BPS, the Proposed Action would not result in disproportionately high and adverse human health or environmental effects on minority populations and low income populations. There would be no environmental health or safety risks that disproportionately affect children.

**3.18.2 Alternative 2: No Action Alternative**

Under the No Action Alternative, the proposed Freer BPS would not be constructed. There would be no impacts on people, so there would be no disproportionately high and adverse human health or environmental effects on minority populations and low income populations. There would be no environmental health or safety risks that could disproportionately affect children.

**3.19 SUMMARY OF IMPACTS**

Table 3-9 is provided to summarize the impacts of the No Action Alternative and Proposed Action on each of the elements discussed in this section (Affected Environment and Consequences).

**Table 3-9. Summary Matrix of Potential Impacts**

<b>Affected Environment</b>	<b>Proposed Action (Alternative 1)</b>	<b>No Action Alternative (Alternative 2)</b>
<b>Land Use</b>	The Proposed Action would have a permanent, negligible impact on land use. Approximately 30 acres of undeveloped land would be converted to a developed land use.	No impacts would occur.
<b>Soils</b>	The Proposed Action would have a minor impact on soils. Permanent impacts on approximately 30 acres of soil would occur through the conversion of undeveloped land to use as a BPS.	No impacts would occur.
<b>Vegetative Habitat</b>	The Proposed Action would permanently alter approximately 30 acres of native vegetative habitat. The plant community associated with the project site is both locally and regionally common, and the permanent loss of approximately 30 acres of vegetation would not adversely affect the population viability of any plant or animal species in the region.	No impacts would occur.

<b>Affected Environment</b>	<b>Proposed Action (Alternative 1)</b>	<b>No Action Alternative (Alternative 2)</b>
<b>Wildlife Resources</b>	The Proposed Action would have a long term, negligible impact on wildlife resources due to the permanent removal of approximately 30 acres of habitat.	No impacts would occur.
<b>Protected Species and Critical Habitats</b>	The Proposed Action would have no effect to any Federally protected species. No designated critical habitat is present within the project footprint.	No impacts would occur.
<b>Groundwater</b>	The Proposed Action would have minimal impact on groundwater resources.	No impacts would occur.
<b>Surface Waters and Waters of the United States</b>	Surface water quality could be temporarily impacted during construction activities as a result of erosion and sedimentation. However, due to the lack of surface waters present at the proposed BPS and through the use of BMPs these effects would be minimized. No impacts to wetlands and waters of the United States would occur as none exist on or near the project site.	No impacts would occur.
<b>Cultural Resources</b>	The Proposed Action would have no effect on historic properties.	No impacts would occur.
<b>Air Quality</b>	Temporary and minor increases in air pollution would occur from the use of construction equipment (combustion emissions) and the disturbance of soils (fugitive dust) during construction.	No impacts would occur.
<b>Noise</b>	Temporary and negligible increases in noise would occur during construction, as well as during helicopter takeoffs and landings.	No impacts would occur.
<b>Utilities and Infrastructure</b>	Negligible demands on power utilities would be required as a result of the Proposed Action. Sewerage would be built into the site and potable water would be supplied via the City of Freer's public water system or well, impacts would be negligible and long-term.	No impacts would occur.
<b>Radio Frequency</b>	Negligible impacts from RF energy due to the minimal exposure limits associated with both the type of equipment used and the tower site location.	No impacts would occur.
<b>Roadways and Traffic</b>	Construction activities would have a temporary, minor impact on roadways and traffic within the region. The increase of vehicular traffic would occur to supply materials and work crews at the project site during construction.	No impacts would occur.
<b>Hazardous Material</b>	The Proposed Action would not result in the exposures of the environment or public to any hazardous materials. The potential exists for minor releases of petroleum, oil, and lubricant during construction activities. BMPs would be implemented to minimize any potential contamination during construction activities.	No impacts would occur.
<b>Socioeconomics</b>	The Proposed Action would have minor to negligible impacts.	No impacts would occur.

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## **4.0 BEST MANAGEMENT PRACTICES**

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This chapter describes those measures that will be implemented to reduce or eliminate potential adverse impacts on the human and natural environments. Many of these measures have been incorporated as standard operating procedures by CBP on past projects. BMPs will be presented for each resource category that would be potentially affected. It should be emphasized that these are general BMPs and the development of specific BMPs will be required for certain activities implemented under the action alternatives. The proposed BMPs will be coordinated through the appropriate agencies and land managers/administrators, as required.

It is Federal policy to reduce adverse impacts through the sequence of avoidance, minimization, and, finally, compensation. Compensation varies and includes activities such as restoration of habitat in other areas, acquisition of lands, etc., and is typically coordinated with the appropriate Federal and state resource agencies.

### **4.1 GENERAL PROJECT PLANNING CONSIDERATIONS**

1. If required, night-vision-friendly strobe lights necessary for CBP operational needs will use the minimum wattage and number of flashes per minute necessary to ensure operational safety.
2. Avoid contamination of ground and surface waters by storing concrete wash water, and any water that has been contaminated with construction materials, oils, equipment residue, etc., in closed containers on-site until removed for disposal. This wash water is toxic to wildlife. Storage tanks must have proper air space (to avoid rainfall-induced overtopping), be on-ground containers, and be located in upland areas instead of washes.
3. Avoid lighting impacts during the night by conducting construction and maintenance activities during daylight hours only. If night lighting is unavoidable, 1) use special bulbs designed to ensure no increase in ambient light conditions, 2) minimize the number of lights used, 3) place lights on poles pointed down toward the ground, with shields on lights to prevent light from going up into sky, or out laterally into landscape, and 4) selectively place lights so they are directed away from all native vegetative communities.
4. CBP will avoid the spread of non-native plants by not using natural materials (e.g., straw) for on-site erosion control. If natural materials must be used, the natural material would be certified weed and weed-seed free. Herbicides not toxic to listed species that may be in the area can be used for non-native vegetation control. Application of herbicides will follow Federal guidelines and can be used according to in accordance with label directions.
5. CBP will ensure that all construction will follow DHS *Directive 025-01* for Sustainable Practices for Environmental, Energy, and Transportation Management.
6. CBP will place drip pans under parked equipment and establish containment zones when refueling vehicles or equipment.

## **4.2 SOILS**

1. Clearly demarcate the perimeter of all new areas to be disturbed using flagging or temporary construction fencing. Do not allow any disturbance outside that perimeter.
2. The area of disturbance will be minimized by limiting deliveries of materials and equipment to only those needed for effective project implementation.
3. Within the designated disturbance area, grading or topsoil removal will be limited to areas where this activity is needed to provide the ground conditions necessary for construction or maintenance activities.
4. Rehabilitation will include revegetating or the distribution of organic and geological materials (i.e., boulders and rocks) over the disturbed area to reduce erosion while allowing the area to naturally vegetate.

## **4.3 BIOLOGICAL RESOURCES**

1. Materials used for on-site erosion control will be free of non-native plant seeds and other plant parts to limit potential for infestation.
2. Identify by its source location any fill material, sandbags, hay bales, and mulch brought in from outside the project site. These materials will be free of non-native plant seeds and other plant parts to limit potential for infestation.
3. Native weed free seeds or plants will be used to revegetate temporarily disturbed areas.
4. Obtain materials such as gravel, topsoil, or fill from existing developed or previously used sources that are compatible with the project site and are from legally permitted sites. Do not use materials from undisturbed areas adjacent to the project site.
5. To prevent entrapment of wildlife species, ensure that excavated, steep-walled holes or trenches are either completely covered by plywood or metal caps at the close of each workday or provided with one or more escape ramps (at no greater than 1,000-foot intervals and sloped less than 45 degrees) constructed of earthen fill or wooden planks.
6. Each morning, before the start of construction or maintenance activities and before such holes or trenches are filled, ensure that they are thoroughly inspected for trapped animals. Ensure that any animals discovered are allowed to escape voluntarily (by escape ramps or temporary structures), without harassment, and before construction activities resume, or are removed from the trench or hole by a qualified person and allowed to escape unimpeded.
7. The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712, [1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989]) requires that Federal agencies coordinate with the USFWS if a construction activity would result in the take of a migratory bird. If

construction or clearing activities are scheduled during nesting season (March 15 through September 15) within potential nesting habitats, surveys will be performed to identify active nests. If construction activities will result in the take of a migratory bird, then coordination with the USFWS and TPWD will be required and applicable permits would be obtained prior to construction or clearing activities. Other mitigation measures that would be considered are to install visual markers on any guy wires used, and to schedule all construction activities outside nesting season, negating the requirement for nesting bird surveys. The proposed RVSS and relay towers would also comply with USFWS guidelines for reducing fatal bird strikes on communications towers (Clark 2000), to the greatest extent practicable.

8. Anti-perching devices will be incorporated into the site design and installed on the tower.
9. CBP will not, for any length of time, permit any pets inside the project site or adjacent native habitats. This BMP does not pertain to law enforcement animals.
10. The least amount of ingress and egress roads necessary for entering and leaving the project site would be utilized to complete the construction of the project.

#### **4.4 CULTURAL RESOURCES**

1. In the event that unanticipated archaeological resources are discovered during construction or any other project-related activities, or should known archaeological resources be inadvertently affected in a manner that was not anticipated, the project proponent or contractor shall immediately halt all activities in the immediate area of the discovery and take steps to stabilize and protect the discovered resource until it can be evaluated by a qualified archaeologist.
2. In the event that human remains are inadvertently discovered all ground-disturbing activity would cease immediately. The Project Manager would immediately notify CBP. CBP would notify state police within 24 hours of the discovery and follow their directions for securing the site pending examination of a medical examiner/coroner. Law enforcement and the coroner would determine whether or not the discovery constitutes a crime scene. CBP would coordinate with the state police and the coroner regarding where construction activities can resume. No work may proceed without the written authorization of CBP. CBP would notify the Advisory Council on Historic Preservation, the appropriate SHPO or Tribal Historic Preservation Officer, any impacted Indian Tribe, and any impacted federal agency of the discovery in writing within two business days. NAGPRA would be followed if the discovery is determined to be of Native American origin. CBP's established standard operating procedures for inadvertent discoveries would be adhered to in all cases.

#### **4.5 AIR QUALITY**

1. Soil watering will be utilized to minimize airborne particulate matter created during construction activities. Bare ground may be covered with hay or straw to lessen wind

erosion during the time between BPS construction and the revegetation of temporary impact areas with a mixture of native plant seeds or nursery plantings (or both). All construction equipment and vehicles will be kept in good operating condition to minimize exhaust emissions.

#### **4.6 WATER RESOURCES**

1. Wastewater is to be stored in closed containers on-site until removed for disposal. Wastewater is water used for project purposes that is contaminated with construction materials or from cleaning equipment and thus carries oils or other toxic materials or other contaminants as defined by Federal or state regulations.
2. Avoid contamination of ground and surface waters by collecting concrete wash water in open containers and disposing of it off-site.
3. Avoid contaminating natural aquatic and wetland systems with runoff by limiting all equipment maintenance, staging, and laydown and dispensing hazardous liquids, such as fuel and oil, to designated upland areas.
4. Cease work during heavy rains and do not resume work until conditions are suitable for the movement of equipment and materials.
5. Erosion control measures and appropriate BMPs, as required and promulgated through a site-specific SWPPP and engineering designs, will be implemented before, during, and after soil-disturbing activities.
6. Areas with highly erodible soils will be given special consideration when preparing the SWPPP to ensure incorporation of various erosion control techniques, such as straw bales, silt fencing, aggregate materials, wetting compounds, and rehabilitation, where possible, to decrease erosion.
7. All construction and maintenance contractors and personnel will review the CBP-approved spill protection plan and implement it during construction and maintenance activities.
8. 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.
9. If soaps or detergents are used, the wastewater and solids must be pumped or 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 sprayed over or discharged into surface waters.

#### **4.7 NOISE**

1. Avoid noise impacts during the night by conducting construction and maintenance activities during daylight hours only.
2. All OSHA requirements will be followed. To lessen noise impacts on the local wildlife communities, construction will only occur during daylight hours. All motor vehicles will be properly maintained to reduce the potential for vehicle-related noise.

#### **4.8 SOLID AND HAZARDOUS WASTES**

1. BMPs will be implemented as standard operating procedures during all construction activities, and will include proper handling, storage, and/or disposal of hazardous and/or regulated materials. To minimize potential impacts from hazardous and regulated materials, all fuels, waste oils, and solvents will be collected and stored in tanks or 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. The refueling of machinery will be completed in accordance with accepted industry and regulatory guidelines, and all vehicles will have drip pans during storage to contain minor spills and drips. Although it is unlikely that a major spill would occur, any spill of reportable quantities will be contained immediately within an earthen dike, and the application of an absorbent (e.g., granular, pillow, sock) will be used to absorb and contain the spill.
2. CBP will contain non-hazardous waste materials and other discarded materials, such as construction waste, until removed from the construction and maintenance sites. This will assist in keeping the project site and surroundings free of litter and reduce the amount of disturbed area needed for waste storage.
3. CBP will minimize site disturbance and avoid attracting predators by promptly removing waste materials, wrappers, and debris from the site. Any waste that must remain more than 12 hours should be properly stored until disposal.
4. All waste oil and solvents will be recycled. All non-recyclable hazardous and regulated wastes will be collected, characterized, labeled, stored, transported, and disposed of in accordance with all applicable Federal, state, and local regulations, including proper waste manifesting procedures.
5. Solid waste receptacles will be maintained at the project site. Non-hazardous solid waste (trash and waste construction materials) will be collected and deposited in on-site receptacles. Solid waste will be collected and disposed of by a local waste disposal contractor.

6. Disposal of used batteries or other small quantities of hazardous waste will be handled, managed, maintained, stored, and disposed of in accordance with applicable Federal and state rules and regulations for the management, storage, and disposal of hazardous materials, hazardous waste and universal waste. Additionally, to the extent practicable, all batteries will be recycled locally.
7. All rainwater collected in secondary containment will be pumped out, and secondary containment will have netting to minimize exposure to wildlife.
8. A properly licensed and certified hazardous waste disposal contractor will be used for hazardous waste disposal, and manifests will be traced to final destinations to ensure proper disposal is accomplished.

#### **4.9 ROADWAYS AND TRAFFIC**

1. Construction vehicles will travel and equipment will be transported on established roads with proper flagging and safety precautions.



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## 6.0 ACRONYMS/ABBREVIATIONS

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ACS	U.S. Census American Community Survey
AADT	Annual average daily traffic
ANSI	American National Standards Institute
AOR	rea of Responsibility
ARPA	Archaeological Resources Protection Act
ASTM	American Society for Testing and Materials
ATFP	Anti-terrorism Force Protection
ATV	All-terrain vehicle
BMP	Best management practices
BPC	Border Patrol Checkpoint
BPS	Border Patrol Station
C2	Command Center
CBP	U.S. Customs and Border Protection
CBV	Cross Border Violator
CEQ	Council on Environmental Quality
CFC	chlorofluorocarbons
CFR	Code of Federal Regulations
CH <sub>4</sub>	methane
CO <sub>2</sub>	Carbon dioxide
CWA	Clean Water Act
dBA	A-weighted decibel
DHS	Department of Homeland Security
DNL	Day-night average sound level
DOI	U.S. Department of the Interior
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
ESA	Endangered Species Act
FAA	Federal Aviation Administration
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FONSI	Finding of No Significant Impact
GOV	Government Owned Vehicle
GHG	Greenhouse Gases
GSA	General Services Administration
HFC	hydrochlorofluorocarbons
IEEE	Institute of Electrical and Electronics Engineers
LEED	Leadership in Energy and Environmental Design
LRT	Laredo Sector
MBTA	Migratory Bird Treaty Act
MPE	Maximum Permissible Exposure
N <sub>2</sub> O	nitrous oxide
NAAQS	National Ambient Air Quality Standards

NAGPRA	Native American Graves Protection and Repatriation Act
NCRP	National Council on Radiation Protection and Measurements
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NOA	Notice of Availability
NPS	National Park Service
NRHP	National Register of Historic Places
NTIA	National Telecommunications and Information Administration
OET	Office of Engineering and Technology
OSHA	Occupational Safety and Health Administration
OSPP	Occupational Strategic Partnership Program
RF	radio frequency
RGV	Rio Grande Valley Sector
ROI	region of influence
RVSS	Remote Video Surveillance Systems
SPCCP	Spill Prevention, Control and Countermeasure Plan
SWPPP	Stormwater Pollution Prevention Plan
TCEQ	Texas Commission on Environmental Quality
TCP	Traditional Cultural Property
THC	Texas Historical Commission
TPWD	Texas Parks and Wildlife Department
TWDB	Texas Water Development Board
TxDOT	Texas Department of Transportation
USACE	U.S. Army Corps of Engineers
USBP	U.S. Border Patrol
U.S.C.	United States Code
USDA	U.S. Department of Agriculture
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
USIBWC	International Boundary and Water Commission, U.S. Section

**APPENDIX A**  
**NOTICE OF AVAILABILITY**

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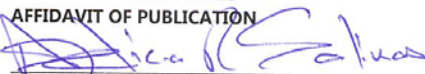


# HEARST

## MEDIA SOLUTIONS


Laredo Morning Times | lmonline.com

**LAREDO MORNING TIMES  
AFFIDAVIT OF PUBLICATION**

  
**STATE OF TEXAS:  
COUNTY OF WEBB**

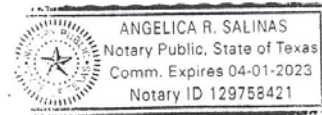
Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared: Gabriela Garcia, who after being duly sworn, says that she is the Classified Sales Representative of HEARST NEWSPAPERS II, LLC - dba: LAREDO MORNING TIMES, a newspaper published in Webb County, Texas and that the publication, of which the annexed is a true copy, was published to wit:

Customer ID	Customer	Order ID	Publication	Pub Date
20035301	GULF SOUTH RESEARCH COR.	34078801 L-79	LMT Laredo Morning Times	12/17/20

  
**Gabriela Garcia**  
Classified Sales Representative

Sworn and subscribed to before me, this 25th day of  
February A.D. 2021

Notary public in and for the State of Texas





**APPENDIX B**  
**CORRESPONDENCE**

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**CULTURAL RESOURCES SURVEY REPORT  
TRANSMITTAL LETTERS**



U.S. Customs and  
Border Protection

November 30, 2020

Emily Dylla, PhD  
Terrestrial Reviewer for South Texas  
Texas Historical Commission  
P.O. Box 12276  
Austin, Texas 78711-2276

Submitted online via THC's eTRAC system

**Subject:** Request for Concurrence on the *Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas*

Dear Dr. Dylla:

Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108) and its implementing regulations, 36 Code of Federal Regulations (CFR) Part 800, the U.S. Customs and Border Protection (CBP) is transmitting this letter and enclosures to initiate consultation and identify historic properties for the above referenced Undertaking.

**Description of the Undertaking:**

CBP is proposing to construct a new Border Patrol Station (BPS) in Freer, Texas. The new BPS would replace the current facility that does not have the capacity to meet current and future needs for USBP operations in the area. The proposed BPS would be constructed in the western portion of the city of Freer, Texas, approximately 63 miles northeast of the U.S.-Mexico border at Laredo, Texas. Based on potential site designs, a 20-acre project site would be used to construct the BPS main administrative building and associated infrastructure including a fueling station, communications tower, parking area, and maintenance facility. The new BPS and associated supporting infrastructure are designed for continuous operation in support of the Border Patrol Strategic Plan to gain and maintain effective control of the borders of the United States.

**Description of the Area of Potential Effect:**

The 20-acre Area of Potential Effect (APE) includes the necessary area for construction of the Freer BPS, supporting utilities and infrastructure, as well as temporary construction impact areas for the lay down of material, parking of construction equipment, and maneuvering of construction equipment. Depth of disturbance across this area would vary from 2 feet in depth for the parking areas and easements to 10 feet in depth for the building foundations and utilities.

**Identification of Historic Properties:**

An intensive archaeological pedestrian survey supplemented with the excavation of shovel test pits (STPs) was conducted on the entire 20-acre APE. This investigation constitutes CBP's good faith effort to take into account any adverse effects that may occur as a result of the proposed undertaking in compliance with Section 106 of the NHPA.

Prior to initiation of fieldwork, an archival records check was performed using the Texas Archeological Site Atlas maintained by the Texas Historical Commission (THC). All previously conducted archaeological investigations, archaeological sites, National Register of Historic Places (NRHP)-listed properties, Recorded Texas Historic Landmarks (RTHLs), Official Texas Historical Markers (OTHMs), and Historic Texas Cemeteries (HTCs) within a 1-mile search radius were reviewed. This information was used to identify any resources that may be affected by the proposed project. In addition, the information also provided insight into the types of resources that may be encountered during the surveys. One previously recorded archaeological site (41DV161) was located within the 1-mile search radius. That previously recorded site does not overlap with the APE.

The intensive archaeological pedestrian survey was supplemented with the excavation of STPs. The subsurface testing consisted of the excavation of 42 transect STPs across the APE. The survey was a non-collection survey and artifacts were analyzed and photographed in the field. None of the 42 transect STPs were positive for cultural material. Three archaeological sites (41DV189, 41DV190, and 41DV191) were recorded from surface finds noted during the pedestrian survey. Those sites included two multicomponent sites which represented two historic road and prehistoric lithic scatters and one sparse prehistoric lithic scatter. All three archaeological sites are recommended ineligible for the NRHP. No additional archaeological work is recommended for the archaeological sites recorded. The associated records for this project will be housed in GSRC's files upon completion of the survey and technical report.

**Determination of Effects on Historic Properties:**

Based on the results of the current investigation, CBP has determined that no previously or newly recorded historic properties would be affected by the proposed project. As a result, no further work is recommended. Supporting evidence for these determinations can be found in the enclosed Draft Cultural Resources Technical Report. CBP respectfully requests concurrence on its determinations at this time.

If previously unidentified cultural resources are encountered during the proposed Undertaking, the contractor will cease all activities in the vicinity of the discovery until a qualified archaeologist is notified and the nature and significance of the find can be evaluated. If human remains are encountered during the proposed Undertaking, the Texas Historical Commission will be notified and appropriate tribal organizations must be consulted per the Native American Graves Protection and Repatriation Act of 1990.

Dr. Dylla  
Page 3

In accordance with Section 106 of the NHPA, CBP notified the following tribal governments of its determination.

- Apache Tribe of Oklahoma
- Comanche Nation, Oklahoma
- Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
- Tonkawa Tribe of Indians of Oklahoma
- Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma

Your prompt attention to this request is greatly appreciated. If CBP has not received a response from your office within 30 days of your receipt of this determination letter, CBP will consider its responsibilities under Section 106 to have been fulfilled. If you have any questions concerning the proposed project, please contact Ms. Lauri Regan at (202) 313-1872 or via email at [Lauri.R.Regan@cbp.dhs.gov](mailto:Lauri.R.Regan@cbp.dhs.gov). Please send any mail correspondence or responses to me at the following address:

John Petrilla  
Environmental Branch Chief, Acting  
U.S Customs and Border Protection  
Border Patrol & Air and Marine  
Program Management Office  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Please also provide an electronic copy of your response to Ms. Regan at [Lauri.R.Regan@cbp.dhs.gov](mailto:Lauri.R.Regan@cbp.dhs.gov). Thank you for your cooperation.

Sincerely,



John Petrilla  
Acting Environmental Branch Chief  
Border Patrol & Air and Marine Program Management Office  
U.S. Customs and Border Protection

Enclosures: Draft Report: *Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas*



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

November 30, 2020

Durell Cooper, III  
Chairman  
Apache Tribe of Oklahoma  
P.O. Box 1330  
Anadarko, OK 73005

Sent via email to: [durellcooper05@gmail.com](mailto:durellcooper05@gmail.com)

**Subject:** Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas

Dear Chairman Cooper:

Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108) and its implementing regulations (36 CFR Part 800), U.S. Customs and Border Protection (CBP) is transmitting this letter and enclosures to respectfully invite your Tribe to consult on this Undertaking, if you so choose, and to review CBP's assessment of effects.

**Description of the Undertaking:**

CBP is proposing to construct a new Border Patrol Station (BPS) in Freer, Texas. The new BPS would replace the current facility that does not have the capacity to meet current and future needs for USBP operations in the area. The proposed BPS would be constructed in the western portion of the city of Freer, Texas, approximately 63 miles northeast of the U.S.-Mexico border at Laredo, Texas. Based on potential site designs, a 20-acre project site would be used to construct the BPS main administrative building and associated infrastructure including a fueling station, communications tower, parking area, and maintenance facility. The new BPS and associated supporting infrastructure are designed for continuous operation in support of the Border Patrol Strategic Plan to gain and maintain effective control of the borders of the United States.

**Description of the Area of Potential Effect:**

The 20-acre Area of Potential Effect (APE) includes the necessary area for construction of the Freer BPS, supporting utilities and infrastructure, as well as temporary construction impact areas for the lay down of material, parking of construction equipment, and maneuvering of construction equipment. Depth of disturbance across this area would vary from 2 feet in depth for the parking areas and easements to 10 feet in depth for the building foundations and utilities.



**Identification of Historic Properties:**

An intensive archaeological pedestrian survey supplemented with the excavation of shovel test pits (STPs) was conducted on the entire 20-acre APE. This investigation constitutes CBP's good faith effort to take into account any adverse effects that may occur as a result of the proposed undertaking in compliance with Section 106 of the NHPA.

Prior to initiation of fieldwork, an archival records check was performed using the Texas Archeological Site Atlas maintained by the Texas Historical Commission (THC). All previously conducted archaeological investigations, archaeological sites, National Register of Historic Places (NRHP)-listed properties, Recorded Texas Historic Landmarks (RTHLs), Official Texas Historical Markers (OTHMs), and Historic Texas Cemeteries (HTCs) within a 1-mile search radius were reviewed. This information was used to identify any resources that may be affected by the proposed project. In addition, the information also provided insight into the types of resources that may be encountered during the surveys. One previously recorded archaeological site (41DV161) was located within the 1-mile search radius. That previously recorded site does not overlap with the APE.

The intensive archaeological pedestrian survey was supplemented with the excavation of STPs. The subsurface testing consisted of the excavation of 42 transect STPs across the APE. The survey was a non-collection survey and artifacts were analyzed and photographed in the field. None of the 42 transect STPs were positive for cultural material. Three archaeological sites (41DV189, 41DV190, and 41DV191) were recorded from surface finds noted during the pedestrian survey. Those sites included two multicomponent sites which represented two historic road and prehistoric lithic scatters and one sparse prehistoric lithic scatter. All three archaeological sites are recommended ineligible for the NRHP. No additional archaeological work is recommended for the archaeological sites recorded. The associated records for this project will be housed in GSRC's files upon completion of the survey and technical report.

**Determination of Effects on Historic Properties:**

Based on the results of the current investigation, CBP has determined that no previously or newly recorded historic properties would be affected by the proposed project. As a result, no further work is recommended. Supporting evidence for these determinations can be found in the enclosed draft cultural resources technical report.

If previously unidentified cultural resources are encountered during the proposed Undertaking, the contractor will cease all activities in the vicinity of the discovery until a qualified archaeologist is notified and the nature and significance of the find can be evaluated. If human remains are encountered during the proposed Undertaking, the Texas Historical Commission will be notified and appropriate tribal organizations must be consulted per the Native American Graves Protection and Repatriation Act of 1990.

Chairman Cooper  
Page 3

In accordance with Section 106 of the NHPA, CBP has also notified the Texas Historical Commission of its determination, as well as the following tribal governments.

- Apache Tribe of Oklahoma
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Your prompt attention to this request is greatly appreciated. If CBP has not received a response from your office within 30 days of your receipt of this determination letter, CBP will consider its responsibilities under Section 106 to have been fulfilled. If you have any questions concerning the proposed project, please contact Ms. Lauri Regan at (202) 313-1872 or via email at [Lauri.R.Regan@cbp.dhs.gov](mailto:Lauri.R.Regan@cbp.dhs.gov). Please send any mail correspondence or responses to me at the following address:

John Petrilla  
Acting Environmental Branch Chief  
U.S. Customs and Border Protection  
Border Patrol & Air and Marine Program Management Office  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Please also provide an electronic copy of your response to Ms. Lauri Regan at [Lauri.R.Regan@cbp.dhs.gov](mailto:Lauri.R.Regan@cbp.dhs.gov). Thank you for your cooperation.

Sincerely,



John Petrilla  
Acting Environmental Branch Chief  
Border Patrol & Air and Marine Program Management Office  
U.S. Customs and Border Protection

Enclosures: Draft Report: *Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas*



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

November 30, 2020

William Nelson Sr.  
Chairman  
Comanche Nation, Oklahoma  
PO Box 908  
Lawton, OK 73502

Sent via email to: [william.nelson@comanchenation.com](mailto:william.nelson@comanchenation.com)

**Subject:** Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas

Dear Chairman Nelson:

Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108) and its implementing regulations (36 CFR Part 800), U.S. Customs and Border Protection (CBP) is transmitting this letter and enclosures to respectfully invite your Tribe to consult on this Undertaking, if you so choose, and to review CBP's assessment of effects.

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Based on the results of the current investigation, CBP has determined that no previously or newly recorded historic properties would be affected by the proposed project. As a result, no further work is recommended. Supporting evidence for these determinations can be found in the enclosed draft cultural resources technical report.

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Chairman Nelson  
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Border Patrol & Air and Marine Program Management Office  
U.S. Customs and Border Protection

Enclosures: Draft Report: *Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas*



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

November 30, 2020

Gabe Aguilar  
President  
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico  
PO Box 227  
Mescalero, NM 88340-0227

Sent via email to: [gaguilar@mescaleroapachetribe.com](mailto:gaguilar@mescaleroapachetribe.com)

**Subject:** Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas

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President Aguilar  
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John Petrilla  
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Border Patrol & Air and Marine Program Management Office  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Please also provide an electronic copy of your response to Ms. Lauri Regan at [Lauri.R.Regan@cbp.dhs.gov](mailto:Lauri.R.Regan@cbp.dhs.gov). Thank you for your cooperation.

Sincerely,



John Petrilla  
Acting Environmental Branch Chief  
Border Patrol & Air and Marine Program Management Office  
U.S. Customs and Border Protection

Enclosures: Draft Report: *Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas*





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

November 30, 2020

Russell Martin  
President  
Tonkawa Tribe of Indians of Oklahoma  
1 Rush Buffalo Road  
Tonkawa, OK 74653-4449

Sent via email to: [rmartin@tonkawatribe.com](mailto:rmartin@tonkawatribe.com)

**Subject:** Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas

Dear President Martin:

Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108) and its implementing regulations (36 CFR Part 800), U.S. Customs and Border Protection (CBP) is transmitting this letter and enclosures to respectfully invite your Tribe to consult on this Undertaking, if you so choose, and to review CBP's assessment of effects.

**Description of the Undertaking:**

CBP is proposing to construct a new Border Patrol Station (BPS) in Freer, Texas. The new BPS would replace the current facility that does not have the capacity to meet current and future needs for USBP operations in the area. The proposed BPS would be constructed in the western portion of the city of Freer, Texas, approximately 63 miles northeast of the U.S.-Mexico border at Laredo, Texas. Based on potential site designs, a 20-acre project site would be used to construct the BPS main administrative building and associated infrastructure including a fueling station, communications tower, parking area, and maintenance facility. The new BPS and associated supporting infrastructure are designed for continuous operation in support of the Border Patrol Strategic Plan to gain and maintain effective control of the borders of the United States.

**Description of the Area of Potential Effect:**

The 20-acre Area of Potential Effect (APE) includes the necessary area for construction of the Freer BPS, supporting utilities and infrastructure, as well as temporary construction impact areas for the lay down of material, parking of construction equipment, and maneuvering of construction equipment. Depth of disturbance across this area would vary from 2 feet in depth for the parking areas and easements to 10 feet in depth for the building foundations and utilities.

**Identification of Historic Properties:**

An intensive archaeological pedestrian survey supplemented with the excavation of shovel test pits (STPs) was conducted on the entire 20-acre APE. This investigation constitutes CBP's good faith effort to take into account any adverse effects that may occur as a result of the proposed undertaking in compliance with Section 106 of the NHPA.

Prior to initiation of fieldwork, an archival records check was performed using the Texas Archeological Site Atlas maintained by the Texas Historical Commission (THC). All previously conducted archaeological investigations, archaeological sites, National Register of Historic Places (NRHP)-listed properties, Recorded Texas Historic Landmarks (RTHLs), Official Texas Historical Markers (OTHMs), and Historic Texas Cemeteries (HTCs) within a 1-mile search radius were reviewed. This information was used to identify any resources that may be affected by the proposed project. In addition, the information also provided insight into the types of resources that may be encountered during the surveys. One previously recorded archaeological site (41DV161) was located within the 1-mile search radius. That previously recorded site does not overlap with the APE.

The intensive archaeological pedestrian survey was supplemented with the excavation of STPs. The subsurface testing consisted of the excavation of 42 transect STPs across the APE. The survey was a non-collection survey and artifacts were analyzed and photographed in the field. None of the 42 transect STPs were positive for cultural material. Three archaeological sites (41DV189, 41DV190, and 41DV191) were recorded from surface finds noted during the pedestrian survey. Those sites included two multicomponent sites which represented two historic road and prehistoric lithic scatters and one sparse prehistoric lithic scatter. All three archaeological sites are recommended ineligible for the NRHP. No additional archaeological work is recommended for the archaeological sites recorded. The associated records for this project will be housed in GSRC's files upon completion of the survey and technical report.

**Determination of Effects on Historic Properties:**

Based on the results of the current investigation, CBP has determined that no previously or newly recorded historic properties would be affected by the proposed project. As a result, no further work is recommended. Supporting evidence for these determinations can be found in the enclosed draft cultural resources technical report.

If previously unidentified cultural resources are encountered during the proposed Undertaking, the contractor will cease all activities in the vicinity of the discovery until a qualified archaeologist is notified and the nature and significance of the find can be evaluated. If human remains are encountered during the proposed Undertaking, the Texas Historical Commission will be notified and appropriate tribal organizations must be consulted per the Native American Graves Protection and Repatriation Act of 1990.

President Martin  
Page 3

In accordance with Section 106 of the NHPA, CBP has also notified the Texas Historical Commission of its determination, as well as the following tribal governments.

- Apache Tribe of Oklahoma
- Comanche Nation, Oklahoma
- Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
- Tonkawa Tribe of Indians of Oklahoma
- Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma

Your prompt attention to this request is greatly appreciated. If CBP has not received a response from your office within 30 days of your receipt of this determination letter, CBP will consider its responsibilities under Section 106 to have been fulfilled. If you have any questions concerning the proposed project, please contact Ms. Lauri Regan at (202) 313-1872 or via email at [Lauri.R.Regan@cbp.dhs.gov](mailto:Lauri.R.Regan@cbp.dhs.gov). Please send any mail correspondence or responses to me at the following address:

John Petrilla  
Acting Environmental Branch Chief  
U.S. Customs and Border Protection  
Border Patrol & Air and Marine Program Management Office  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Please also provide an electronic copy of your response to Ms. Lauri Regan at [Lauri.R.Regan@cbp.dhs.gov](mailto:Lauri.R.Regan@cbp.dhs.gov). Thank you for your cooperation.

Sincerely,



John Petrilla  
Acting Environmental Branch Chief  
Border Patrol & Air and Marine Program Management Office  
U.S. Customs and Border Protection

Enclosures: *Draft Report: Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas*



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

November 30, 2020

Terri Parton  
President  
Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma  
PO Box 729  
Anadarko, OK 73005

Sent via email to: [terri.parton@wichitatribe.com](mailto:terri.parton@wichitatribe.com)

**Subject:** Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas

Dear President Parton:

Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108) and its implementing regulations (36 CFR Part 800), U.S. Customs and Border Protection (CBP) is transmitting this letter and enclosures to respectfully invite your Tribe to consult on this Undertaking, if you so choose, and to review CBP's assessment of effects.

**Description of the Undertaking:**

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**Description of the Area of Potential Effect:**

The 20-acre Area of Potential Effect (APE) includes the necessary area for construction of the Freer BPS, supporting utilities and infrastructure, as well as temporary construction impact areas for the lay down of material, parking of construction equipment, and maneuvering of construction equipment. Depth of disturbance across this area would vary from 2 feet in depth for the parking areas and easements to 10 feet in depth for the building foundations and utilities.

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Prior to initiation of fieldwork, an archival records check was performed using the Texas Archeological Site Atlas maintained by the Texas Historical Commission (THC). All previously conducted archaeological investigations, archaeological sites, National Register of Historic Places (NRHP)-listed properties, Recorded Texas Historic Landmarks (RTHLs), Official Texas Historical Markers (OTHMs), and Historic Texas Cemeteries (HTCs) within a 1-mile search radius were reviewed. This information was used to identify any resources that may be affected by the proposed project. In addition, the information also provided insight into the types of resources that may be encountered during the surveys. One previously recorded archaeological site (41DV161) was located within the 1-mile search radius. That previously recorded site does not overlap with the APE.

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**Determination of Effects on Historic Properties:**

Based on the results of the current investigation, CBP has determined that no previously or newly recorded historic properties would be affected by the proposed project. As a result, no further work is recommended. Supporting evidence for these determinations can be found in the enclosed draft cultural resources technical report.

If previously unidentified cultural resources are encountered during the proposed Undertaking, the contractor will cease all activities in the vicinity of the discovery until a qualified archaeologist is notified and the nature and significance of the find can be evaluated. If human remains are encountered during the proposed Undertaking, the Texas Historical Commission will be notified and appropriate tribal organizations must be consulted per the Native American Graves Protection and Repatriation Act of 1990.

President Parton  
Page 3

In accordance with Section 106 of the NHPA, CBP has also notified the Texas Historical Commission of its determination, as well as the following tribal governments.

- Apache Tribe of Oklahoma
- Comanche Nation, Oklahoma
- Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
- Tonkawa Tribe of Indians of Oklahoma
- Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma

Your prompt attention to this request is greatly appreciated. If CBP has not received a response from your office within 30 days of your receipt of this determination letter, CBP will consider its responsibilities under Section 106 to have been fulfilled. If you have any questions concerning the proposed project, please contact Ms. Lauri Regan at (202) 313-1872 or via email at [Lauri.R.Regan@cbp.dhs.gov](mailto:Lauri.R.Regan@cbp.dhs.gov). Please send any mail correspondence or responses to me at the following address:

John Petrilla  
Acting Environmental Branch Chief  
U.S. Customs and Border Protection  
Border Patrol & Air and Marine Program Management Office  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Please also provide an electronic copy of your response to Ms. Lauri Regan at [Lauri.R.Regan@cbp.dhs.gov](mailto:Lauri.R.Regan@cbp.dhs.gov). Thank you for your cooperation.

Sincerely,



John Petrilla  
Acting Environmental Branch Chief  
Border Patrol & Air and Marine Program Management Office  
U.S. Customs and Border Protection

Enclosures: *Draft Report: Cultural Resources Survey of 20 Acres for the Proposed U.S. Customs and Border Protection Freer Border Patrol Station, Duval County, Texas*

**DRAFT EA TRANSMITTAL LETTERS**



U.S. Customs and  
Border Protection

December 10, 2020

Arthur "Butch" Blazer, President  
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico  
PO Box 227  
Mescalero, NM 88340

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear President Blazer:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

The proposed new station would be constructed to accommodate 125 agents initially, with the capability to expand to 175 agents. The new facility would replace the current Freer BPS which does not have the capacity to meet current and future needs for U.S. Border Patrol (USBP) operations in the area. The new facility would be located 4-miles west of the existing facility. The new BPS and associated supporting infrastructure would be designed for continuous operation in support of the Border Patrol Strategic Plan to gain and maintain effective control of the borders of the United States.

CBP invites your participation in the public review process for the enclosed Draft EA and FONSI. The 30-day public comment period begins on December 16, 2020 and comments must be received by January 17, 2021 to be considered for incorporation into the final EA. Comments on the Draft EA and Draft FONSI can be submitted by:

- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)



Arthur "Butch" Blazer, President  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Your prompt attention to this request is greatly appreciated. If you require additional information or have any questions, please contact Mr. John Petrilla by telephone at (949) 278-0353 or by e-mail at [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "John Petrilla". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Petrilla".

John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 10, 2020

Bobby Komardley, Chairman  
Apache Tribe of Oklahoma  
PO Box 1330  
Anadarko, OK 73005  
Sent via email to: [bkomardley@outlook.com](mailto:bkomardley@outlook.com)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Chairman Komardley:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Bobby Komardley, Chairman  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Your prompt attention to this request is greatly appreciated. If you require additional information or have any questions, please contact Mr. John Petrilla by telephone at (949) 278-0353 or by e-mail at [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov).

Sincerely,

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 10, 2020

Gary McAdams, THPO  
Wichita and Affiliated Tribes, Oklahoma  
PO Box 729  
Anadarko, OK 73005  
Sent via email to: [gary.mcadams@wichtatribe.com](mailto:gary.mcadams@wichtatribe.com)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Mr. McAdams:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Gary McAdams, THPO  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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Sincerely,

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 10, 2020

Holly Houghten, Tribal Historic Preservation Office  
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico  
PO Box 227  
Mescalero, NM 88340  
Sent via email to: [Holly@mathpo.org](mailto:Holly@mathpo.org)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Ms. Houghten:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Holly Houghten, THPO  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

The Honorable Tano E. Tijerina  
Webb County Judge  
1000 Houston St. 3<sup>rd</sup> floor  
Laredo, TX 78040  
Sent via email to: [webbcountyjudge@webbcountytexas.gov](mailto:webbcountyjudge@webbcountytexas.gov)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Honorable Tijerina:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

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Honorable Tijerina  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Lauren Norman-Brown  
Tonkawa Tribe of Indians of Oklahoma  
1 Rush Buffalo Road  
Tonkawa, OK 74653-4449  
Sent via email to: [jbrown@tonkawatribe.com](mailto:jbrown@tonkawatribe.com)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Ms. Norman-Brown:

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Lauren Norman-Brown, THPO  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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Sincerely,



John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Martina Minthorn, THPO  
Comanche Nation, Oklahoma  
6 SW D Avenue  
Lawton, OK 73502  
Sent via email to: [martinac@comanchenation.com](mailto:martinac@comanchenation.com)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Ms. Minthorn:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

The proposed new station would be constructed to accommodate 125 agents initially, with the capability to expand to 175 agents. The new facility would replace the current Freer BPS which does not have the capacity to meet current and future needs for U.S. Border Patrol (USBP) operations in the area. The new facility would be located 4-miles west of the existing facility. The new BPS and associated supporting infrastructure would be designed for continuous operation in support of the Border Patrol Strategic Plan to gain and maintain effective control of the borders of the United States.

CBP invites your participation in the public review process for the enclosed Draft EA and FONSI. The 30-day public comment period begins on December 16, 2020 and comments must be received by January 17, 2021 to be considered for incorporation into the final EA. Comments on the Draft EA and Draft FONSI can be submitted by:

- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Ms. Minthorn, THPO  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Your prompt attention to this request is greatly appreciated. If you require additional information or have any questions, please contact Mr. John Petrilla by telephone at (949) 278-0353 or by e-mail at [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "John Petrilla". The signature is fluid and cursive, with the first name "John" and last name "Petrilla" clearly distinguishable.

John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Flavio A. Garza, Jr., Natural Resource Manager  
Natural Resources Conservation Service, USDA  
7209 E. Saunders Suite 7  
Laredo, TX 78041-9001  
956.723.3222, Ext. 3  
Sent via email to: [flavio.garza@usda.gov](mailto:flavio.garza@usda.gov)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Mr. Garza:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

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Flavio Garza  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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Sincerely,



John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 10, 2020

Russell Martin, President  
Tonkawa Tribe of Indians of Oklahoma  
1 Rush Buffalo Road  
Tonkawa, OK 74653-4449  
Sent via email to: [rmartin@tonkawatribe.com](mailto:rmartin@tonkawatribe.com)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear President Martin:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

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Russell Martin, President  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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Sincerely,

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Mark Wolfe  
State Historic Preservation Officer  
Texas Historical Commission  
1511 Colorado  
Austin, TX 78701  
Sent via email to: [Mark.wolfe@thc.texas.gov](mailto:Mark.wolfe@thc.texas.gov)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Mr. Wolfe:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Mark Wolfe  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Jaime A. Garza, Regional Director  
Region 16 – Laredo (Webb County)  
Texas Commission on Environmental Quality  
707 E. Calton Rd, Suite 304  
Laredo, TX 78041-3887  
956.791.6716  
Sent via email to: [Jaime.Garza@tceq.texas.gov](mailto:Jaime.Garza@tceq.texas.gov)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Mr. Garza:

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Jaime Garza  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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Sincerely,



John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 10, 2020

Terri Parton, President  
Wichita and Affiliated Tribes  
PO Box 729  
Anadarko, OK 73005  
Sent via email to: [Terri.Parton@wichitatribe.com](mailto:Terri.Parton@wichitatribe.com)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear President Parton:

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Terri Parton, President  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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Sincerely,

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Ms. Meredith Longoria  
Texas Parks and Wildlife Department  
Wildlife Diversity Program  
4200 Smith School Road  
Austin, Texas 78744  
Sent via email to: [meredith.longoria@tpwd.state.tx.us](mailto:meredith.longoria@tpwd.state.tx.us)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Ms. Longoria:

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)



Meredith Longoria  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Carlos G. Rodriguez, P.E.  
Texas Department of Transportation  
Laredo Area Engineer  
1817 Bob Bullock Loop  
Laredo, Texas 78043  
Sent via email to: [Carlos.G.Rodriguez@txdot.gov](mailto:Carlos.G.Rodriguez@txdot.gov)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Mr. Rodriguez:

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Carlos Rodriguez  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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Sincerely,



John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Kim McLaughlin, Chief  
U.S. Army Corps of Engineers  
Galveston District Regulatory Branch  
2000 Fort Point Road  
Galveston, TX 77550  
Sent via email to: [Kimberly.S.McLaughlin@usace.army.mil](mailto:Kimberly.S.McLaughlin@usace.army.mil)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Ms. McLaughlin:

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Kim McLaughlin  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Keith Hayden  
U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Fountain Place 12th Floor, Suite 1200  
Dallas, TX 75202  
Sent via email to: [hayden.keith@epa.gov](mailto:hayden.keith@epa.gov)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Mr. Hayden:

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- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

Keith Haden  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

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Sincerely,

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John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 14, 2020

Ernesto Reyes  
Texas DOI State Border Coordinator  
United States Fish and Wildlife Service  
Alamo Ecological Service Sub-Office  
3325 Green Jay Road  
Alamo, TX 78516  
Sent via email to: [ernesto.reyes@fws.gov](mailto:ernesto.reyes@fws.gov)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Mr. Reyes:

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Ernesto Reyes  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Your prompt attention to this request is greatly appreciated. If you require additional information or have any questions, please contact Mr. John Petrilla by telephone at (949) 278-0353 or by e-mail at [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "John Petrilla". The signature is fluid and cursive, with the first name "John" and last name "Petrilla" clearly distinguishable.

John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure



U.S. Customs and  
Border Protection

December 10, 2020

William Nelson, Chairman  
Comanche Nation, Oklahoma  
PO Box 908  
Lawton, OK 73502  
Sent via email to: [williamn@comanchenation.com](mailto:williamn@comanchenation.com)

**RE: *Draft Environmental Assessment for the New Freer Border Patrol Station, Freer, Texas, U.S. Customs and Border Protection, Laredo Sector, Texas***

Dear Chairman Nelson:

U.S. Customs and Border Protection (CBP) is pleased to forward the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) addressing the proposed construction and operation of a new U.S. Border Patrol Station (BPS) in Freer, Texas. The Draft EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S. Code 4321, et seq.), the Council on Environmental Quality's updated NEPA implementing regulations (40 Code of Federal Regulations Part 1500 et seq.), DHS Directive Number 023-01, Rev.01, and DHS Instruction Manual 023-01-001-01, *Implementation of the National Environmental Policy Act*.

The proposed new station would be constructed to accommodate 125 agents initially, with the capability to expand to 175 agents. The new facility would replace the current Freer BPS which does not have the capacity to meet current and future needs for U.S. Border Patrol (USBP) operations in the area. The new facility would be located 4-miles west of the existing facility. The new BPS and associated supporting infrastructure would be designed for continuous operation in support of the Border Patrol Strategic Plan to gain and maintain effective control of the borders of the United States.

CBP invites your participation in the public review process for the enclosed Draft EA and FONSI. The 30-day public comment period begins on December 16, 2020 and comments must be received by January 17, 2021 to be considered for incorporation into the final EA. Comments on the Draft EA and Draft FONSI can be submitted by:

- E-mail to: Mr. John Petrilla, [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov)

William Nelson, Chairman  
Page 2

- Mail to:  
Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Your prompt attention to this request is greatly appreciated. If you require additional information or have any questions, please contact Mr. John Petrilla by telephone at (949) 278-0353 or by e-mail at [john.p.petrilla@cbp.dhs.gov](mailto:john.p.petrilla@cbp.dhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "John Petrilla". The signature is fluid and cursive, with the first name "John" and last name "Petrilla" clearly distinguishable.

John Petrilla  
Environmental Branch Chief, Acting  
Border Patrol & Air and Marine  
Program Management Office  
U.S. Customs and Border Protection

Enclosure

**SHPO CONCURRENCE LETTER**



Re: Project Review under Section 106 of the National Historic Preservation Act and/or the Antiquities Code of Texas

**THC Tracking #202103474**

CBP Freer Border Patrol Station

27.882622, -98.639336

Freer, TX 78357

**Description:** U.S. Customs and Border Protection (CBP) is proposing construction and operation of a new U.S. Border Patrol (USBP) Station in Freer, Texas.

Dear Lauri Regan:

Thank you for your submittal regarding the above-referenced project. This response represents the comments of the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission (THC), pursuant to review under Section 106 of the National Historic Preservation Act.

The review staff, led by Caitlin Brashear, Emily Dylla, has completed its review and has made the following determinations based on the information submitted for review:

#### **Above-Ground Resources**

- No historic properties are present or affected by the project as proposed. However, if historic properties are discovered or unanticipated effects on historic properties are found, work should cease in the immediate area; work can continue where no historic properties are present. Please contact the THC's History Programs Division at 512-463-5853 to consult on further actions that may be necessary to protect historic properties.

#### **Archeology Comments**

- No identified historic properties, archeological sites, or other cultural resources are present or affected. However, if cultural materials are encountered during project activities, work should cease in the immediate area; work can continue where no cultural materials are present. Please contact the THC's Archeology Division at 512-463-6096 to consult on further actions that may be necessary to protect the cultural remains.
- THC/SHPO concurs with information provided.
- This draft report is acceptable. Please submit a final report: one restricted version with any site location information (if applicable), and one public version with all site location information redacted. To facilitate review and make project information and final reports available through the Texas Archeological Sites Atlas, we appreciate submitting abstracts online at <http://xapps.thc.state.tx.us/Abstract> and e-mailing survey area shapefiles to [archeological\\_projects@thc.texas.gov](mailto:archeological_projects@thc.texas.gov) if this has not already occurred. Please note that these steps are required for projects conducted under a Texas Antiquities Permit.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this review process, and for your efforts to preserve the irreplaceable heritage of Texas. If the project changes, or if new historic properties are found, please contact the review staff. If you have any questions concerning our review or if we can be of further assistance, please email the following reviewers: [caitlin.brashear@thc.texas.gov](mailto:caitlin.brashear@thc.texas.gov), [emily.dylla@thc.texas.gov](mailto:emily.dylla@thc.texas.gov).

This response has been sent through the electronic THC review and compliance system (eTRAC). Submitting your project via eTRAC eliminates mailing delays and allows you to check the status of the review, receive an electronic response, and generate reports on your submissions. For more information, visit <http://thc.texas.gov/etrac-system>.

Sincerely,

A handwritten signature in cursive script that reads "Caitlin Brashear".

for Mark Wolfe, State Historic Preservation Officer  
Executive Director, Texas Historical Commission

**Please do not respond to this email.**

**PUBLIC REVIEW COMMENTS AND RESPONSES**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270-2102

January 11, 2021

Mr. John Petrilla  
U.S. Customs and Border Protection  
Border Patrol & Air and Marine  
Program Management Office  
24000 Avila Road, Suite 5020  
Laguna Niguel, California 92677

Dear Mr. Petrilla:

The U.S. Environmental Protection Agency (EPA) has reviewed the U.S. Customs and Border Protection Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FNSI) for the proposed construction of a new Border Patrol Station (BPS) in Freer, Texas. The review is pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500 – 1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The proposed action would be situated on a 20-acre project site in the western portion of the city of Freer. The project would construct a BPS main administrative building and associated infrastructure including a fueling station, fully functional heliport facility, communications tower, parking area, and maintenance facility. The new BPS would accommodate the increase in assigned Border Patrol Agents for the Freer Station Area of Responsibility. Based upon our review of the environmental analysis provided, EPA has the following comments on the proposed action.

**Air Quality Comments**

Because of the air quality concerns of significant population centers within the project area, EPA recommends that in order to reduce potential short-term air quality impacts associated with construction activities, the agencies responsible for the project should include a Construction Emissions Mitigation Plan, and adopt this plan in the FNSI. In addition to conducting construction and waste disposal activities in accordance with all applicable local, state, or federal requirements, EPA recommends that fugitive dust source controls (e.g. stabilization of disturbed soils), mobile/stationary source controls (e.g. limitation of vehicle idling, maintenance of engines to perform at EPA certification levels), and administrative controls (e.g. traffic/parking management plan to maintain traffic flow) be considered for inclusion (as applicable and practicable) in the Construction Emissions Mitigation Plan in order to reduce impacts associated with emissions of NO<sub>x</sub>, CO, PM, SO<sub>2</sub>, and other pollutants from construction-related activities.



We appreciate the opportunity to review the Draft EA and are available to discuss EPA comments. Please send an electronic copy to the email address below. If you have any questions, please contact Gabe Gruta, the project review lead, at 214-665-2174 or [gruta.gabriel@epa.gov](mailto:gruta.gabriel@epa.gov).

Sincerely,

Robert Houston  
Acting Director  
Office of Communities, Tribes and  
Environmental Assessment



Life's better outside.®

January 14, 2021

Commissioners

S. Reed Morlan  
Chairman  
Houston

Arch "Beaver" Apilin, III  
Vice-Chairman  
Lake Jackson

James E. Abell  
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Robert L. "Bobby" Patton, Jr.  
Fort Worth

Dick Scott  
Wimberley

Lee M. Bass  
Chairman-Emeritus  
Fort Worth

T. Dan Friedkin  
Chairman-Emeritus  
Houston

Carter P. Smith  
Executive Director

Mr. John Petrilla  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

RE: Proposed Construction, Operation, and Maintenance of the Freer Border Patrol Station, Laredo Sector, Duval County, Texas.

Dear Mr. Petrilla:

This letter is in response to your request for a review of a Draft Environmental Assessment (EA) prepared by the U.S. Customs and Border Protection (CBP) for the proposed project referenced above.

#### Project Description

The CBP and U.S. Border Patrol (USBP), within the Department of Homeland Security (DHS), propose to construct and operate a U.S. Border Patrol Station (BPS) on a 20-acre parcel of land west of Freer, Duval County, Texas, approximately four miles west of the existing Freer BPS. Development of the BPS would include the construction of a main administrative building and associated infrastructure including a fueling station, communication tower, parking areas, and maintenance facility.

TPWD staff reviewed the Draft EA and offers the following comments and recommendations.

#### **1.5 Scope of Environmental Analysis and Decisions to be Made**

**Pages 1-3 and 1-4.** This section states that, per National Environmental Policy Act (NEPA) guidance, the first step in developing the EA was to solicit comments from Federal, state, and local agencies to ensure their concerns are included in the analysis.

#### **1.7 Public Involvement**

**Page 1-5.** This section states that CBP initiated agency scoping to identify significant issues related to the Proposed Action and that formal and informal coordination with agencies is included in **Appendix A-Correspondence**. However, according to the pop-up message embedded in the Draft EA PDF, **Appendix A** contains "a compilation of letters to agency and other parties announcing the availability of public review on the Draft EA", not scoping correspondence from agencies.

**Comment:** TPWD has no record of being contacted to provide scoping comments regarding the current Proposed Action. TPWD has provided scoping comments and reviewed Draft EAs for the construction of a new Freer BPS in 2010 and 2019. Plans to construct a new Freer BPS at both previously evaluated sites were abandoned.

Mr. John Petrilla  
January 14, 2021  
Page 2 of 5

**Recommendation:** The Final EA should clarify that scoping was not initiated with TPWD for this specific Proposed Action but rather utilized comments from previous coordination for similar uncompleted projects that were located in similar habitats in the same general area.

#### **2.1 Criteria for Site Selection**

**Page 2-1.** The last sentence of the first paragraph of this section implies that **Figure 2-1** would identify the location of all seven potential construction sites that were initially evaluated for the new BPS. **Figure 2-1** only identifies the location of the preferred site.

**Recommendation:** In order to put the location of the preferred site in context to the other evaluated locations, it would be helpful to include a figure that identifies all the locations initially evaluated since they are referred to in this section. TPWD recommends that **Figure 2-1** either be revised or an additional figure be included in the Final EA to indicate the locations of all seven potential BPSs that were initially evaluated.

#### **3.4 Vegetative Habitat**

**Section 3.4.1** indicates that approximately 20 acres of South Texas Brush Country vegetative community would be permanently impacted as a result of constructing the new BPS. As described in the draft EA, “best management practices (BMPs) would be implemented to minimize the spread and reestablishment of non-native vegetation” including measures such as revegetating with native plant seeds or nursery planting or allowing areas to revegetate naturally.

**Recommendations:** TPWD appreciates the measures proposed to be implemented to minimize the spread of invasive species including the use of native plant seeds.

Regarding the measure to allow areas to revegetate naturally, in general, when undeveloped land is permitted to remain fallow or revegetate naturally following a disturbance, the result is often the rapid conversion of the land into a monoculture of introduced, invasive grasses. Colonization by invasive species, particularly invasive grasses and weeds, should be actively prevented. Vegetation management should include removing invasive species early on while allowing existing native plants to revegetate disturbed areas. TPWD recommends referring to the Lady Bird Johnson Wildflower Center Native Plant Database, available online, for regionally adapted native species that would be appropriate for landscaping and revegetation efforts. Nursery plantings should only be included in post-construction landscaping if they are regionally adapted native species.

TPWD also recommends contractors apply hydromulching and/or hydroseeding in areas for soil stabilization and/or revegetation of disturbed areas where feasible. If hydromulching and/or hydroseeding are not feasible due to site conditions, using erosion control blankets or mats that contain no netting, or only contain loosely woven natural fiber netting is preferred. Plastic netting should be avoided to the extent practicable as it poses a threat (e.g., entanglement) to wildlife.

Mr. John Petrilla  
January 14, 2021  
Page 3 of 5

### 3.5 Wildlife Resources

**Section 3.5.1** includes BMPs to reduce disturbance and loss of wildlife including night-time lighting BMPs, surveying for wildlife prior to construction, avoiding construction activities during nesting season, and checking trenches for trapped wildlife. This section also refers to Chapter 4 of the Draft EA as containing a list of additional BMPs that would be implemented when applicable.

**Recommendation:** TPWD appreciates the BMPs that would be implemented to reduce disturbance and loss of wildlife. In addition to the BMPs listed in this section and Chapter 4 of the Draft EA, to further ensure potential impacts to wildlife susceptible to entrapment are avoided, TPWD recommends constructing an exclusion fence around the project area with metal flashing or drift fence material; regular silt fence material may also be used. The exclusion fence should be buried at least six inches deep and be 24-inches high. Exclusion fences are effective in preventing small mammals and reptiles from entering a construction area. Additional information regarding exclusion fencing is described in TPWD's *Texas Tortoise Best Management Practices* available on TPWD's Wildlife Habitat Assessment Program website.

### 3.6 Threatened and Endangered Species

This section identifies state-listed species that may occur in the project area. However, the list used to evaluate potential occurrences and impacts to state-listed species was outdated.

**Recommendation:** Please note that the lists of state threatened and endangered nongame species have been revised substantially since TPWD's Rare, Threatened, and Endangered Species of Texas by County (RTEST) online application was accessed on April 2, 2020. Several species identified in the Draft EA are no longer state-listed threatened (e.g., reticulate collared lizard, Texas indigo snake) while other species were added. A complete list of the species that were removed from and added to the state threatened and endangered species lists are available in the March 27, 2020 issue of the *Texas Register* (45 TexReg 2188). The Final EA should be revised to reflect the changes to the state listed species lists.

According to **Table 3-3** of the Draft EA, the reticulate collared lizard was observed at the proposed Freer BPS location during surveys of the site. The reticulate collared lizard, while no longer state-listed threatened, is a Species of Greatest Conservation Need (SGCN). Also, the Texas Natural Diversity Database (TXNDD) includes observations of the Tamaulipan spot-tailed earless lizard (*Holbrookia subcaudalis*), an SGCN species, within the general area around Freer.

In addition to state- and federally-listed species, TPWD tracks special features, natural communities, species of concern (SOC), and SGCN in the TXNDD and actively promotes their conservation. TPWD considers it important to evaluate and, if necessary, minimize impacts to rare species and their habitat to reduce the likelihood of endangerment.

**Recommendation:** TPWD recommends reviewing the most current TPWD RTEST county list of rare species for Duval County, as SOC and SGCN could be present depending upon habitat availability.

Mr. John Petrilla  
January 14, 2021  
Page 4 of 5

#### Tamaulipan Spot-tailed earless lizard (*Holbrookia subcaudalis*)

The Tamaulipan spot-tailed earless lizard (STEL) may occur in grassland, open prairie-brushland, mixed woodland habitats. Within these habitat types, STELs often utilize flat areas with minimal obstructions (e.g., graded roads, prairie savannah).

**Recommendations:** TPWD recommends implementing the following BMPs to avoid and/or minimize potential impacts to Tamaulipan STELs. TPWD notes that implementing the following BMPs could also help minimize impacts to a variety of native wildlife species that may inhabit the project area.

- A major threat to STELs is road traffic, as this species exhibits behavior indicating that they prefer roads and tend to cross roads often, potentially for thermoregulation. TPWD recommends reducing the number of access roads, both temporary and permanent, that may be planned to be constructed for the proposed project. TPWD also recommends reducing speed limits in the project area to at least 15 mph (or slower) to help prevent vehicle-induced mortality of this species.
- This species prefers a mixture of bare ground and sparse vegetation, including disturbed areas. TPWD recommends avoiding impacts to suitable habitat for this species. Areas disturbed by project-related construction activities within suitable habitat for the STEL should be revegetated with site-specific native, patchy vegetation rather than sod-forming grasses.
- The STEL utilizes burrows for shelter. TPWD recommends identifying locations of burrows on the project site and avoiding impacts to burrows if feasible.
- TPWD recommends providing contractor training for the identification, behavior, and habitat requirements of the STEL. It is important for construction personnel to be able to identify this species and to be on the lookout for them during construction and to avoid impacting them if encountered on-site.

#### Section 3.6.1 Alternative 1: Proposed Action

The last sentence on Page 3-12 references the least tern and red tern.

**Recommendation:** The species identified as “red tern” should be corrected to “red knot”.

#### Chapter 4 Best Management Practices

This chapter contains lists of BMPs that would be implemented to reduce or eliminate potential adverse impacts on the human and natural environment including Soils, Biological Resources, Cultural Resources, Air Quality, and Water Resources.

**Comment:** TPWD appreciates the efforts to minimize potential negative impacts on natural resources by implementing the BMPs listed in Chapter 4 of the Draft EA.

Mr. John Petrilla  
January 14, 2021  
Page 5 of 5

The Biological Resources BMPs include measures to avoid impacts to birds protected under the Migratory Bird Treaty Act (MBTA). As proposed in this chapter, if it is not possible to avoid construction or clearing during the nesting season, nest surveys would be conducted to identify active nests. According to the Draft EA, if construction would result in the take of a migratory bird, then coordination with the USFWS and TPWD would be required and applicable permits would be obtained.

State law prohibits any take or possession of nongame birds, including their eggs and nests. Laws and regulations pertaining to state-protection of nongame birds are contained in Chapter 64 of the Texas Parks and Wildlife Code (PWC); specifically, Section 64.002 provides that no person may catch, kill, injure, pursue, or possess a bird that is not a game bird. PWC section 64.003, regarding destroying nests or eggs, provides that, no person may destroy or take the nests, eggs, or young and any wild game bird, wild bird, or wild fowl.

**Recommendations:** In addition to the proposed measures referenced above, TPWD recommends nest surveys be conducted within five days prior to clearing vegetation to ensure recently constructed nests are identified. If active nests are observed during surveys, TPWD recommends a 150-foot buffer of vegetation remain around a nest until the young have fledged or it is not actively being used.

TPWD appreciates the opportunity to provide comments and recommendations for this project. If you should have questions, please do not hesitate to contact Habitat Assessment Biologist Mr. Russell Hooten by email at [russell.hooten@tpwd.texas.gov](mailto:russell.hooten@tpwd.texas.gov) or by phone at (361) 825-3240. Thank you.

Sincerely,



John Silovsky  
Wildlife Division Director

JS:RH:bdk

**Comment Response Matrix**  
**Draft Freer BPS EA**

February 2021

#	Location			Comment	Reviewer	Response
	Page	Line	Section			
1.			General	<p>Because of the air quality concerns of significant population centers within the project area, EPA recommends that in order to reduce potential short-term air quality impacts associated with construction activities, the agencies responsible for the project should include a Construction Emissions Mitigation Plan and adopt this plan in the FNSI. In addition to conducting construction and waste disposal activities in accordance with all applicable local, state, or federal requirements, EPA recommends that fugitive dust source controls (e.g. stabilization of disturbed soils), mobile/stationary source controls (e.g. limitation of vehicle idling, maintenance of engines to perform at EPA certification levels), and administrative controls (e.g. traffic/parking management plan to maintain traffic flow) be considered for inclusion (as applicable and practicable) in the Construction Emissions Mitigation Plan in order to reduce impacts associated with emissions of NO<sub>x</sub>, CO, PM, SO<sub>2</sub>, and other pollutants from construction-related activities.</p>	USEPA	<p>CBP is committed to ensuring the BMPs discussed in the EA, as well as those required per the SWPPP are implemented in an effort to make sure CBP minimizes any potential impacts.</p>
2.	1-5		1.7	<p>TPWD has no record of being contacted to provide scoping comments regarding the current Proposed Action. TPWD has provided scoping comments and reviewed draft EAs for the construction of a new Freer BPS in 2010 and 2019. Plans to construct anew Freer BPS at both previously evaluated sites were abandoned.</p> <p>The Final EA should clarify that scoping was not initiated with TPWD for this specific Proposed Action but rather utilized comments from previous coordination for similar uncompleted projects that were located in similar habitats in the same general area.</p>	TPWD	<p>EA was revised accordingly.</p>

#	Location			Comment	Reviewer	Response
	Page	Line	Section			
3.	2-1		2.1	<p>The last sentence of the first paragraph of this section implies that Figure 2-1 would identify the location of all seven potential construction sites that were initially evaluated for the new BPS. Figure 2-1 only identifies the location of the preferred site</p> <p>In order to put the location of the preferred site in context to the other evaluated locations, it would be helpful to include a figure that identifies all the locations initially evaluated since they are referred to in this section. TPWD recommends that Figure 2-1 either be revised or an additional figure be included in the Final EA to indicate the locations of all seven potential BPSs that were initially evaluated.</p>	TPWD	Figure 2-1 was moved to section 2.2 accordingly.



#	Location			Comment	Reviewer	Response
	Page	Line	Section			
4.			3.4.1	<p>Section 3.4.1 indicates that approximately 30 acres of South Texas Brush Country vegetative community would be permanently impacted as a result of constructing the new BPS. As described in the draft EA, “best management practices (BMPs) would be implemented to minimize the spread and reestablishment of non-native vegetation” including measures such as revegetating with native plant seeds or nursery planting or allowing areas to revegetate naturally.</p> <p>TPWD appreciated the measures proposed to be implemented to minimize the spread of invasive species including the use of native plant seeds.</p> <p>Regarding the measure to allow areas to revegetate naturally, in general, when undeveloped land is permitted to remain fallow or revegetate naturally following a disturbance, the result is often the rapid conversion of the land into a monoculture of introduced, invasive grasses. Colonization by invasive species, particularly invasive grasses and weeds, should be actively prevented. Vegetation management should include removing invasive species early on while allowing existing native plants to revegetate disturbed areas. TPWD recommends referring to the Lady Bird Johnson Wildflower Center Native Plant Database, available online, for regionally adapted native species that would be appropriate for landscaping and revegetation efforts. Nursery plantings should only be included in post-construction landscaping if they are regionally adapted native species.</p> <p>TPWD also recommends contractors apply hydromulching and/or hydroseeding in areas for soil stabilization and/or revegetation of disturbed areas where feasible. If hydromulching and/or hydroseeding are not feasible due to site conditions, using erosion control blankets or mats that contain no netting, or only contain loosely woven natural fiber netting is preferred. Plastic netting should be avoided to the extent practicable as it poses a threat (e.g., entanglement) to wildlife.</p>	TPWD	Thank you for your comment, CBP will continue to implement BMPs such as native plantings.

#	Location			Comment	Reviewer	Response
	Page	Line	Section			
5.			3.5.1	<p>Section 3.5.1 includes BMPs to reduce disturbance and loss of wildlife including night-time lighting BMPs, surveying for wildlife prior to construction, avoiding construction activities during nesting season, and checking trenches for trapped wildlife. This section also refers to Chapter 4 of the Draft EA as containing a list of additional BMPs that would be implemented when applicable.</p> <p>TPWD appreciates the BMPs that would be implemented to reduce disturbance and loss of wildlife. In addition to the BMPs listed in this section and Chapter 4 of the Draft EA, to further ensure potential impacts to wildlife susceptible to entrapment are avoided, TPWD recommends constructing an exclusion fence around the project area with metal flashing or drift fence material; regular silt fence material may also be used. The exclusion fence should be buried at least six inches deep and be 24-inches high. Exclusion fences are effective in preventing small mammals and reptiles from entering a construction area. Additional information regarding exclusion fencing is described in TPWD's <i>Texas Tortoise Best Management Practices</i> available on TPWD's Wildlife Habitat Assessment Program website.</p>	TPWD	Thank you for your comment.
6.			3.6	<p>This section identifies state-listed species that may occur in the project area. However, the list used to evaluate potential occurrences and impacts to state-listed species was outdated.</p> <p>Please note that the lists of state threatened and endangered nongame species have been revised substantially since TPWD's Rare, Threatened, and Endangered Species of Texas by County (RTEST) online application was accessed on April 2, 2020. Several species identified in the Draft EA are no longer state-listed threatened (e.g., reticulate collared lizard, Texas indigo snake) while other species were added. A complete list of the species that were removed from and added to the state threatened endangered species lists are available in the March 27, 2020 issue of the <i>Texas Register</i> (45 TexReg 2188). The Final EA should be revised to reflect the changes to the state listed species lists.</p>	TPWD	The most recent list was used to update the information in the EA.

#	Location			Comment	Reviewer	Response
	Page	Line	Section			
7.			3.6	<p>According to Table 3-3 of the Draft EA, the reticulate collared lizard was observed at the proposed Freer BPS location during surveys of the site. The reticulate collared lizard, while no longer state-listed threatened, is a Species of Greatest Conservation Need (SGCN). Also, the Texas Natural Diversity Database (TXNDD) includes observations of the Tamaulipan spot-tailed earless lizard (<i>Holbrookia subcaudalis</i>), an SGCN species, within the general area around Freer.</p> <p>In addition to state- and federally-listed species, TPWD tracks special features, natural communities, species of concern (SOC), and SGCN in the TXNDD and actively promotes their conservation. TPWD considers it important to evaluate and, if necessary, minimize impacts to rare species and their habitat to reduce the likelihood of endangerment.</p> <p>TPWD recommends reviewing the most current TPWD RTEST county list of rare species for Duval County, as SOC and SGCN could present depending upon habitat availability.</p>	TPWD	Thank you for your comment.

#	Location			Comment	Reviewer	Response
	Page	Line	Section			
8.			3.6	<p>The Tamaulipan spot-tailed earless lizard (STEL) may occur in grassland, open prairie-brushland, mixed woodland habitats. Within these habitat types, STELs often utilize flat areas with minimal obstructions (e.g., graded roads, prairie savannah).</p> <p>TPWD recommends implementing the following BMPs to avoid and/or minimize potential impacts to Tamaulipan STELs. TPWD notes that implementing the following BMPs could also help minimize impacts to a variety of native wildlife species that may inhabit the project area.</p> <ul style="list-style-type: none"> <li>• A major threat to STELs is road traffic, as this species exhibits behavior indicating that they prefer roads and tend to cross roads often, potentially for thermoregulation. TPWD recommends reducing the number of access roads, both temporary and permanent, that may be planned to be constructed for the proposed project. TPWD also recommends reducing speed limits in the project area to at least 15 mph (or slower) to help prevent vehicle-induced mortality of this species.</li> <li>• This species prefers a mixture of bare ground and sparse vegetation, including disturbed areas. TPWD recommends avoiding impacts to suitable habitat for this species. Areas disturbed by project-related construction activities within suitable habitat for the STEL should be revegetated with site-specific native, patchy vegetation rather than sod-forming grasses.</li> <li>• The STEL utilizes burrows for shelter. TPWD recommends identifying locations of burrows on the project site and avoiding impacts to burrows if feasible.</li> <li>• TPWD recommends providing contractor training for the identification, behavior, and habitat requirements of the STEL. It is important for the construction personnel to be able to identify this species and to be on the lookout for them during construction and to avoid impacting them if encountered on-site.</li> </ul>	TPWD	Thank you for your comment. CBP will implement BMPs to help minimize any impacts to wildlife.

#	Location			Comment	Reviewer	Response
	Page	Line	Section			
9.	3-12		3.6.1	<p>The last sentence references the least tern and red tern.</p> <p>The species identified as “red tern” should be corrected to “red knot”.</p>	TPWD	Revised accordingly.
10.			4	<p>The Biological Resources BMPs include measures to avoid impacts to birds protected under the Migratory Bird Treaty Act (MBTA). As proposed in this chapter, if it is not possible to avoid construction or clearing during the nesting season, nest surveys would be conducted to identify active nests. According to the Draft EA, if construction would result in the take of a migratory bird, then coordination with the USFWS and TPWD would be required and applicable permits would be obtained.</p> <p>State Law prohibits any take or possession of nongame birds, including their eggs and nests. Laws and regulations pertaining to state-protection of nongame birds are contained in Chapter 64 of the Texas Parks and Wildlife Code (PWC); specifically, Section 64.002 provides that no person may catch, kill, injure, pursue, or possess a bird that is not a game bird. PWC section 64.003, regarding destroying nests or eggs, provides that, no person may destroy or take the nests, eggs, or young and any wild game bird, wild bird, or wild fowl.</p> <p>In addition to the proposed measures referenced above, TPWD recommends nest surveys be conducted within five days prior to clearing vegetation to ensure recently constructed nests are identified. If active nests are observed during surveys, TPWD recommends a 150-foot buffer of vegetation remain around a nest until the young have fledged or it is not actively being used.</p>	TPWD	Thank you for your comment, CBP will continue to ensure BMPs are used and MBTA surveys are completed within 10 days of construction.

**APPENDIX C**  
**STATE-LISTED SPECIES FOR DUVAL COUNTY, TEXAS**

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Texas State-Listed Threatened or Endangered Species of Duval County

County	Taxon	Scientific Name	Common Name	Federal Status	State Status
Duval	Amphibians	<i>Hypopachus variolosus</i>	sheep frog		T
Duval	Amphibians	<i>Siren</i> sp. 1	South Texas siren (Large Form)		T
Duval	Birds	<i>Plegadis chihi</i>	white-faced ibis		T
Duval	Birds	<i>Egretta rufescens</i>	reddish egret		T
Duval	Birds	<i>Mycteria americana</i>	wood stork		T
Duval	Birds	<i>Falco femoralis septentrionalis</i>	northern aplomado falcon	E	E
Duval	Birds	<i>Buteo albicaudatus</i>	white-tailed hawk		T
Duval	Birds	<i>Charadrius melodus</i>	piping plover	T	T
Duval	Birds	<i>Sternula antillarum athalassos</i>	interior least tern	E	E
Duval	Birds	<i>Peucaea botterii texana</i>	Texas Botteri's sparrow		T
Duval	Mammals	<i>Leopardus pardalis</i>	ocelot	E	E
Duval	Mammals	<i>Nasua narica</i>	white-nosed coati		T
Duval	Plants	<i>Echinocereus reichenbachii</i> var. <i>albertii</i>	black lace cactus	E	E
Duval	Plants	<i>Manihot walkerae</i>	Walker's manioc	E	E
Duval	Reptiles	<i>Gopherus berlandieri</i>	Texas tortoise		T
Duval	Reptiles	<i>Cemophora coccinea lineri</i>	Texas scarlet snake		T
Duval	Reptiles	<i>Phrynosoma cornutum</i>	Texas horned lizard		T