

**APPENDIX A: FINAL USFWS BIOLOGICAL OPINION AND
MEMORANDUM OF UNDERSTANDING**



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
c/o TAMU-CC, Campus Box 338
6300 Ocean Drive
Corpus Christi, Texas 78412

October 25, 2010

Shannon M. Ely
Contracting Officer
Immigration and Customs Enforcement
Office of Acquisition Management
Department of Homeland Security
801 I Street NW 9th Floor
Washington D.C. 20229

Consultation No. 21410-2010-FE-0450

Dear Ms. Ely:

This transmits the U.S. Fish and Wildlife Service's (Service) Final Biological Opinion (BO) based on our review of the proposed construction and installation of a water line for the Port Isabel Detention Center (PIDC) near Rio Hondo, Cameron County, Texas and its effects on endangered ocelots (*Leopardus pardalis*), and endangered Gulf coast jaguarundi (*Herpailurus yagouaroundi cacomitli*), in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. §1531 et seq.). This biological opinion is based on information provided in the Department of Homeland Security (DHS), Immigration and Customs Enforcement's (ICE) *Biological Assessment for the Proposed Construction and Maintenance of a Water Transmission Line, County Road 794, FM 510, and Buena Vista Road, Cameron County, Texas* (BA) with appendices dated July 2010.

ICE's request for initiation of formal consultation was received on July 30, 2010. A complete record of this consultation is on file in the Corpus Christi, Ecological Services Field Office (CCESFO) in Corpus Christi, Texas.

Consultation History

June 11, 2009	Kelly McDowell, Project Leader, South Texas Refuge Complex, called CCESFO to say that brush on the Boswell Jenkins tract was being cleared by East Rio Hondo Water Supply Company (ERHWSC).
June 12, 2009	Telephone calls were made to ICE Detention Center, ERHWSC, and Assistant Director of Contracts of ICE in Washington D.C.

TCEQ required that ICE have a contract for water; ICE obtained a contract with East Rio Hondo Water Supply and was told ICE had to fund the construction of the supply line. ICE signed the contract 6-8 months prior; using non-stimulus funding. The Service recommended that they stop work and complete section 7 consultation. CCESFO received confirmation from Laguna Atascosa National Wildlife Refuge (Laguna Atascosa NWR) staff that habitat clearing has stopped.

- June 15, 2009 Laguna Atascosa NWR staff reported that work was continuing at the project site. ICE was not available. Ambiotec, ICE consultants, were called and they said that all work had now stopped.
- June 19, 2009 Conference call was held with East Rio Hondo Water Supply, ICE, Ambiotec and CCESFO. ICE agreed to proceed with section 7 consultation. CCESFO agreed to expedite the consultation and complete a draft BO in less than 30 days after receipt of a complete BA. ICE delegated responsibility to complete BA to East Rio Hondo Water Supply and Ambiotec. Some work had continued until June 17, 2010 but then all work stopped, was not to resume until section 7 consultation was complete.
- June 23, 2009 Ambiotec called. At the time work was stopped, two fire hydrants had not been fully installed leaving a 3-foot wide hole around each hydrant which was a safety hazard. ERHWSC and ICE requested allowances for them to correct the safety hazard. CCESFO did not object to work needed to correct this safety hazard.
- August 3, 2009 Ambiotec and CCESFO discussed details that should be included in the BA.
- September 23, 2009 Conference call with ICE, ERHWSC, Ambiotec, and CCESFO to discuss revegetation needs, and possible conservation measures to be included in BA.
- Throughout 2010 Continued communications about BA, MOU and Management Plan.
- July 30, 2010 Final BA was received from ICE.
- August 4, 2010 Due to initiation of emergency formal consultation, the Service and ICE agreed to provide a Draft BO by August 30, 2010.
- August 23, 2010 The Service provided ICE with a Draft BO for review and comment.

August 24, 2010 The Service received comments on the Draft BO from ICE's consultant, Ambiotec. ICE stated that they had no additional comments.

October 22, 2010 The Service received the signed MOU from ICE.

October 25, 2010 Final BO was issued.

BIOLOGICAL OPINION

I. Description of the Proposed Action

Purpose of Project

The DHS PIDC is being served and will continue to be served potable water by East Rio Hondo Water Supply Corporation (ERHWSC). The initial number of inmates and staff at the DHS facility was approximately 500 persons. The facility has since expanded its capacity to approximately 957 inmates and 500 staff members and future growth is anticipated. The increase in capacity also inevitably augmented the demand for potable water. DHS also needs to provide fire flow protection for the entire facility. During peak demand periods occurring mostly in the summer months, the current ERHWSC distribution system is inadequate to meet the needs of the facility. DHS needs to supplement the existing and future demand for potable water and fire flow protection with an additional waterline to be installed by ERHWSC. DHS considers installation of the water transmission pipeline for human consumption and fire suppression to be of emergency status due to the increased population at the PIDC and the cyclical drought conditions throughout the south Texas region. Haested WaterCad ® hydraulic modeling program was used to design the piping system. The proposed demands for the modeling program were provided by the U.S Army Corps of Engineers (USACE) and DHS (ICE 2010).

Action Area

The proposed 12-inch waterline will tie-in to an existing 12-inch waterline located on the northeast corner of FM 2480 (San Roman Road) and FM 510 in Cameron County, Texas. The waterline will cross San Roman Road approximately 65 feet north of the centerline intersection of FM 510. All road crossings will be bored with a steel casing to protect the waterline from future utility maintenance. The waterline will continue to the east, within the existing 20-foot wide private right-of-way (ROW) easement dedicated to ERHWSC approximately 25 feet north of the northern FM 510 ROW line. The waterline will cross Chachalaca Drive and Mockingbird Lane (both City of Bayview roads). At Resaca de Los Fresnos, the water line will be installed via directional bore underneath the existing resaca with a minimum cover of 6 feet from the

flowline of the resaca. Impacts to the riparian zone on either side of the Resaca banks will not occur as the directional bore will be staged and designed to extend beyond the Resaca banks. From this bore, the waterline will continue on the same alignment approximately 2,660 feet to another Resaca crossing via directional bore. Again, impacts to the riparian zone on either side of the Resaca banks will not occur as the directional bore will be staged and designed to extend beyond the Resaca banks. In this section of directional boring, the waterline will cross Ted Hunt Road. The waterline continues east on the same alignment to the intersection of Buena Vista Road where the waterline will make a large radius turn to the north.

The water line from this point up to the PIDC has been previously installed (see Figure 1). The waterline is located 25 feet from the west ROW line and remains in a private easement dedicated to ERHWSC. About 1,320 feet south of Centerline Road the waterline crosses underneath an existing drainage ditch. The waterline was bored underneath the ditch and protected with steel casing.

Approximately 60 feet north of the centerline of Centerline Road, the waterline crosses Buena Vista Road to the east to a point 65 feet from the centerline of Buena Vista Road. The waterline then turns to the north to a point about 570 feet to an installed water meter vault. From the water meter vault, the waterline continues to the north roughly 815 feet, then turns to the east for 150 feet, then turns to the north to cross an existing drainage ditch. The waterline spans the existing drainage ditch in a steel casing 6 feet above the flowline of the ditch.

The waterline continues north 240 feet, cross the county entrance road to the DHS PIDC and then turns to the east. The waterline then follows the 26-foot alignment north of the centerline of the entrance road to the Detention Center for a length of approximately 2,700 feet. At this point, the waterline enters the DHS property and turns north around the existing detention area and ties-in to an existing 8-inch line approximately 2,150 feet north of the main entrance.

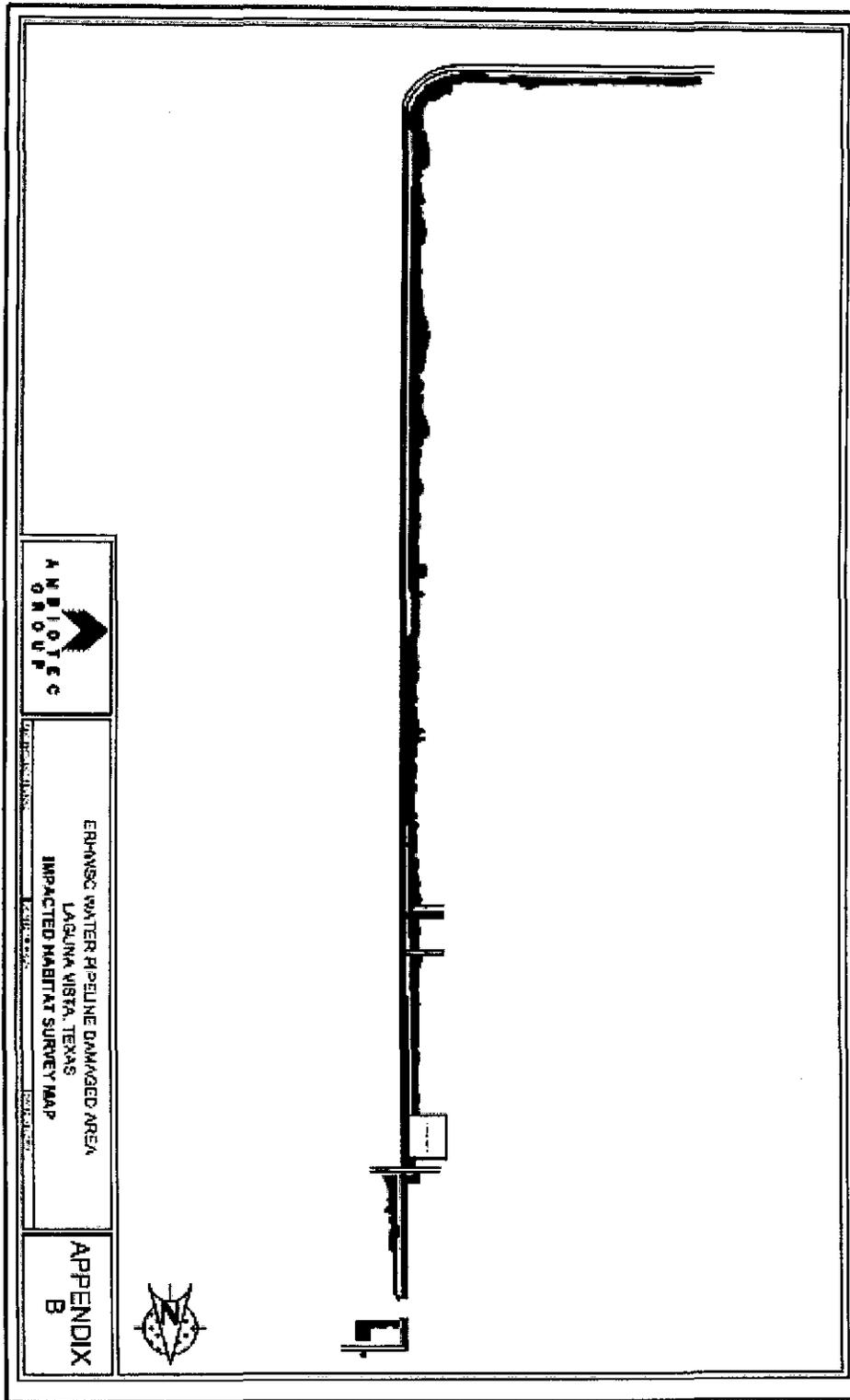
The action area includes the entire project area as described, plus DHS PIDC and the approximately 98-acre land tract immediately west of the detention center that is proposed for conservation, as well as the surrounding refuge tracts and habitat along the south and north of each roadway.

Project Components

The installation of the waterline will require the removal of vegetation within the existing 20-foot ROW. Removal of vegetation and installation of the waterline has already been conducted commencing from the detention facility, along Buena Vista Road up to the FM 510 intersection for approximately 2.3 miles. Additional clearing of vegetation in preparation for the continuance of the installation of the waterline has been performed along FM 510 to the west approximately 2.3 miles.

Field surveys and measurements, presented in Figure 2, indicate the removal of vegetation beyond the dedicated 20-foot ROW in some areas of the proposed route. Specific limits of

Figure 2: Map of limits of vegetation removal (ICE 2010).



vegetation removal were not provided to the contractor prior to construction. Further removal of vegetation ceased on June 17, 2009, as recommended by Corpus Christi Ecological Services Field Office (CCESFO) until further consultation and completion of a BA document. Other environmental studies were not performed prior to the construction activities. Proposed construction would commence immediately following the completion of the consultation with the Service under section 7 of the Act.

The contractor will be clearing the vegetation and removing debris from the work area. Installation work will begin with the excavation of a 36-inch wide trench with sand bedding to a depth of 6 inches and the depth of the trench will be 5 to 6 feet. Trench safety measures will be initiated if the depth is over 5 feet. Trenching will be achieved through use of an excavator and a boring machine will be used to install the pipeline. Installation of the pipeline would take 7 months to one year to complete. Piping for the waterline will then be installed and additional sand will be used to backfill material to a height of 6 inches above the waterline pipe. The remaining trench will be backfilled with excavated material from the original trench. This methodology has already been used for the first 2.3 miles of the project. After complete installation of the waterline, the contractor will hydrostatically test the line for leaks. Positive test results will prompt the contractor to flush the waterline until all debris is removed from the line. The waterline will then be disinfected by injecting chlorinated water into the water line and tested for chlorine residual at several sampling points. The waterline will be available for operation upon completion of the process and approval of these tests.

Fire hydrants will be installed every half-mile and 3 feet from the waterline within the 20-foot ROW. A ductile iron tee with a flange for a valve will be installed first followed by the placement of the hydrant on top of the valve. Other ground structures are not proposed for construction.

All equipment and materials (e.g., water pipe, and sand) will be transported to the project site using heavy diesel trucks such as tractor trailers and dump trucks using existing access roads. The storing and staging of equipment will occur on areas previously disturbed and will not require addition vegetation clearing. Construction access areas and staging areas will be temporarily used for the duration of construction.

Noise associated with the construction of the project is difficult to predict. Heavy machinery, the major source of noise in construction, is constantly moving in unpredictable patterns. However, construction will only occur during daylight hours when occasional loud noises are more tolerable and noise generation will last only for the duration of construction. Noise attenuates over distance; a gradual decrease in noise level occurs the further a receptor is away from the source of noise. Also, noise will not fill the entire corridor at one time, but will move along the corridor with construction. The contractor will make every reasonable effort to minimize construction noise through abatement measures such as work-hour controls and proper maintenance of muffler systems.

A 20-foot wide work corridor for this project, the alternative preferred by ERHWSC and DHS,

will allow the contractor additional work space to more effectively move large equipment and, therefore; complete the project in a timely manner. Two additional alternatives were considered but eliminated from further discussion.

Maintenance Activities

Maintenance of the transmission line will include regular mowing along the ROW to keep trees from growing over the waterline. To minimize impacts to habitat, vegetation removal would include mowing and removal of small trees only within a 10-foot corridor within the 20-foot dedicated ROW. The 10-foot corridor would allow a vehicle to traverse directly over the pipeline for maintenance purposes and the remaining 10-foot ROW could be allowed to naturally re-vegetate.

Best Management Practices

In association with the proposed action, ICE has taken and will take measures to minimize adverse effects to Federally-listed species and has identified a number of Best Management Practices (BMPs) that shall be implemented during construction (ICE 2010). These practices are designed to avoid or reduce potentially adverse effects on environmental resources. ICE shall work with the Service to comply with the respective regulations and avoid adverse effects wherever possible.

General BMPs

1. Individual federally listed animals found in the project area will not be harassed and will be allowed to leave on their own volition. The Service will be contacted immediately if a federally-listed animal is seen in the project vicinity. The Service can be contacted at 361-994-9005 (CCESFO) or 956-748-3607 (Laguna Atascosa National Wildlife Refuge) during normal business hours. After hours, 361-533-2797 (Dr. Larisa Ford) can be called.
2. A qualified biological monitor (a person having experience with the species involved, including having appropriate Federal and state permits) will be present during the activity to protect individuals of the species from harm. Duties of the biological monitor will include ensuring that activities stay within designated project areas, evaluating the response of individuals that come near the project site and implementing the appropriate BMPs. As with the construction monitor, the biological monitor must have the authority to temporarily suspend activities that may harm or harass an individual of a federally listed species. All personnel will be familiar with the role of the biological monitor.
3. Clearance of vegetation beyond the design parameters needed for construction and maintenance and use will be avoided.
4. Maintenance actions will not increase the width of the ROW or the amount of disturbed area beyond the 10-foot ROW.

5. The perimeter of all areas to be disturbed during construction or maintenance activities will be clearly demarcated using flagging or temporary construction fence, and no disturbance outside that perimeter will be authorized.
6. Materials such as sand will be obtained from existing, permitted, developed or previously used sources, not from undisturbed areas adjacent to the project area.
7. If new access is needed or existing access requires improvements to be usable for the project, access design and implementation will be coordinated with the Service.
8. Areas already disturbed by past activities or those that will be used later in the construction period will be used for staging, parking, and equipment storage.
9. Removal of trees and brush in federally listed species habitats will be limited to the smallest amount needed to meet the objectives of the project. This type of clearing is likely to be maintained over time, and loss of habitat is likely to be permanent and must be appropriately compensated.
10. Some large trees not directly over the path of the waterpipeline and outside the 10-foot maintenance corridor may be left in place with minimal trimming to allow the heavy machinery to move around it. Saving of individual trees will only be performed, however, if there is enough space for machinery to get around the tree within the 20-foot corridor.
11. Nonhazardous waste materials and other discarded materials such as construction waste will be contained until removed from the construction site. This will assist in keeping the project area and surroundings free of litter and reduce the amount of disturbed area needed for waste storage.
12. To eliminate attraction to predators of protected animals, all food related trash items such as wrappers, cans, bottles, and food scraps, will be disposed of in closed containers and removed daily from the project site.

Species Specific BMPs for ocelot and jaguarundi

1. During construction a biological monitor with authority to temporarily suspend construction at any time the appropriate BMPs are not being properly implemented as agreed to will be present on site.
2. Removal of wetland habitat or riparian vegetation will be avoided. Removal of dense thorn scrub will be minimized and restricted to the designated ROW. When removing scrub habitat, root systems will be left intact where possible.

3. Documentation of ocelots and jaguarundi in project and activity areas will be reported to the Service.
4. Construction and maintenance activities will be conducted only during daylight hours to avoid noise and lighting issues during the night for potential individual ocelot or jaguarundi impacts.

Monitoring

In order to avoid further impacts on ocelot and jaguarundi habitats, the following monitoring efforts will be implemented:

1. The on-site biological monitor will oversee construction activities to ascertain the unnecessary disturbance or clearance of ocelot and jaguarundi habitat adjacent to the project area.

During Construction

1. All construction and maintenance projects in federally listed habitats will have a designated biological monitor on site during the work. See number 1 and 2 in section 1.2.2 above.

Post-Construction

1. Brush pilings will be chipped in areas adjacent to thornscrub and grassland habitat to reduce the potential for brush fires and left in place to provide wildlife shelter in disturbed areas. Brush pile locations will be coordinated with the Service prior to continuation of construction.
2. Application of herbicides for control of invasive grass and reseeding disturbed areas with native grasses will be performed after construction activities have been completed. The seed mix used for reseeding will be approved by the Service prior to use.
3. The existing drainage canal just south of County Road 794 was determined by the Service as an important ocelot and jaguarundi travel corridor connecting tracts of habitat within the Laguna Atascosa NWR to tracts of habitat located to the west of Buena Vista Road and north of FM 510. For the installation of the waterline, brush habitats on both sides of the ditch were previously cleared. The installed water line spans the existing drainage ditch in a steel casing 6 feet above the flowline of the ditch providing easy access for maintenance. The natural re-growth of vegetation along the ditch would be allowed to establish without further disturbance.
4. Some plant and tree material removed for the installation of the water line along the above mentioned drainage canal will be replaced to provide temporary cover for transient

ocelot and jaguarundi until the entire area naturally re-establishes itself with dense vegetation. Only native plant material and landscape plans approved by the Service will be implemented. Considering cyclic drought conditions, watering in this area will be performed for a limited time until new plant material has established. The Service recommends watering twice a week for 3 months in drought conditions. A site inspection at the end 3 months will determine the status of the new plant material and recommendations for additional watering will be made at that time.

5. Monitoring reports will be provided each week via email from the biological monitor to Dr. Larisa Ford at larisa_ford@fws.gov, indicating if BMPs were employed properly by the contractor. A project completion report will be submitted 30 days after completion of work to Allan Strand, Field Supervisor, CCEFSO, Texas A&M University at Corpus Christi, 6300 Ocean Drive, Unit 5837, Corpus Christi, Texas 78412-5837, summarizing all work completed. A monthly email report indicating the duration and date of supplemental watering as completed in the revegetation areas will be sent to Dr. Larisa Ford at the address above. An annual report detailing the revegetation that has occurred will be submitted to Allan Strand at the address above. If 80 percent revegetation has not occurred in the revegetation zone by the end of monitoring year 1, then revegetation methods may be augmented and supplemental reports may be required.

Conservation Measures

The footprint of any vegetation removal or disturbance for the proposed actions will be compensated for by acquisition of like land in ratio of 3:1 for shrubland, woodland and forest habitat types (i.e. for every acre removed or disturbed 3 acres will be acquired), and 1:1 for grasslands, riparian, or coastal marsh. The loss of connectivity of the travel corridor permanently in a 10-foot wide ROW and reduced connectivity temporarily during construction and revegetation period of the 30-foot ROW will be compensated by acquisition of like land for 10.8 acres/mile of ROW. For temporary disturbance of noise impacts in the project area, like land at a ratio of 0.025:1 acre of land for the 300-foot zone of noise disturbance will be acquired. Open water and wetland habitats are not expected to be impacted by this project.

Approximately 80 acres (32.3 hectares) of land upon and across the tract or parcel of land located on the PIDC in Cameron County, Texas, will be cooperatively managed in perpetuity by a Memorandum of Understanding between ICE and the Service. The Agreement shall be in effect from signing by both parties and will remain in effect in perpetuity. Appendix A presents the Memorandum of Understanding, a location map of the conservation area, and associated Management Plan.

II. Status of the Species

Ocelot

In 1982, the ocelot was designated as an endangered species under the Endangered Species Act

of 1973, as amended, a status that extended U.S. protections to the species throughout its range in 22 countries, including Texas, Mexico, and Central and South America. Critical habitat has not been designated for the ocelot. Ocelot populations gained greater protections in 1989, when the species was upgraded to Appendix I of the Convention on International Trade in Endangered Species of Flora and Fauna (CITES); a protection that prohibits CITES signatories from permitting any trade in the species or its parts. Two subspecies occur in the United States: the Texas ocelot (*L.p. albescens*) and the Sonoran ocelot (*L.p. sonoriensis*). The Texas ocelot is isolated from the Sonoran ocelot by the Sierra Madre highlands in Mexico (Tewes and Schmidly 1987, Service 1990).

Description

The ocelot is a medium-sized cat, measuring up to three feet (0.91 meter) in body length and weighing twice as much as a large domestic cat (Figure 3a). It is slender and covered with attractive, irregular-shaped rosettes and spots that run the length of its body. The ocelot's background coloration can range from light yellow, to reddish gray, to gold, to a grayish gold color. They have a white underside. The head has spots, two black stripes on the cheeks, four to five longitudinal black stripes on the neck and their black ears have large white spots on the back. The tail has dark bars or incomplete rings. Though it resembles the margay (*Leopardus wiedii*) the ocelot is approximately twice the size of a margay with a slightly shorter tail (Murray and Gardner 1997, de Oliveira 1998)

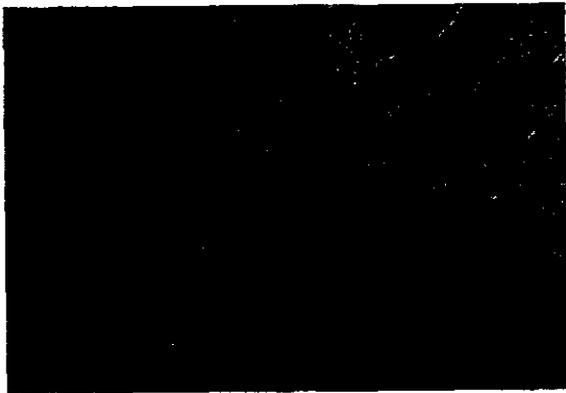
Habitat

Tamaulipan brushland is a unique ecosystem, found only in South Texas and northeastern Mexico. Characteristic vegetation of Tamaulipan brushland is dense and thorny. It is estimated approximately 95 percent has been cleared for agriculture, urban development, road developments and expansions, and recreation (Service 1990, Jahrsdoerfer and Leslie 1988). Tewes and Everett (1986) found less than 1% of South Texas supported the extremely dense thornscrub used by ocelots.

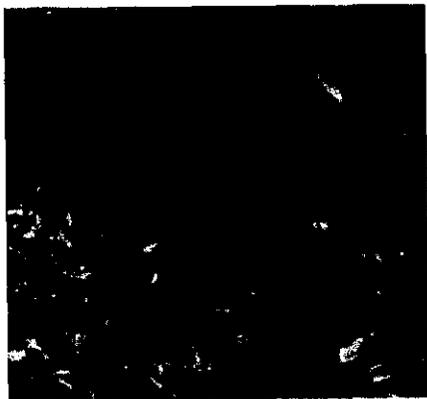
Tewes and Everett (1986) classified ocelot habitat in Texas according to the amount of foliar canopy. Class A or optimal habitat was 95 percent canopy cover, Class B or suboptimal habitat was 75 percent to 95 percent canopy cover, and Class C, with 75 percent or less canopy cover, was considered inadequate. The most crucial habitat component is probably dense cover near the ground (<3 feet [0.9 meter] in height) and core areas of ocelot home ranges on Laguna Atascosa National Wildlife Refuge contained more thornscrub than peripheral areas of their home ranges. Jackson et al (2005) suggest that the ocelot in Texas prefers closed canopy over other land cover types, but that areas used by this species tend to consist of more patches with greater edge. The cat is reported to occur along watercourses, and will readily enter the water (Goodwyn 1970 as cited by Service 1990), but it is unclear if this proximity to water is a habitat requisite or simply an indication of where dense cover is most likely to occur.

Figure 3. Photograph of ocelot (a) and jaguarundi (b).

a. Female ocelot with kitten



b. Jaguarundi



Species composition of shrubs used by ocelots was quantified in three plant communities, two in Texas and one in Mexico (Shindle and Tewes 1998, Caso 1994). At the Texas sites, 45 woody species were found at the Laguna Atascosa National Wildlife Refuge in Cameron County and 28 woody species on a private ranch in Willacy County (Shindle and Tewes 1998). The dominant species were granjeno (*Celtis pallida*), crucita (*Eupatorium odoratum*), Berlandier fiddlewood (*Citharexylum berlandieri*), honey mesquite (*Prosopis glandulosa*), and desert olive (*Forestiera angustifolia*) at Laguna Atascosa National Wildlife Refuge, and honey mesquite and snake-eyes (*Phaulothamnus spinescens*) in Willacy County.

In Mexico, ocelot habitat use was 97.6 percent mature forest (heavy rain forest to sparse tropical deciduous forest) and 2.4 percent pasture-grassland (Caso 1994). In Veracruz, Hall and Dalquest (1963) stated ocelots utilized the forests and jungles. Ocelots are known from the tropical forest of Belize, lowland rain forest of Peru and semideciduous forest and seasonally flooded marshes of Brazil (Ludlow and Sunquist 1987).

Life history

The ocelot is primarily nocturnal, although some diurnal activity has been recorded (Navarro-Lopez 1985, Tewes 1986, Tewes and Schmidly 1987, Laack 1991, Caso 1994). Navarro-Lopez (1985) found ocelots in Texas to have two peaks of activity, one at about midnight and the other at daybreak. Ocelots are solitary hunters and eat a wide variety of prey, but mammals, especially rodents, make up the bulk of their diet (Bisbal 1986, Emmons 1987, Service 1990). Other items of prey include birds, armadillos, marsupials, monkeys, rabbits, bats, feral hogs, reptiles, fish and crabs (Emmons 1987, Ludlow and Sunquist 1987, Service 1990).

The reproductive season is year round, with spring or autumn breeding peaks noted in Texas and Mexico. The mating season varies from region to region. In the Yucatan, mating occurs in October and October-January peaks are also reported from Paraguay and northeastern Argentina. Laack (1991) observed first reproduction in wild females between 30 and 45 months-of-age, but Eaton (1977) and Tewes and Schmidly (1987) estimated they may produce young at 18-30 months of age. Ocelots can produce young year round and have a gestation period of 70-80 days (Eaton 1977; Laack 1991). Litters contain 1, 2, and rarely 3 kittens (Eaton 1977, Laack 1991). Laack et al. (2005) reported an average of 1.2 kittens per litter for 16 litters born to 12 ocelots in Texas. Den sites are usually well hidden and include dense, thorny scrub, caves, hollows in trees or logs, and grass tussocks (Laack 1991; Tewes and Schmidly 1987). The mother provides extended parental care to the young because of the time it takes for them to become proficient at capturing prey. Males are believed to contribute little to direct parental care (Tewes 1986, Laack 1991).

Adults of both sexes tend to have home ranges exclusive of other adult individuals of the same sex, but there is considerable home range overlap between the sexes (Emmons 1988, Laack 1991). Adult males have larger home ranges than adult females. The home ranges of subadult males and females tend to be similar in size to the home ranges of adult females until dispersal (Laack 1991). A number of studies have looked at the home range size of ocelots in Texas and

Mexico, as determined from monitoring radio-collared individuals. Home range size generally varies from 0.77 to 6.9 square miles (2 to 18 square kilometers) (Caso 1994, Ludlow and Sunquist 1987, Konecny 1989, and Dillon 2005). The established adult home ranges of ocelots in Laack's study (1991) of dispersing ocelots did not include semi-isolated patches and transient home ranges were at times farther from the natal range than the animal's eventual home range.

In lowland rainforest, Emmons (1988) reported in the Manu National Park in Peru a home range of approximately 2.3 square miles (5.9 square kilometers) and 3.1 square miles (8.1 square kilometers) for males and 0.6 and approximately 1 square mile (1.6 and 2.5 square kilometers) for females. In Cockscomb Basin Wildlife Sanctuary in Belize, home range was reported as 12 square miles (31.2 square kilometers) for a male and 5.5 square miles (14.3 square kilometers) for a female (Konecny 1989). In seasonally flooded savanna woodland, Ludlow and Sunquist (1987) reported a home range of 3.6 square miles (9.3 square kilometers) and 4.3 square miles (11.1 square kilometers) for two males and 1.3 square miles (3.4 square kilometers) mean for six adult females in the Venezuelan llanos. In the Brazilian Pantanal, home range for two adult females over six months was reported to be 0.3 and 0.6 square miles (0.8 and 1.5 square kilometers) (Crawshaw and Quigley 1989).

Ocelots live solitary lives except when a female is with kittens or when pairs come together briefly to breed. They disperse from the natal range at approximately two years of age. Young males always disperse from their natal areas, while young females may or may not leave their natal area. Laack (1991) reported on the dispersal of five male and four female subadult ocelots at Laguna Atascosa National Wildlife Refuge. One ocelot dispersed at 14 months-of-age, another at 20 months-of-age, and 5 at 30-35 months-of-age, but only four lived to establish home ranges. Seven to 9.5 months elapsed between the leaving the natal range and establishing an independent home range. One female moved 1.6 miles (2.5 kilometers) (distance between home range centers) and the males moved 4.3 to 5.6 miles (7 to 9 kilometers). During dispersal the ocelots used narrow (16.4- foot – 328-foot [5-100 meters]) corridors of brush along resacas and drainage ditches and small scrub patches within agricultural or pasture land. The ocelots tended to avoid areas occupied by adults. According to Laack (1991), none of the dispersing ocelots successfully joined a population outside of Laguna Atascosa National Wildlife Refuge.

Several studies resulted in the estimation of various survival rates. Tewes (1986) reported a survival rate of 71percent based on four mortalities while monitoring 12 radio-tagged ocelots and Haines et al. (2005b) estimated an annual survival rate at 87percent for resident adults and 57percent for transient ocelots. For newborn ocelots Laack et al. (2005) estimated 68percent annual survival rate.

Population dynamics

Tewes and Miller (1987) suggested that several factors, including habitat islands saturated with resident ocelots, frustrated dispersal, and offspring that fail to leave parental home ranges, may indicate the possibility of inbreeding. The Service believes the fragmentation of habitat is likely reducing the ability of ocelots to interact freely, which will likely reduce the genetic viability of the species over time, and, because ocelots have to cross areas of little or no habitat to interact,

may also be increasing the risk of harm to individual ocelots. Genetic studies to determine genetic differentiation were done on three populations, the Laguna Atascosa National Wildlife Refuge in Cameron County, the Willacy County population and Tamaulipas and Vera Cruz Mexico populations including 3 contiguous ranches; and northern Mexico including 4 private ranches in Tamaulipas and Vera Cruz, Mexico. Low variability was expected within the Texas populations because of range reduction and fragmentation. Inbreeding was not detected among the three populations. The study showed the Willacy and Mexico populations were more closely related genetically than the Laguna Atascosa population was to either. Walker (1997) suggested that Laguna Atascosa and Willacy populations have lost genetic variation when they became isolated from ocelots in Mexico and from each other. Some habitat is managed for the ocelot, but in general, the quality and quantity of Texas optimal ocelot habitat is on a downward trend and most likely supports a smaller population than that of the 1980's. The continued existence of the ocelot in its northern habitat is critical in stabilizing and reversing ocelot decline in Texas. However, much of the area that could be restored to suitable habitat occurs on private lands. The Lower Rio Grande Valley is rapidly growing and agricultural lands are rapidly being developed (Wilkins et al. 2000). Opportunities for landowners to participate in economic incentive programs and Safe Harbor Agreements may enable the proactive conservation of the ocelot.

Status and distribution

Historically, the ocelot occurred in Arkansas, Arizona, southern California, Texas, Mexico and southward through Central and South America to Peru, Uruguay, and northern Argentina (Navarro-Lopez 1985). Today it ranges from southern Texas and northern Sonora, Mexico to Central America, Ecuador and northern Argentina, but in reduced numbers (Tewes and Everett 1986; Emmons 1990; Murray and Gardner 1997).

Two U.S. breeding populations of ocelot occur in southern Texas (Tewes and Everett 1986). One population occurs in Willacy and Kenedy counties primarily on private lands (Navarro-Lopez 1985) and the other in Cameron County primarily on the Laguna Atascosa National Wildlife Refuge (Laack 1991).

In Texas, over the past 20 years, individual ocelots have only been documented in Cameron, Hidalgo, Willacy, Kenedy and Jim Wells counties (Tewes and Hughes 2001). Laack and Rappole (1986) documented ocelot sightings in Cameron County. Shinn (2002) used camera traps and hair snares on 25 widely scattered tracts managed by the Service's South Texas Refuges Complex, and did not find evidence of ocelots west of Brownsville on the Rio Grande River. His studies did confirm the presence of the species in extreme southern Cameron County and in extreme western Willacy County.

In Hidalgo County, at the Santa Ana National Wildlife Refuge, at least one ocelot has been radio-tracked from the 1990's and it is believed that they may still occur in the area (Mays 2007). Fischer (1998) trapped, radio-tracked and tagged an adult female from 1992 through 1996 along the Rio Grande River in southeastern Hidalgo County. Out of 8,304 trap-nights he caught 21 bobcats, 300 non-target animals, and no other ocelots.

In 1982, Tewes (1986) trapped 2 ocelots on a private ranch in Willacy County. Five ocelots (3 females, 1 male and 1 of unknown sex) were identified in Willacy County near Raymondville, Texas in December 2002. Based on two photographs on October 11, 2003, one of the females was pregnant; therefore, a sixth resident ocelot may have been born (Sternberg and Chapa 2004). Between October and December 2003, camera traps photographed three cats on another private ranch in Willacy County.

“Occupied habitat” occurring in Jim Wells, Nueces, Live Oak, and Kleberg counties, 50 miles north of the Willacy-Kenedy population is shown in Figure 9 of the recovery plan (Service 1990). It is presumed that ocelots may still occur there because of documented roadkills on Highway 77 South but no reproducing populations have been found. In 1997 and 1998, Tuovila (1999) did a trapping study in the southern half of Live Oak County and northernmost Jim Wells. He trapped 17 bobcats and 238 non-target animals, but no ocelots. No ocelots were documented at Choke Canyon Reservoir in Live Oak and McMullen counties, Texas during trapping efforts despite a 10-year increase in optimal ocelot cover (Grassman et al. 2006).

Tewes and Everett (1986) based a “crude estimate” of the total ocelot population size in South Texas from 80 to 120 individuals upon an aerial survey of brush habitat and knowledge gained from following the movements of radio-collared ocelots trapped in or near Laguna Atascosa NWR. Haines et al. (2005a) estimated the number of breeding individuals in the Laguna Atascosa National Wildlife Refuge population was 19 ocelots with a total population of 38 ocelots in Cameron County. He estimated the population by averaging ocelot home range sizes reported by Navarro-Lopez (1985), Tewes (1986), and Laack (1991) and extrapolating this estimate to the amount of available dense thornscrub habitat and assumed adults equaled half of the total population. Today, fewer than 50 individuals may remain in South Texas and the U.S. The Cameron County ocelot population is estimated at 25 individuals (Mays 2007). A much larger population of the Texas ocelot occurs in Tamaulipas, Mexico near San Fernando, approximately 100 miles (161 kilometers) south of the U.S.-Mexico border (Caso 1994). In forested South America, alone Emmons (1988) noted that even at the lowest density estimates (one animal per 1.9 square miles [5 square kilometers]) there would be approximately 800,000 ocelots, and suggested that true numbers are probably 1.5 to 3 million.

Reason for Listing

Fragmentation of habitat, loss of connectivity, and habitat loss due to brush clearing are primary reasons for ocelot decline. Ocelots rely upon thick vegetation along the Lower Rio Grande and the South Texas Tamaulipan brush community for foraging, resting, and establishing dens. They require corridors, such as rivers, shorelines, and natural drainages to travel between optimal habitat areas. Destruction and fragmentation of optimal habitat and travel corridors increases threats to the ocelot, such as incidental trapping, competition from feral dogs and cats, and mortality from vehicles. In Mexico, particularly in the northeast, ocelots suffer from habitat loss due to charcoal production, agriculture and livestock ranching. Human population increases and associated urban expansion in lower Rio Grande Valley have resulted in brush clearing and increased pollution (Service 1986). Industrialization has degraded water quality (Service 1986). Brushland habitats have also been converted to rangeland with herbicides (Bontrager et al.

1979), root plowing, and fire (Hanselka 1980).

Pesticides can be incorporated into the food chain and are potentially harmful or fatal to terrestrial and aquatic organisms. Agriculture pesticides are used year-round in the Lower Rio Grande Valley (LRGV) and drift and overspray from aerial applications occur periodically on Service lands. In the LRGV, runoff from cultivated fields may concentrate pesticides and herbicides in permanent bodies of water. The types of pesticide chemical compounds and application rates have been extensive and heavy throughout the LRGV. As a result, pesticide accumulation in the biota remains a major concern in management of Tamaulipan brushland. Dichlorodiphenyldichloroethylene (DDE), polychlorinated biphenyls (PCBs), and mercury have been detected in ocelot blood and hair samples at low concentrations but are not believed to be a problem at this time (Mora et al. 2000).

Although habitat loss in South Texas is mainly attributable to agricultural and urban expansion, other contributing factors include human modifications of the Rio Grande with dams and reservoirs for flood control and hydroelectric power; floodway systems that remove water from the stream channel during peak flows; water diversions for irrigation, municipal, and industrial usage; and channel restriction and canalization (Coastal Impact Monitoring Program 1995).

As a result of increasing economic integration between the U.S. and Mexico, there is increasing pressure for highways and bridge infrastructure and recently increasing national security concerns increase pressure for border fences and lighting in the Texas/Mexico border region. There are 11 existing and one proposed international bridge (Brownsville Navigation District) along the Rio Grande between Falcon International Reservoir and the Gulf of Mexico. Local population growth and rapid industrialization on the Mexican side of the border have raised Service concern regarding the placement of road and bridge infrastructure in the LRGV. Increased construction of these bridges may impact certain parcels of the LRGV National Wildlife Refuge, the Rio Grande floodplain, and the remaining riparian wildlife habitat and disrupt the continuity of the "wildlife corridor."

Importing and exporting skins of many spotted cats became illegal in the U.S. between 1967 and 1973 and the ocelot was added to Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora during 1989. Recommendations were made by Tewes and Everett (1986) for selective methods of predator control and the education of hunters to avoid accidental shooting of ocelots. In 1997, the Service entered into a section 7 consultation with the U.S. Department of Agriculture's Animal Damage Control for the use of leg-hold traps, snares, and M-44s explosive predator baits in South Texas and provided provisions for the protection of ocelots during their practices.

Data is limited regarding disease in the ocelot but several diseases and parasites have been documented. Some include Notoedric mange (*Notoedres cati*) (Pence et al. 1995), Hepatozoon in the blood, Cytauxzoon in their red blood cells, fleas (*Pulex sp.*), dog ticks (*Dermacentor variabilis*) and Amblyomma ticks (Mercer et al. 1988). The tapeworm (*Taenia taeniaeformis*) (Service 1990) and helminthes (Pence et al. 2003) were also reported in ocelots.

Ocelot mortality has also been attributed to aggression and predation by other animals. Ocelots can be prey of domestic dogs, coyotes, snakes, alligators and bobcats (Service 1990).

Vehicular collisions are the greatest known cause of ocelot mortality in South Texas accounting for 45 percent of deaths of 80 radio-tagged ocelots monitored by Haines et al. (2005b) between 1983 and 2002. Some underpasses and culverts have been or are to be installed for ocelots in critical areas to be used as travel corridors. The construction or modification of two roads that underwent formal section 7 consultation, State Highway 48 and Farm-to-Market Road 106 made provisions for the careful placement, design and maintenance of such culverts. It is anticipated these culverts and underpasses will allow ocelots to disperse between patches of suitable habitat and reduce genetic isolation of the populations.

The construction or proposed construction of approximately 70 miles (112 kilometers) of border fence in the Rio Grande Valley covering three counties (Cameron, Hidalgo, and Starr County) increase habitat fragmentation, reduce or eliminate connectivity (north-south travel) on and off refuge lands. In Hidalgo County, 22 miles (35.4 kilometers) of flood control wall/fence is an impermeable barrier to terrestrial wildlife. The fence proposal (14 miles [22.5 kilometers]) in Starr County will be constructed within the flood plain close to the Rio Grande River, the major water source for wildlife, and isolate wildlife from the river. The “wildlife corridor” for the ocelot and jaguarundi along the river riparian are that the Service has been developing since 1979, is severely impacted by the border fence.

Range-wide trend

The current population estimates for the ocelot is fewer than 50 individuals in South Texas. However, the population in Cameron County remains unknown due to lack of surveys conducted in the area and lack of confirmed sightings of the animal. In Cameron County, the last confirmed sighting was in 2010.

Critical Habitat

Critical habitat has not been designated for this species.

Jaguarundi

The jaguarundi was listed as endangered on June 14, 1976 (41FR24064). The jaguarundi is also listed in the CITES Appendix I of the convention which bans international commerce. CITES offers some protection over much of its range. Hunting is prohibited in Argentina, Belize, Bolivia, Columbia, Costa Rica, French Guiana, Guatemala, Honduras, Mexico, Panama, Paraguay, Surinam, Uruguay, United States, and Venezuela. Hunting is regulated in Peru, while no legal protection is offered in Brazil, Nicaragua, Ecuador, El Salvador, and Guyana. No critical habitat is designated for this species.

Description

The jaguarundi has a long slender body, short legs, and sleek un-patterned fur, and looks more like a large weasel than a cat (Figure 3b). They are roughly twice the size of a domestic cat, weighing about 7 to 22 lbs (3.2 to 10 kilograms), standing 10 to 14 inches (25.4 to 35.6 centimeters) at the shoulder, and can be up to 4 feet (1.2 meters) long from nose to tail tip, with the tail taking up about a third of its length. It has a long and flat head instead of a round one. The ears are short and rounded, and this is one of the few cat species that does not have a contrasting color on the backs of the ears. Their eyes are small and set closely together.

Jaguarundi have two distinct color phases, red and gray, although the latter phase has also been called blue. The phases are so distinct that at one time they were thought to be separate species, the red one being called *Felis eyra*. A third color phase, black, has also been reported, but apparently does not occur in Texas (Goodwyn 1970). These cats are not known to be closely related to the other small South American cats. Instead of having 36 chromosomes, like the South American cats, it has 38 like the cougar and puma (Tewes and Schmidly 1987).

Habitat

Habitat requirements in Texas are similar to those for the ocelot: thick, dense thorny brushlands or chaparral. Approximately 1.6 percent of the land area in South Texas is this type of habitat (Tewes and Everett 1986). The thickets do not have to be continuous but may be interspersed with cleared areas. Jaguarundi possibly show a preference for habitat near streams (Goodwyn 1970; Davis and Schmidly 1994) and may be more tolerant of open areas than the ocelot. The jaguarundi uses mature forest (i.e., brush) and pasture-grassland (Caso 1994). Jaguarundi habitat use was 53 percent mature forest and 47 percent pasture-grassland. Jaguarundi use open areas for hunting and sometimes resting, but if threatened with a potential danger they will seek cover in brush areas.

In South America, habitat includes high mountain forests, tropical forests, swamp forests, savannahs, overgrown pastures, and thickets (NFWL 1980, Tewes and Schmidly 1987). In Venezuela, it has been most frequently found to occur in tropical dry forest relative to other habitat types. They are rarer and thinly distributed in moist forest types, especially deep rain forest. They have been reported to prefer forest edges and secondary brush communities, but this is where they are most frequently seen. In Belize's Cockscomb Basin Wildlife Sanctuary, jaguarundi are most frequently associated with water and old-field habitats. It appears to be the most flexible cat in its ability to occupy different habitats and having access to dense ground vegetation appears to determine habitat suitability (Nowell and Jackson 1996).

The most common plants occurring in habitats in the LRGV where the jaguarundi is known to occur are huisache (*Acacia farnesiana*), blackbrush acacia (*Acacia rigidula*), prairie baccharis (*Baccharis texana*), chilipiquin (*Capsicum annuum*), lotebush, allthorn goatbush (*Castela texana*), Texas persimmon (*Diospyros texana*), coyotillo (*Karwinskia humboldtiana*), common lantana (*Lantana horrida*), berlandier wolfberry (*Lycium berlandier*), javelinbrush (*Microrhammus ericoides*), Texas pricklypear (*Opuntia lindheimeri*), retama (*Parkinsonia aculeata*), honey mesquite (*Prosopis glandulosa*), cedar elm (*Ulmus crassifolia*), and lime

pricklyash (*Zanthoxylum fagara*) (Goodwyn 1970).

Life history

Most information gathered on the jaguarundi comes from historical writings and information gained from studying the ocelot in South Texas and in Mexico.

In Belize, jaguarundi are seen quite often and Konecny (1989) found that two males had home ranges of 38.6 and 34 square miles (100 and 88 square kilometers), and one female had a home range of 7.7 square mile (20 square kilometers). Caso (1994) captured and radio collared jaguarundi in Tamaulipas, Mexico from 1991 to 2005. He found home range sizes averaged 3.8 and 3.22 square miles (9.83 and 8.36 square kilometers) for males and females, respectively. Both studies captured jaguarundi in undisturbed brush and grasslands with scattered second growth woodlands (Caso 1994). Historical accounts from Mexico suggest that jaguarundi are good swimmers and enter the water freely.

Little is known of jaguarundi reproduction in the wild. Den sites include dense thickets, hollow trees, spaces under fallen logs overgrown with vegetation, and ditches overgrown with shrubs (Tewes and Schmidly 1987; Davis and Schmidly 1994). In Mexico, they are observed as being solitary, except during November and December when they mate. Young have been born in March and August with possibly two litters per year. Usually two to four young comprise a litter, with litters being either all of one color phase or containing both the red and gray phases. Jaguarundi kittens are spotted at birth, and lose their markings as they mature. Gestation (for captive jaguarundi) varies from 63 to 75 days (Goodwyn 1970; Tewes and Schmidly 1987; Davis and Schmidly 1994). Jaguarundi communicate by calls, of which 13 have been identified in captive animals. The largest repertoire occurs during the mating season (Hulley 1976).

The jaguarundi is primarily diurnal, although some nocturnal activity has been recorded (Konecny 1989, Caso 1994). However, it appears to be less nocturnal than the ocelot. They are excellent climbers although they spend most of the time on the ground. They hunt primarily in the morning and evenings. Prey is largely birds, but bird eggs, rats, mice, rabbits, reptiles and fish are also taken (Goodwyn 1970; Tewes and Schmidly 1987; Davis and Schmidly 1994). In Venezuela, Bisbal (1986) found the diet of jaguarundi to be 46 percent mammals, 26 percent birds, and 29 percent reptiles.

Population dynamics

Habitat loss and alteration due to brush-clearing activities, human encroachment, and human persecution are the main cause for the decline in jaguarundi populations (Service 1995). Tracts of at least 100 or 75 acres (40.5 or 30.4 hectares) of isolated dense brush, brush interconnected with other habitat tracts by brush corridors, or smaller tracts adjacent to larger areas of habitat may be used by jaguarundi. Roads, narrow water bodies, and rights-of-way are not considered barriers to movements. Brush strips connecting areas of habitat, such as brushy fence lines and water courses, are very important in providing escape and protective cover.

The jaguarundi is generally not exploited for commercial trade and does not experience the

harvest pressure that is experienced by the ocelot (Sunquist and Sunquist 2002). In Central and South America, Texas, and Northeastern Mexico, the coat of the jaguarundi is not highly sought after by the skin trade because of its poor quality and lack of spotting. They are difficult to trap but may be caught in traps set for commercially valuable species and may be subject to low intensity hunting pressure around settled areas.

Status and distribution

The jaguarundi historically occurred in southeast Arizona, South Texas, Mexico and Central and South America as far south as northern Argentina. Today this cat has a similar distribution, but in reduced numbers, although it probably no longer occurs in Arizona (Tewes and Schmidly 1987). It may also be extinct in Uruguay. They are reported to occur at Masaya National Park in Nicaragua, Soberania National Park in Panama and El Imposible National Park in El Salvador (Nowell and Jackson 1996). The presence of jaguarundi in Florida is likely the result of human introduction (Nowak and Paradiso 1983).

In Texas, jaguarundi have been known to occur in Cameron and Willacy counties. Tewes and Everett (1986) analyzed the records of a clearinghouse established in 1981 to coordinate reception and filing of reports of jaguarundi (and ocelots) in Texas. Many of the reports were solicited by sending out questionnaires to trappers. Jaguarundi were reported from central Texas and the upper Gulf Coast as well as from South Texas. However, due to lack of any tangible evidence, such as road kills, most of the sightings in the first two areas are believed to have been of black feral house cats. Tewes and Everett (1986) could make no estimate of the jaguarundi population in South Texas, although its population is presumably smaller than that of the ocelot, because confirmed sightings are rare. Goodwyn (1970) reported from interviews he conducted in 1969 that jaguarundi were thought to occur in seven specific areas: Santa Ana National Wildlife Refuge; Laguna Atascosa National Wildlife Refuge "Paso Real", an area along the lower Arroyo Colorado on the border between Cameron and Willacy counties; the southern part of the El Sauz Ranch in northeast Willacy County; a small area west of Olmito in southern Cameron County; an area east of Villa Nueva; and an area near the Port Isabel airport in Cameron County.

Tewes (1987) and Tewes and Everett (1986) documented several other credible reports of jaguarundi in Cameron, Willacy and Webb counties. One was a road-killed male jaguarundi found near the junction of State Highway 4 and Farm-to-Market Road (FM) 511 (Keller's Corner) in Cameron County on April 21, 1986 (Tewes 1987; Laack and Rappole 1987). Unconfirmed jaguarundi sightings in Hidalgo County include Bentsen Rio Grande State Park, Santa Ana National Wildlife Refuge, LRGV National Wildlife Refuge, Laguna Atascosa NWR, Cimarron Country Club, Wimberley Ranch, and the Anacua Unit of the Texas Parks and Wildlife Department's Las Palomas Wildlife Management Area, and other areas (Prieto 1990; Benn 1997). Unconfirmed sightings of a jaguarundi occurred at the Sabal Palm Grove Sanctuary in Cameron County in 1988 (Anonymous 1989) and at the Santa Ana National Wildlife Refuge in March 1998 (Santa Ana National Wildlife Refuge data). Based upon sighting reports, personnel of the Santa Ana National Wildlife Refuge suspect the presence of jaguarundi on the refuge (Benn 1997). The most recent sighting by an Ecological Service biologist was at Laguna

Atascosa NWR, in Cameron County, on November 22, 2004, when two jaguarundi were sighted approximately 0.75 mile (1.2 kilometers) north of FM 106 and Buena Vista Road which is the entrance road to the Refuge (Reyes 2008).

Reason for Listing:

Loss of habitat is one of the main threats to the jaguarundi. Historically, dense mixed brush occurred along dry washes, arroyos, resacas, and the flood plains of the Rio Grande. A majority of shrub land has been converted to agriculture and urban development. Unfortunately for the jaguarundi, the best soil types used for agricultural crops also grow the thickest brush and thus produce the best habitat for the jaguarundi. Less than 5 percent of the original vegetation remains in the Rio Grande Valley.

Range-wide trend

As mentioned, the number of jaguarundi in South Texas is unknown. For Cameron County, there have been no surveys or confirmed sightings in recent years. Unconfirmed jaguarundi sightings in Hidalgo County include Bentsen Rio Grande State Park, Santa Ana National Wildlife Refuge, LRGV NWR, Laguna Atascosa NWR, Cimarron Country Club, Wimberley Ranch, and the Anacua Unit of the Texas Parks and Wildlife Department's Las Palomas Wildlife Management Area, and other areas (Prieto 1990; Benn 1997).

Critical Habitat

Critical habitat has not been designated for this species.

III. Analysis of the species habitat likely to be affected

Ocelot and Gulf Coast Jaguarundi

The proposed construction and installation of the proposed waterline for the PIDC within known endangered cat travel corridors and habitat may harm or harass the species within the action area. Potential effects include removal of dispersal habitat, fragmentation of remaining habitat, possible isolation of individuals, and impeded movements of individuals due to noise, construction and operational activities. The effects of the proposed action on cats will be considered further in the remaining sections of this opinion.

Environmental Baseline

Under section 7(a)(2) of the Act, when considering the effects of an action on Federally-listed species, the Service is required to take into consideration the environmental baseline. The environmental baseline includes past and ongoing natural factors and the past and present impacts of all Federal, State, or private actions and other human activities in the action area, including Federal projects in the action area that have already undergone section 7 consultation and the impacts of State or private actions which are contemporaneous with the consultation in

process (50 CFR 402.02). For the ICE waterline project for PIDC project, the Service considers the action area to be the construction area and maintenance ROW, plus DHS PIDC and the approximately 98-acre (3937 hectares) land tract immediately west of the detention center that is proposed for conservation, as well as the surrounding refuge tracts and habitat along the south and north of each roadway, due possible impacts from noise, loss of habitat and loss of connectivity of habitats.

Status of the habitat within the action area

The land within the action area is either under private ownership or federal ownership held by two agencies: Laguna Atacosa NWR and the ICE, Office of Detention and Removal, PIDC. Most of the privately owned land in the vicinity is either farmed or ranched. The farmland is cultivated, but much of the ranchland and federal properties consists of native vegetation. Four dominant habitat types occur within the action area: Tamaulipan thornshrub communities, riparian, grasslands, and coastal prairies. Tamaulipan thornshrub communities consist of dense thickets of such species as Texas ebony, mesquite, brasil, grangeno, lotebush, althorn, acacias, and Spanish dagger. The coastal prairies occur on lower elevations with more saline soils and are dominated by such species as bushy sea-oxeye (*Borrchia frutescens*) gulf cordgrass (*Spartina spartinae*), glasswort (*Salicornia sp.*), and numerous grass species. The grasslands are distinguished by the presence of Swollen Fingergrass (*Chloris barbata*), Rooseveltweed (*Baccharis neglecta*), and Johnsongrass (*Sorghum halepense*). The Resaca de la Gringa and Resaca de los Cuates represent riparian habitat that also run through the action area.

The project area climate is semiarid-subtropical/subhumid within the Modified Marine climatic type, e.g., summers are long and hot and winters are short, dry, and mild (Larkin and Bomar 1983, Bailey 1995). The marine climate results from the predominant onshore flow of tropical maritime air from the Gulf of Mexico. Onshore air flow is modified by a decrease in moisture content from east to west and by intermittent seasonal intrusions of continental air.

The vegetation of the Rio Grande Delta of southern Texas has generally been classified under the Dry Domain, Tropical/Subtropical Steppe Division of Bailey (1995). The project area is more finely classified as the Southwestern Plateau and Plains Dry Steppe and Shrub Province. The Texas Parks and Wildlife Department (TPWD) (TPWD 2007) provides discussion and describes vegetation geography to biotic provinces and natural regions using topographic features, climate, vegetation types, and terrestrial vertebrates. This system places the project area in the Tamaulipan Biotic Province, South Texas Brush Country (Rio Grande Basin) Natural Region, and the Level III Ecoregions of the Southern Texas Plains and Western Gulf Coastal Plain.

Occurring within the Lower Rio Grande Valley (technically a delta) of southern Texas and northern Mexico, Tamaulipan Brushland represents a unique ecosystem (Service 1988). The characteristic natural vegetation is dense and thorny, and plant species distribution can be correlated with geologic formations. The Rio Grande floodplain supports tall, dense riparian forest, woodland, shrubland, and herbaceous vegetation while the xeric upland areas support mostly spiny shrubs, short-stature trees, and dense nonnative grasslands. Between the 1920s and

1980s more than 95percent of the native brushland (includes woodlands and forests) and 90percent of the riparian vegetation had been converted to agriculture and urban land use (Service 1988). In 1988, it was estimated that 98percent of the lush, subtropical region of the Rio Grande Delta had been cleared of native vegetation in the United States and a large, but unknown percentage cleared in Mexico.

The fauna representative of the Rio Grande Valley region is characterized as semi-tropical, with some tropical species at the northern limit of their ranges and, additionally, some Chihuahuan desert species. This region was once open grassland with a scattering of shrubs, low trees, and wooded floodplains along rivers. Overgrazing, the suppression of prairie fires, and other changes in land use patterns have transformed most of the grasslands into a thorn forest, covered with subtropical shrubs and trees (ICE 2010).

Habitats observed, sampled, and photographed within the project corridor during the field survey performed on July 6 and 7, 2009 range from thorn-scrub, grassland, riparian and coastal marsh areas. Approximately 1.12 miles of the proposed project corridor has been heavily disturbed by agriculture, orchards, grazing and residential use; however, some high-quality habitat, approximately 4.12 miles, was identified during the on-site field visits.

Surface water features that could be potentially classified as waters of the United States in the proposed project corridor include resacas. Resacas are oxbow lakes that have formed in historic floodplain channels of the Rio Grande. Dams and levees for flood control and water storage along the Rio Grande have severed the natural surface water connection between the river and most of the resacas, although groundwater flows are thought to be intact. Resacas are typically filled by pumping water from the Rio Grande, rainfall, or input of irrigation return flows.

Ocelots occur in the Tamaulipan thornshrub communities found within the action area. The ocelot population at and near the Laguna Atascosa NWR has been radio-monitored since 1983 (Tewes 1985; Laack 1991). There is an estimated population of 30-40 ocelots that occur in the vicinity of the action area. Ocelots occur near the Holly Beach community just south of the known Laguna Atascosa NWR population.

Status of the species within the action area

Ocelot trappings south of the action area over recent years and detailed in a 1998 report by Blanton & Associates, reported a young male ocelot trapped in April 1998. The ocelot was captured on an unnamed loma located between SH 4 and the Brownsville Ship Channel approximately 10 miles south of FM 106 project area and apparently utilized brush associated with lomas along SH 4 and Loma Ecological Preserve. The ocelot often traveled across extensive areas of open flats as it moved between lomas and moved north of the Brownsville Ship Channel settling into an area south of Laguna Atascosa NWR. There have been 5 ocelot road kills documented on FM 106 and Buena Vista Road and 7 road kills on FM 510 and Bayview. In 2010, a roadkilled ocelot was confirmed on Laguna Atascosa NWR, and on SH 100.

A road-killed jaguarundi collected in 1986 on SH 4 east of Brownsville, TX represents the last

documented jaguarundi in the United States. However, numerous sightings of jaguarundi are reported in South Texas each year, including within the action area. While some sightings may be misidentifications, others seem reliable. The status of the jaguarundi within the action area is unknown, but it is likely to occur in very low numbers within the action area. The most recent sighting by an Ecological Service biologist was at Laguna Atascosa NWR, in Cameron County, on November 22, 2004, when two jaguarundi were sighted approximately 0.75 mile (1.2 kilometers) north of FM 106 and Buena Vista Road which is the entrance road to the Refuge (Reyes 2008). A cat resembling a jaguarundi was photographed at the Audubon's Sabal Palm Sanctuary near Brownsville, TX. The Sanctuary is located approximately 11 miles southwest of the recorded 1989 jaguarundi road kill. A known population of jaguarundi exists in the coastal state of Tamaulipas, Mexico, lending importance of maintaining a north/south travel corridor between the Mexico and Texas jaguarundi populations.

Factors affecting species environment within the action area

Land Ownership

The majority of the land in the action area is in private ownership and is primarily agricultural or ranch land. There are multiple private owners. Several federal agencies also hold land within the action area. The Service manages the Laguna Atascosa NWR, north of Buena Vista Road, three tracts of land east of Buena Vista Road and one tract of land adjacent of FM 510 road. The DHS Immigration and Customs Enforcement, Office of Detention and Removal operates the PIDC along Buena Vista Road. The U.S. Border Patrol has a communications tower along Buena Vista Road. TxDOT owns and maintains ROW's on, Buena Vista Road and FM 510 road in and adjacent to the action area and some of which have documented ocelot road kills. Future land use in the project area is expected to be driven by the goals, objectives and mandates of these landowners and may have a direct relationship on the effectiveness of any structural conservation measures.

Habitat Acquisition and Management

The South Texas Refuges Complex (STRC) is situated in southernmost Texas, and is made up of three NWR's: Santa Ana NWR, Laguna Atascosa NWR, and Lower Rio Grande Valley (LRGV) NWR. Laguna Atascosa NWR is comprised of 97,007 acres (39257.3 hectares) of land and to the north is the great Texas ranch country with their huge blocks of important habitat. Cameron County contains the largest known population of ocelots (approximately 25 to 30) in the U.S. The Service continues to acquire lands and conservation easements from willing sellers to establish wildlife corridors between Laguna Atascosa NWR and the Rio Grande, and the Rio Grande from Boca Chica to Falcon Dam. The Brownsville Navigation District conservation easement (Puerta de Trancas Loma) located between SH 48 and the Brownsville Ship Channel and the existing wildlife crossing will play a key role for ocelots to move safely across SH 48 to and from the Laguna Atascosa NWR and Mexico.

A Laguna Atascosa NWR Master Plan was completed in 1989 establishing a variety of objectives relative to the protection of endangered species, migratory waterfowl, cultural resource protection, research, investigation, research natural areas, and the provisions of public

use and recreation opportunities.

Laguna Atascosa NWR completed a proposed refuge expansion plan (Environmental Assessment and Conceptual Management Plan) in September of 1999. Reasons for this refuge expansion are:

- (1) the need to provide additional riparian and thicket habitats for the endangered ocelot, which at present is limited to about 30 to 40 animals on the refuge,
- (2) the need to protect and enhance migratory bird habitats such as San Martin Lake, Bahia Grande, Resaca de los Cuates, and other water bodies in the project area,
- (3) the need to protect habitats on South Padre Island for species such as endangered sea turtles, peregrine falcons, piping plovers, other shorebirds, wading birds, waterfowl, and neotropical migrants.
- (4) The need to protect fishing, hunting and other wildlife dependent public recreational opportunities for future generations along the Gulf beach, in the Lower Laguna Madre, in native brush lands and along area resacas (old river oxbow) and other wetlands.

Wildlife flourishes in a wide array of species and large numbers of individuals due to the extant habitat diversity resulting in part from warm climate year-round, moderate amounts of precipitation, and the Rio Grande flowing into the Gulf of Mexico. The economics of Rio Grande Valley wildlife and habitat diversity are important to the international border region as approximately 200,000 tourists annually spend approximately \$150 million. Because approximately 95 percent of the vegetation in the LRGV has been cleared or altered, NWRs, state parks and wildlife areas, properties purchased for conservation by nonprofit organizations, and some private holdings, are important links in the efforts to protect the tremendous biodiversity and related economics of the region. To preserve and manage remnants of these communities and attempt restoration of adjacent disturbed lands, the Service established the South Texas Refuge Complex.

The South Texas Refuge Complex is a vital part of the wildlife corridor system in South Texas and in the project area. The Service is acquiring and enhancing native Tamaulipan brushland along the LRGV NWR to promote movements of these endangered cats between known and suspected areas of occupation. Consequently, much of the land purchased by the Service has been and continues to be, actively cultivated. To address this, the NWR has developed an extensive cooperative farming and revegetation program and is replanting between 750 and 1,000 acres (303.5 and 404.6 hectares) of farmland a year to native brush. Since 1993 over 8,000 acres (3,237.5 hectares) have been revegetated, but this is not enough to keep up with wildlife habitat needs. In 2000, the LRGV NWR managed 30,000 acres (12,140.5 hectares) of land in need of revegetation. Revegetation continues to be part of the active management plan for the Complex's units.

The resource protection and management strategy of the South Texas Refuge Complex consists of five integrated approaches to address complex resource needs. They include: concentration of biotic community needs, maintenance of a wildlife habitat corridor, safeguarding of anchor units of large size, protection of strategically placed management units of smaller size, and the incorporation of about 20 habitat islands into the protection plan. The Complex is protecting and connecting blocks of rare habitat that will undoubtedly serve as a model for future habitat conservation networks. Individual tracts of the LRGV NWR and Laguna Atascosa NWR serve as both core habitat blocks and corridor links. Directly to the south are ecologically valuable areas such as the Laguna Madre of Tamaulipas, Mexico, and the Sierra Picachos (in Nuevo Leon, Mexico) that are receiving focused conservation attention from the Mexican Government and a number of interested Mexican and U.S. conservation organizations. The Service's Lower Rio Grande/Rio Bravo Binational Ecosystem Group has been working with Mexico to establish a wildlife corridor along the river within the project area and in Tamaulipas to connect these important ecologically valuable areas. To the north lies the Laguna Atascosa NWR and the great Texas ranch country with their huge blocks of intact habitat.

Wildlife Corridors

Presently, two general types of brush habitats exist in LRGV, riparian and scrub forests, and upland thornscrub and thorn woodland. Riparian and scrub forests associated with the Rio Grande consist of several intergrading habitat types that produce taller vegetation than surrounding areas. This vegetation is important to wildlife as corridors throughout LRGV as are "resacas" which are former streambeds now subject to repeated drying and inundation and often forming a long quiet pond or oxbow (Service 1984 and Crosswhite 1980 as cited by Jahrsdorfer and Leslie 1988). Upland areas are dissected by "arroyos" or riparian strips of dense brush known as "ramaderos". Ramaderos provide important nesting and feeding habitat for various wildlife species as well as access routes to riparian brush along the Rio Grande (Collins 1984). Tamaulipan brushland provides important feeding, nesting and cover habitats for many species including the endangered ocelot and jaguarundi.

A wildlife corridor is a linear habitat, embedded in a dissimilar matrix that is proposed for conservation on the grounds that it will enhance or maintain the viability of specific wildlife populations in the habitat blocks (Beier and Noss 1998). The original landscape in many reserve areas, as in LRGV, was once a series of interconnected natural habitat. Thus, corridors are an attempt to maintain or restore natural landscape connectivity. Increased connectivity along with increased effective habitat area, counteract habitat fragmentation (Noss 1987).

Corridors facilitate gene flow and dispersal of individual animals. Life histories of wide-ranging animals suggest that maintenance or restoration of landscape connectivity is a good management strategy (Noss 1987). Corridors alleviate threats from breeding depression, and a network of refuges connected by corridors may allow persistence of species that need more resources than are found in on refuge.

The Resaca de la Gringa located on both sides of the Buena Vista Road serves as a wildlife corridor connecting tracts of land from Laguna Atascosa NWR with tracts of land east and west of Buena Vista Road. Resaca de los Cuates connects tracts north and south of FM 510. These resacas feature dense vegetation that provides cover for transient ocelots and jaguarundi.

Other Federal Actions

Two federal actions resulted in the issuance of Biological Opinions (BO) by the Service within the action area. First, a BO was issued for FM 106 and Buena Vista Road to Texas Department of Transportation (TxDOT). This action included improving the existing two-lane roadway to meet state highway standards by resurfacing the existing lanes and adding shoulders and graded ditches for approximately 12 miles of roadway (General Brandt Road/Buena Vista Road) from FM 1847 to FM 510. The proposed improvements would be to reconstruct and widen the existing roadway to provide a 44-foot wide rural roadway consisting of two 12-foot wide travel lanes with 10-foot wide shoulders. These improvements would require approximately 20-foot of additional ROW or 10 feet of either roadside that bisect portions of the Laguna Atascosa NWR. In order to avoid and minimize the loss of ocelot and jaguarundi travel corridor habitat and impacts to cats from the proposed Laguna Atascosa NWR and TxDOT have proposed cat culverts and fencing. TxDOT has agreed to install 11 cat culverts including 5 culverts on Buena Vista Road. Construction of this project has not yet started.

Second, a BO was issued for SH 48 to TxDOT. The action included widening and improving approximately 9.7 miles of SH 48. The limits of the proposed construction are from SH 100 in Port Isabel to the Shrimp Basin near Brownsville. The existing highway consists of two undivided lanes with 12-foot wide main lanes, 8-foot-wide shoulders, and a 4-foot-wide flush median. The proposed project is to expand the existing roadway to a four-lane divided highway with four 12-foot wide main lanes, two 10-foot wide outside shoulders, and two 4-foot wide inside shoulders with a concrete traffic barrier in the center. To avoid and minimize impacts to the endangered ocelot and jaguarundi TxDOT proposed a number of measures that included a wildlife crossing on SH 48 in the form of a bridge and associated diversion fencing on both sides of the highway. The Brownsville Navigation District granted the Service a 19-year conservation easement, 1,000-foot wide from the highway to the ship channel. This project has been completed, and there has been no reported take to date.

Vegetation Removal

Clover (1937 as cited by Jahrsdorfer and Leslie 1988) noted that the brushlands of the LRGV in Cameron, Willacy, Hidalgo and Starr counties are more luxuriant than the brushlands farther south, and they are characterized by the predominance of several species of plants that decrease in abundance northward. Vegetation of the LRGV is unique because plants with western desert, northern, coastal, and tropical affinities are found in a relatively small area.

Many of the past and present activities in the area have had the net result of brush clearing. Collins (1984) remarked that brush clearing was a threat to endangered cats and that the institution of protective measures for brush areas was an immediate concern. The brush area served to support a variety of wildlife and as travel corridors for ocelots and jaguarundi. The

Service recognizes Tamaulipan brushland as a unique ecosystem that is found only in the LRGV of south Texas in the United States and northeastern Mexico. Since the 1920's more than 95percent of the original native brushland in LRGV has been converted to agriculture or urban use (Service 1980 and Parvin 1988a, b as cited by Jahrsdorfer and Leslie 1988) and 90percent of the riparian vegetation had been converted to agriculture and urban land use (Service 1988). It is estimated that 98percent of the lush, subtropical region of the delta has been cleared in the United States (Service 1980 as cited by Jahrsdorfer and Leslie 1988), and a large percentage of similar habitat has been cleared in Mexico (Collins 1984).

Effects of the Action

Under section 7(a)(2) "effects of the action" refers to the direct and indirect effects of an action on a species or critical habitat, together with the effects of other activities that are interrelated and interdependent with that action. The effects of the proposed action are added to the environmental baseline to determine the future baseline that serves as the basis for the determination in this biological opinion. The impacts discussed below are the Service's evaluation of the direct and indirect effects of the proposed action. Indirect effects are those caused by the proposed action that occur later in time, but are still reasonably certain to occur (50 CFR 402.02). The Service has determined that there are no interrelated or interdependent actions apart from the action under consideration.

Direct and indirect effects on cats and their habitat include: (1) direct loss of habitat, (2) habitat fragmentation and reduced connectivity, (3) noise, and (4) human disturbance.

Direct loss of habitat

Current habitat impacts from the clearing of vegetation for the installation of the waterline include 6.7 acres (2.37 hectares). The 20-foot ROW alternative will impact 3.5 additional acres of habitat (1.4 hectares).

A summary of the impacts to the vegetation alliances for each proposed project alternative and current impacts are presented in Table 1.

Table 1. Summary of Impacts

Project Component	Vegetation Impacts				Total Impacts (acres)
	Coastal Marsh (acres)	Riparian (acres)	Thornscrub (acres)	Grassland (acres)	
20-foot ROW alternative	0.318588	0	3.212522	0	3.53111
Current Vegetation Cleared	3.480525	0.294655	2.708541	0.22735	6.711071
				Total	10.242181

All grasslands, shrublands, woodlands, and marsh areas within the ROW are potentially ocelot and jaguarundi habitat. However, the most appropriate habitat expected to be affected includes thornscrub shrubland. Vegetation within the thornscrub plant community consisted of honey mesquite (*Propis glandulosa*), retama (*Perkinsonia aculeate*), Spanish dagger (*Yucca aloifolia*), tepeguaje tree (*Leucaena pulverulenta*), Johnsongrass (*Sorghum halepense*), Brazilian peppertree (*Schinus terebinthifolius*), spiny hackberry (*Celtis pallida*), goatbush (*Castella texana*), Texas huisache (*Acacia smallii*), and Texas ebony (*Pithecellobium flexicaule*). These plants were discovered in all parts of the construction ROW.

Vegetation within the upland grass areas consisted of swollen fingergrass (*Chloris barbata*), honey mesquite (*Propis glandulosa*), Rooseveltweed (*Baccharis neglecta*), Johnsongrass (*Sorghum halepense*), Texas huisache (*Acacia smallii*), and cordgrass (*Spartina spartinae*).

Vegetation within the riparian area consisted of *Tamarix aphylla*, honey mesquite (*Propis glandulosa*), Johnsongrass (*Sorghum halepense*) and retama (*Perkinsonia aculeate*).

Vegetation within the coastal marsh area consisted of keygrass (*Monanthochloe littoralis*), sea-oxeye (*Borrchia frutescens*), cordgrass (*Spartina spartinae*), honey mesquite (*Propis glandulosa*), and camphor daisy (*Rayjacksonia phyllocephala*).

The removal of brush for the installation of the water line across the existing drainage canal located south of County Road served as important cover for ocelots and jaguarundi traveling from tracts of habitat at the Laguna Atascosa NWR to tracts of habitat west and east of Buena Vista Road and north and south of FM 510. Replacement of some native trees and grasses within the cleared areas of the canal will provide some cover for the ocelot and jaguarundi until the disturbed area has naturally and fully revegetated.

Fragmentation and Reduced Connectivity

Along with habitat loss and degradation, most biologists agree that habitat fragmentation is a major cause of reduced biodiversity (Noss et al 2001). Habitat fragmentation is the separation of a landscape into various land uses (development, agriculture, etc...) resulting in numerous small disjointed habitat patches left for use by wildlife. Fragmentation eliminates areas needed for breeding, feeding, and sheltering for species like the ocelot and jaguarundi that require large, unbroken blocks of habitat. Fragmentation can also isolate cats from travel corridors and reduce dispersal for breeding. In a small population, such as the ocelot and jaguarundi in South Texas, inbreeding can reduce fitness of individuals and loss of genetic variability can reduce the ability of an animal to adapt to a changing environment (Lande 1988).

Additionally, the small habitat patches resulting from fragmentation often do not provide the food and cover resources for many species that do not attempt to use them. This can result in an increased risk of death by predation if the animal has to venture beyond the cover of the patch to find new food resources, or starvation. The proposed 10-foot maintenance ROW will fragment habitat on either side of the ROW.

Reduction of habitat connectivity within the portions of the wildlife corridor will likely impact ocelot and jaguarundi movement, access to traditional water sources, and potential for gene flow. Impacts on these species relative to habitat connectivity are anticipated to be both short-and long-term, and range from minor to major depending upon project. The connectivity for cats through the project site will be reduced during construction and maintenance due to human activity, removal of habitat, time lapse until revegetation occurs and maintenance of 10-foot ROW.

Noise

Noise can cause stress in animals and the autonomic responses to noise are varied. Geist (1979 as cited by Larkin 1996) believed that there was an energetic cost to animals being disturbed by noise. Others have used heart rate as physiological index of energy expenditure, monitored with telemetry, in wild animals exposed to noise. While others have used heart rate changes to indicate alarm or excitement of animals exposed to noise (Larkin 1996). For the proposed project, the most severe noise likely to be encountered by the cats is that from operation of construction equipment. Noises vary according to the direction from where they are measured. (Larkin 1996). Responses of wildlife to noise have included a range of responses from no reaction, to alerting, disruption to feeding, and flight (Larkin 1996). There are no known studies that specifically address the effects of noise on ocelot or jaguarundi, in fact, information about the effect of noise on species of felines is lacking. It is reasonable to assume that the cats could display the range of responses to noise, they could have no reaction, become alert, stop feeding or display a fight or flight response.

Noise created during construction and maintenance will have the potential to affect individual ocelot and jaguarundi that occur within the project area. All project-related noise will be temporary and will only be heard within the action area.

The impacts of noise will include subtle, localized impacts from the overall elevation of ambient noise levels during construction. Noise levels after construction are anticipated to return to close to current ambient levels. Elevated noise levels during construction could result in reduced communication ranges, interference with predator/prey detection, or habitat avoidance in the action area. More intense impacts will include behavioral change, disorientation, or hearing loss. Predictors of wildlife response to noise include noise type (i.e., continuous or intermittent), prior experience with noise, proximity to a noise source, stage in the breeding cycle, activity, and age. Prior experience with noise is the most important factor in the response of wildlife to noise, because wildlife can become accustomed (or habituate) to the noise. The proposed action runs along many areas that are developed and it is likely that any ocelot or jaguarundi that inhabits the action area has prior experience with noise. The rate of habituation to short-term construction is not known, but it is anticipated that most ocelots and jaguarundi will only be permanently displaced from the areas where the habitat is cleared and will be temporarily dispersed from areas adjacent to the project areas, within and outside the project footprint, during construction periods.

Human disturbance

Although not documented for the ocelot and jaguarundi, several responses to human disturbance can be expected in felines. For example, Florida panthers shifted their habitat use area in response to hunters although no changes related to energy intakes (activity rates, movement rates or predation success) were noted (Janis and Clark 2002). In another study, lynxes were found to have a median tolerance limit to approaching humans of 164 feet (50 meters) and they tolerated a closer approach by humans when in denser habitats than in more open areas (Sunde et al 1998 as cited by Tempel et al 2006). In general, typical wildlife responses to human disturbance may be fleeing, increased vigilance, and changes in habitat selection (Frid and Dill 2002). These responses can be expected in ocelots or jaguarundi if human disturbance occurs during any phase of this project, including construction, revegetation, and maintenance.

Indirect Effects

Removal of native vegetation will provide suitable location for invasive grasses. After completion of construction and installation activities, disturbed areas will be treated with herbicides for control of invasive grasses and reseeded with native grasses to minimize colonization of invasive grasses. Herbicides will be used according to manufacturer's label and are not expected to be used at levels or frequency that would have any adverse impacts to the cats.

Cumulative Impacts

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the ESA. Past and present federal actions in the vicinity of the proposed action are discussed under the Environmental Baseline section.

Adjacent to the west of ERHWSC's easement along Buena Vista Road is a proposed additional 10-foot easement to be dedicated for a 2-inch gas-pipeline by Texas Gas. The gas pipeline will service the PIDC. According to Cameron County Engineering, the gas-pipeline is being re-located from the east side of Buena Vista Road to the west side in preparation for the expansion of the roadway by TxDOT. It is likely that they will also need to remove important ocelot and jaguarundi habitat along their 10-foot ROW for the installation of the gas-pipeline.

IV. Conclusion

After reviewing the current status of the ocelot and jaguarundi, the environmental baseline for the action area, the effects of the proposed action, and the cumulative effects, it is the Service's biological opinion that the DHS, PIDC waterline installation and maintenance, as proposed is not likely to jeopardize the continued existence of the listed ocelot and jaguarundi. There is no critical habitat listed in the state of Texas for these species of cats, therefore none will be affected.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulations pursuant to section 4(d) of the Act prohibit the take of endangered or threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to, and not intended as part of the agency action is not considered to be prohibited taking under the Act, provided that such taking is in compliance with the terms and conditions of this incidental take statement.

The measures described below are non-discretionary, and must be undertaken by the ICE so that they become binding conditions of the project in order for the exemption in section 7(o)(2) to apply. The ICE has a continuing duty to regulate the activity covered by this incidental take statement. If the ICE (1) fails to assume and implement the terms and conditions or (2) fails to require any agent acting on behalf of ICE to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to any contracting document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the ICE must report the progress of the action and its impacts on the species to the Service as specified in the incidental take statement (50 CFR 402.14(i)(3)).

Amount or Extent of Take Anticipated

As stated previously, no known surveys have been conducted within the project area and the population status of the cats within the project area remains unknown. Implementation of avoidance and minimization measures by the ICE further reduces the likelihood that species could be taken. However, because the project life may be multiple years and project area extends over 10.24 acres (4.14 hectares), the Service anticipates that the possibility exists that construction, revegetation, and maintenance may cause:

- 1) 1 ocelot to be taken by harassment through habitat manipulation, loss of habitat, noise, and human disturbance.
- 2) 1 jaguarundi to be taken by harassment also through habitat manipulation, loss of habitat, noise and human disturbance.

A direct mortality of a cat is not anticipated. Further the direct loss of 10.24 acres (4.14 hectares) of dispersal habitat will occur. The Service considers the incidental take of 5.12 acres (2.07 hectares) to be permanent (i.e. maintenance ROW) and 5.12 acres (2.07 hectares) to be

temporary. The status of the revegetation effort within the temporary ROW and drainage area will be assessed. If in any revegetation phase, monitoring indicates that no more than 20 percent of any one species requires replanting, the success criteria will be considered to be fulfilled.

If the level of take is reached for the ocelot or jaguarundi or the revegetation effort for any one phase is not successful within 5 years, it is requested that ICE contact the Service immediately to review the circumstances and revisit the take analysis.

Note:

The incidental take statement does not provide assurances under the Act for any take that might have occurred when the original 6.7 acres (2.7 hectares) that were previously cleared, but does include continued work in the area and maintenance of that area. ICE voluntarily included offsets for any impacts that might have occurred in the original 6.7 acres (2.7 hectares) that were cleared with conservation measures listed above.

Effect of Take

Due to the conservation measures in place and revegetation effort by ICE, the Service, for the purpose of this biological opinion, has determined that this level of anticipated take is not likely to result in jeopardy to ocelot or jaguarundi.

REASONABLE AND PRUDENT MEASURES

As part of the project description, ICE has agreed on voluntary measures to avoid and *minimize* impacts to the ocelot and jaguarundi. The Service believes the following reasonable and prudent measures are necessary and appropriate to minimize the impact of incidental take on these species and assist the Service in improving methods to minimize impacts of incidental take on the ocelot and jaguarundi.

1. Establish a protocol to notify the Service of direct take of an ocelot or jaguarundi.
2. Provide a revegetation plan and establish a protocol for reporting revegetation efforts 60 days prior to the start of any revegetation activity for approval by the Service.
3. Provide a weekly report of BMP infractions and methods used to correct infraction.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, ICE must comply with the following terms and conditions, which implement the reasonable and prudent measures described above and outline required reporting/monitoring requirements. These terms and conditions are non-discretionary.

1. In the event that activities result in the direct take (killing, harming, or maiming) of an

ocelot or jaguarundi, the person(s) responsible for monitoring shall notify the Service's Corpus Christi Ecological Services Field Office (361/994-9005) immediately. A standard methodology for handling dead or injured cats found during the project will be established by the Service. This methodology shall be directed at determining the cause of death and ensuring that all data is recorded. The finder has the responsibility to ensure that evidence intrinsic to the specimen is not disturbed.

2. Submit a revegetation plan to the Service's Corpus Christi Ecological Services Field Office detailing species to be planted, location of planting, standard operating procedures for herbicide or pesticide use, monitoring protocol to assess success of plantings, and monitoring of any existing habitat owned by ICE for general condition and status of invasive plant species. Reports should include the results of revegetation efforts and detailing pesticide and herbicide use. Reports should be sent to: U.S. Fish and Wildlife Service, Corpus Christi Ecological Services Field Office, ATTN: Field Supervisor, c/o TAMU-CC, 6300 Ocean Drive, Unit 5837, Corpus Christi, Texas 78412-5837.
3. Reports should include best management practices included in the BA and other conservations measures implemented during project activities, success of such measures, incidences, and any recommendations on improvements to those measures. Reports should be sent by email to Dr. Larisa Ford, larisa_ford@fws.gov every Monday, by close of business, for work completed in the preceding week, once any project activity begins. The reports should indicate who can be contacted if there are any questions or concerns.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal action agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or develop information.

For the benefit of ocelot and jaguarundi, the Service recommends the following:

1. Locate areas where there are opportunities to present or establish Service-approved workshops, signage, or other opportunities for community education about ocelots and jaguarundi in the Port Isabel area.
2. Work with the Service to design and fund a research program to determine the population of ocelot and jaguarundi and prey species available to the cats in the Cameron County area.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

REINITIATION NOTICE

This concludes formal consultation on the action(s) outlined in your request for formal consultation for ICE, PIDC waterline installation and maintenance, Cameron County, Texas. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take should cease pending reinitiation.

If you or your staff have any questions concerning this opinion, please contact Dr. Larisa Ford at (361) 994-9005 or via email at larisa_ford@fws.gov.

Sincerely yours,


Allan M. Strand
Field Supervisor

Attachment: Appendix A

cc: Texas State Administrator, Service, Austin, TX
Regional Director, ATTN: Assistant Regional Director, Ecological Services,
Albuquerque, NM

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Appendix A:

- 1. Memorandum of Understanding**
- 2. Management Plan**
- 3. Map of Conservation Area**

MEMORANDUM OF UNDERSTANDING

BETWEEN

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

AND

THE DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION AND CUSTOMS ENFORCEMENT

WHEREAS, this Memorandum of Understanding (MOU) is entered into by and between the Department of Homeland Security, Immigration and Customs Enforcement ("Grantor" or "ICE") and the Department of the Interior, Fish and Wildlife Service, Laguna Atascosa National Wildlife Refuge ("Grantee" or "FWS"), for the purposes of ensuring the protection of the wildlife habitat for the endangered ocelot and jaguarundi.

1. **INTRODUCTION.** As identified in the Rio Hondo/Immigration and Customs Enforcement water line Biological Assessment, the Department of Homeland Security, Immigration and Customs Enforcement (ICE) and the U.S. Fish and Wildlife Service (FWS) have agreed to cooperatively manage 80 acres, more or less, of the ICE Port Isabel Detention Center located in Cameron County, Texas for the purposes of which to ensure the protection of the wildlife habitat for the endangered ocelot and jaguarundi, which is more particularly described in Exhibit "A," (hereinafter referred to as the "Property") which is attached hereto and incorporated herein for any and all purposes.
2. **PURPOSE.** The purpose of this MOU is to (a) ensure that the Property will be retained forever in its natural, scenic, and wildland condition; (b) protect the wildlife habitat, specifically for endangered species such as the ocelot and jaguarundi and for native and/or rare flora and fauna and animals on the Property; (c) prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property described in Exhibit A. The Grantor intends that this Agreement will restrict the use of the Property only as provided herein. This MOU is intended to govern the terms of the cooperative management of the Property. The primary function of the FWS under this MOU will be to provide ICE with advice, consultation, technical support, and monitoring activities in ICE's efforts to conserve wildlife habitat on the property identified.
3. **AUTHORITY.** This MOU is entered into under the authority of the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. §§ 668dd-668ee; 80 Stat. 927).

4. **TERM.** This agreement shall be in effect from signing by both parties and will remain in effect in perpetuity as provided herein.
5. **USES.** The Grantee, its employees, volunteers, and agents may enter the Property for the purposes described above in Paragraph 1. Before entering the Property, the Grantee, its employees, volunteers, and agents must obtain the permission of the Grantor and are subject to security restrictions as defined by ICE and/or the Commanding Officer at the Port Isabel Detention Center.
6. **PROHIBITED USES.** The following activities and uses are expressly prohibited on the Property:
 - 6.1 **No Subdivision.** The Property may not be divided, partitioned, or subdivided, and may not be conveyed or transferred.
 - 6.2 **No Surface Alteration.** Except as may be necessary to accommodate those activities expressly permitted under this Conservation Easement, there shall be no ditching, draining, diking, filling, paving, excavating, dredging, mining, drilling, installing of windmills, solar, or other surface energy developments, or other alteration of the surface of the Property. All lighting of buildings and in holdings within the boundary of this agreement should be directed away from the property governed by this MOU.
 - 6.3 **Soil or Water Degradation.** Except as may be necessary to accommodate those activities expressly permitted under this agreement, any use or activity that causes or is likely to cause soil degradation, erosion or siltation or depletion or pollution of any surface of subsurface waters shall be prohibited; provided, however, this prohibition shall not be construed so as to prohibit endangered species habitat management, wildlife management operations, or other activities performed in accordance with the Management Plan, in the form attached hereto as Exhibit "B" (defined in Section 5 below).
 - 6.4 **Vegetation Removal and Planting.** There shall be no removal, harvesting, destruction or cutting of trees, shrubs, brush or other plants, except (a) incidental select cutting or removal of vegetation as reasonably necessary for appropriate management of the Property (including access and fire management activities consistent with the Management Plan), (b) as reasonably necessary to accommodate the activities and uses permitted in this agreement (including habitat management), (c) as otherwise approved by Grantee in writing, which approval shall not be unreasonably conditioned, withheld or delayed or as required maintenance of roads and trails as provided for in this MOU. Notwithstanding the above, any extensive changes (removal, clear-cutting, planting, transplanting) of vegetation on the Property must be consistent with the Management Plan and is subject to **approval by Grantor** in writing; such approval shall not be unreasonably conditioned, withheld, or delayed. Brush should not be lighted or illuminated. Dense brush should be protected and managed. Management should include reducing exotic grasses and plants, planting

select native species of brush, preventing the clearing of wildlife habitat of any kind, fencing and posting to control unauthorized access, eliminating pets (dogs and cats), excluding grazing by domestic livestock, and periodic monitoring and inspections.

6.5 Pesticides. There shall be no use of fertilizers, pesticides or biocides, including but not limited to insecticides, fungicides, rodenticides, and herbicides on the Property, except as permitted in the Management Plan or approved by the Grantee.

6.6 Dumping. There shall be no storage or dumping of ashes, trash, garbage, rubbish, refuse, litter, hazardous or toxic materials or chemicals, or any other unsightly or offensive materials on the Property in any manner that may negatively impact or be detrimental to the Conservation Values or the purposes of this agreement.

6.7 Storage Tanks. There shall be no placement or use of any above ground or underground storage tanks on the Property. There shall also be no use or placement of other storage tanks on the Property, except as may be existing at the time of this grant or as permitted in the Management Plan.

6.8 Water Use. Other than in connection with water distribution systems for wildlife (including catchment tanks and other water facilities), and as otherwise reasonably necessary to accommodate the other activities and uses permitted herein, there shall be no alteration, manipulation, depletion or extraction of surface or subsurface water (including, but not limited to, ponds, wetlands, creeks or other water courses) or any other water bodies on the Property. In addition, no activities shall be conducted on the Property that would be detrimental to water purity or that could alter the natural water level or flow in or over the Property, except as reasonably necessary to accommodate the activities and uses otherwise expressly permitted in this MOU including changes in vegetation cover and composition necessary for the creation or enhancement of endangered species habitat. No surface and subsurface water rights associated with the Property may be severed from the Property or otherwise used by or transferred to any other party or property.

6.9 Construction. There shall be no placement or construction of new structures, buildings, towers, surface wind energy, road, pipeline or utility right-of-ways or other improvements on the Property.

6.10 Commercial Activities. There shall be no commercial or industrial use of or activity on the Property.

6.11 Agricultural Activities. There shall be no farming or other agricultural activities on the Property, except as permitted or as otherwise approved by Grantee in writing; such approval shall not be unreasonably withheld, conditioned, or delayed.

6.12 Development Rights. Neither the Property nor any portion of it shall be included as part of the gross area of other property not subject to this agreement for the purposes of determining density, lot coverage, or open space requirements under

otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this agreement shall be transferred to any other lands pursuant to a transferable development rights scheme, cluster development arrangement, for cash payment, or otherwise; provided, however, that this paragraph shall not preclude such transfer of development rights resulting from the destruction or demolition of any existing improvements on the Property. For purposes of this agreement, the term "*development rights*" includes, but is not limited, to, any and all rights, however designated, now or hereafter associated with the Property, that may be used, pursuant to applicable zoning laws or other governmental laws or regulations, to compute permitted size, height, bulk or number of structures, development density, lot yield, or any similar development variable on or pertaining to the Property or any other property.

6.13 No Motorized Vehicles. There shall be no operation of any motorized vehicles (including, but not limited to, dune buggies, motorcycles, all-terrain vehicles, aircraft), except on roadways, trails and roads which exist or to the extent reasonably necessary in connection with the maintenance of the Property and Grantee's wildlife management operations

6.14 No Public Use. There will be no public use activity including, but not limited to hunting, trapping, fishing, hiking, collecting, orienteering, camping, or other activities on the property. It is understood that ICE will remain responsible for maintaining perimeter security. Law enforcement jurisdiction, except as directly related to the enforcement of FWS laws or regulations applicable to lands within the agreement boundary, will remain with ICE.

6. NON-EXCLUSIVE/RETAINED RIGHTS. The rights granted to the Grantee under this agreement are non-exclusive. The Grantor retains, reserves, and shall continue the use of the Property for any and all purposes under its authorities. The Grantor, its employees, agents, contractors, guests, volunteers and other authorized persons may enter the Property for any and all lawful purposes.

7. TERMINATION. This agreement is intended to run with the Property in perpetuity. This agreement may not be terminated by either party. Both parties agree to manage the land in accordance with the Biological Assessment (BA), if the terms of the BA are breached both parties agree to develop a new BA.

8. MODIFICATION. This MOU may be modified or amended as necessary upon written consent of the parties.

9. RIGHTS AND RESTRICTIONS. This MOU is subject to any and all easements, rights-of-way, and existing pipelines and facilities, and any and all rights and restrictions of record, or shown on a surface survey of the Property, and to any and all restrictions of record, or shown on a surface survey of the Property, and to any and all surface use, environmental, and endangered species requirements and restrictions of the Grantee and which requirements and

restrictions may be expanded, limited or modified by the Grantee, with consent of the Grantor.

10. FUNDING. This agreement is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties will be handled in accordance with applicable laws, regulations, and procedures.

11. POINTS OF CONTACT. The principle contacts for this MOU are:

Michael Watkins
Assistant Field Office Director
Rt. 3, Box 341
Buena Vista Rd.
Los Fresnos, TX 78566
xxx

Refuge Manager
Laguna Atascosa National Wildlife Refuge
U.S Fish and Wildlife Service
22817 Ocelot Road
Los Fresnos, Texas 78566

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first set below.

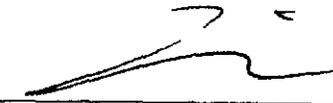
FISH AND WILDLIFE SERVICE

IMMIGRATION AND CUSTOMS
ENFORCEMENT

By:



By:



Name: Kelly McDowell

Name: Michael D. Gibbs

Title: Project leader
South Texas Wildlife Refuge Texas

Title: Director
Office of Asset Management

Date: 10/26/2010

Date: 10/20/2010

Department of Homeland Security

Immigration and Customs Enforcement Facility
More or Less 80 Acres on Port Isabel Detention Facility

August 25, 2010

MANAGEMENT PLAN

This Management Plan is attached to and made part of the Memorandum Of Understanding ("MOU") executed by Department of Homeland Security, Immigration and Customs Enforcement ("**Grantor or ICE**"), and U.S. Department of Interior, Fish and Wildlife Service, Laguna Atascosa National Wildlife Refuge ("**Grantee**"). Any capitalized terms used but not otherwise defined herein shall have the meaning given to such terms in the Memorandum of Understanding. Property is defined as only the area including the MOU, which is described as approximately 90 acres in Cameron County, Texas and more particularly described in Exhibit A which is attached hereto and incorporated herein for all purposes.

1. **Purpose of Management Plan.** The purpose of this Management Plan is to provide guidelines for conducting the permitted activities on and uses of the Property. To the extent there is any conflict in the provisions of the MOU and this Management Plan, the provisions of the MOU shall govern. All activities and uses permitted under the MOU, including without limitation, development of any kind, residential use, agricultural, wildlife management operations, shall be conducted so as not to conflict with the following provisions.
2. **Management Responsibilities.** It is contemplated that Grantee shall be responsible for the management of that portion of the Property within the "**Habitat Zone**" and that Grantor shall have the responsibility and right to manage the remainder of the Property. This MOU will allow the grantee to work with the grantor to manage and improve habitat for wildlife, design and construct wildlife crossings and post road signs to reduce the possibility of ocelots getting struck by vehicles. The grantee will have the right to approve new fences. No fences will be constructed that will preclude movements of ocelots unless authorized by Grantee or even required for the purposes of creating a safe wildlife crossing.
3. **Habitat Management.** Any vegetation clearing or removal otherwise permitted in Sections 6, of the MOU must be accomplished by mechanical methods (excluding the use of bulldozers, tracked equipment, root plowing or chaining), which methods are prohibited. Aside from the prescribed fire program, no burning or chemical methods shall be allowed without the prior written consent of each of the parties. Grantee is authorized to manage and improve habitat, to conduct prescribed fires, to control invasive or exotic vegetation mechanically or by using herbicides.
4. **Pesticides.** Only chemicals approved by the Grantee will be allowed to be used in the Property and only if used for its intended purpose(s) and in accordance with the manufacturer's prescribed recommendations and instructions. Grantee will allow the use of herbicides in the Property to control invasive and exotic species. The Grantee will approve herbicide applications that use environmentally safe target specific herbicides and selective treatment methods like spot spraying, basal bark or stumps applications.
5. **Grazing.** Grantor agrees not to graze livestock on the Property.
6. **Hunting, Trapping, Animal Stocking.** Grantor agrees not to hunt or trap wildlife on property. No exotic animal species (non-native to Central Texas) including feral hogs, exotic game or any other exotic animal will

be stocked or introduced for any reason. No trapping of any form is allowed, except as necessary to control populations of exotic animals, and nest parasites. Notwithstanding anything herein to the contrary, Grantee shall not have any right to hunt wildlife. The grantee will have the right to set up cameras or hair snares in brush areas and live capture wildlife as part wildlife monitoring and research projects. Live trapping of feral animals that are impacting the conservations purposes of the MOU will be allowed or permitted by the Grantor and Grantee when it is deemed necessary by the a Grantee.

7. Wildlife Monitoring. The Grantee will be allowed to inspect, evaluate and monitor wildlife and wildlife habitat identified in the MOU. The Grantee will inform the Grantor in advance of entering habitat protected under MOU and will follow reasonable security procedures defined by ICE and Commanding Officer of Port Isabel Detention Center and agreed to by Grantee. Grantee will be allowed to set wildlife cameras, trap and attach radio telemetry equipment to wildlife, radio track wildlife, conduct short term and long term monitoring studies and inspect and evaluate habitat conditions. Wildlife Trapping will normally occur in months with temperatures averaging below 90 degrees Fahrenheit. Trapping periods will be approved and once started they will be required to be checked daily until trapping periods has ended. Other activities (radio tracking cameras etc...) will occur throughout the year.

8. Periodic Review. The parties recognize and acknowledge that the physical environmental conditions of the Property can change over time due to a variety of factors and that technological advancements and other new information with regard to management practices may be available in the future. Accordingly, to ensure that the conservation purposes set out in the MOU and this Management Plan continue to be satisfied, the parties agree that this plan should be reviewed at least every five (5) years. In connection therewith, the parties agree to work together in good faith to determine if the plan needs to be modified or updated. The plan can be modified at any time provided such changes do not violate the purposes of the MOU and either enhance or do not impair such purposes. Any modification of the plan shall require the mutual agreement of both parties and must be in writing.

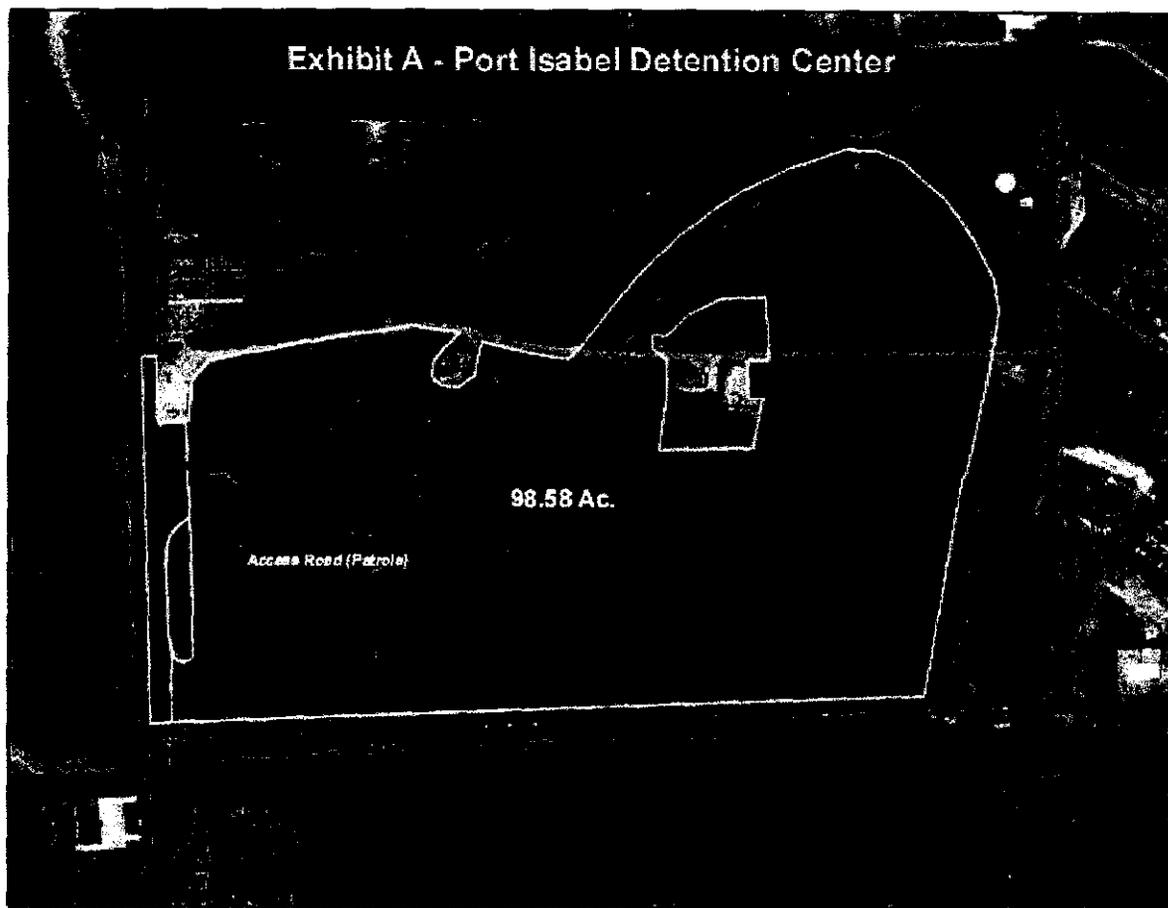


Figure 1. Map conservation area included in Memorandum of Understanding and Management Plan located west of the main buildings of Port Isabel Detention Center

APPENDIX B: FEDERAL, STATE, AND LOCAL SCOPING

CONTENTS

Scoping Letter: Susan Jacobsen, U.S. Fish and Wildlife Service, Region 2 – Southwest..... 1

Scoping Letter: Ernesto Reyes, U.S. Fish and Wildlife Service, Texas Coastal Ecological Service Alamo
Field Office 6

Scoping Letter: Magdeleine Dallemagne, U.S. Environmental Protection Agency, Region 6..... 11

Scoping Letter: Osvaldo Longoria Jr., U.S. Department of Agriculture, Natural Resources
Conservation Service..... 16

Scoping Letter: U.S. Army Corps of Engineers – Regulatory Division, Galveston District..... 21

Scoping Letter: U.S. Army Corps of Engineers – Planning Environmental Center, Fort Worth District..... 26

Scoping Letter: Mark Milum, City of Los Fresnos, City Manager 31

Scoping Letter: Gary Paris, City of Bayview, Mayor..... 36

Scoping Letter: Rene Oliveira, Texas State House of Representatives, District 37 Representative 41

Scoping Letter: David A. Garcia, Cameron County, County Administrator..... 46

Scoping Letter: Jaime Garza, Texas Council on Environmental Quality, Regional Director – Region 15.... 51

Scoping Letter: Mark Wolfe, State Historic Preservation Officer 56

Scoping Letter: Carlos Swonke, Texas Department of Transportation, Director of Environmental
Affairs 61

Scoping Letter: Carmen Cernosek, Texas Water Development Board, Director of Government
Relations..... 66

Scoping Letter: George P. Bush, Texas General Land Office, Commissioner..... 71

Scoping Letter: Lyman Guy, Apache Tribe of Oklahoma, Chairman..... 76

Scoping Letter: Martina Callahan, Comanche Nation, Tribal Historic Preservation Officer 81

Scoping Letter: Lauren Norman-Brown, Tonkawa Tribe of Indians of Oklahoma, Tribal Historic
Preservation Officer 86

Scoping Letter: Gary McAdams, Wichita, Keechi, Waco, and Tawakonie, Tribal Historic Preservation
Officer..... 91

Scoping Response: Mark Milum, City of Los Fresnos, City Manager 96

Scoping Response: Mark Wolfe, State Historic Preservation Officer 97

Scoping Response: George P. Bush, Texas General Land Office, Commissioner 101

Scoping Response: Ernesto Reyes, U.S. Fish and Wildlife Service, Texas Coastal Ecological Service
Alamo Field Office 103



U.S. Immigration and Customs Enforcement

August 21, 2018

Susan Jacobsen
U.S. Fish and Wildlife Service
Region 2 - Southwest
500 Gold Avenue, SW
Albuquerque, NM 87102

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

Dear Ms. Jacobsen,

U.S. Immigration and Customs Enforcement (ICE) is the principal investigative arm of the U.S. Department of Homeland Security (DHS) and is the second largest investigative agency in the federal government. Created in 2003 through a merger of the investigative and interior enforcement elements of the U.S. Customs Service and the Immigration and Naturalization Service, ICE now has more than 20,000 employees in more than 400 offices in the United States and 46 foreign countries. ICE's primary mission is to promote homeland security and public safety through criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration. In effort to ensure ICE's primary mission is achieved, ICE is proposing to conduct facility improvements throughout the Port Isabel Service Processing Center (SPC).

The Port Isabel SPC serves as a temporary detention facility for individuals awaiting the outcome of their removal proceedings. As with all physical structures, upkeep is of paramount importance. A review of Port Isabel SPC facilities revealed that infrastructure is aging and requires improvements to fulfill the continuing demand for processing and detainee services. The proposed work at this site would ensure that improved facilities and infrastructure resources are available for the efficient and lawful operation of the Port Isabel SPC, which operates in accordance with American Correctional Association (ACA) and the ICE Performance-Based National Detention Standards (PBNDS). These standards detail conditions of confinement, quality of life, access to a range of services for detainees, and overall safe and secure operations.

In accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S. Code 4321-4347), ICE is preparing an Environmental Assessment (EA) for improvements throughout the Port Isabel SPC, including new construction, infrastructure repair and modernization, and demolition. ICE is evaluating two alternatives: the Preferred Alternative and the No Action Alternative. ICE requests comments on the Preferred Alternative as summarized below.

Preferred Alternative: This alternative consists of new construction, infrastructure rehabilitation, and demolition of defunct structures at the SPC. The proposed work is specified below:

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

Secure Housing Unit (SHU): ICE proposes the construction of an approximately 9,600-sq. ft. Secure Housing Unit (SHU) to house detainees. The existing SHU flooring is uneven and deteriorating in many locations. The SHU is not energy efficient, does not have a control room, and it has reached the end of its useful life. The existing SHU will be demolished.

Warehouse: The proposed new warehouse would consist of the construction of an approximately 16,800-sf building to address the SPC's need for additional storage and warehouse space, in part due to updated emergency preparedness and files storage requirements, and to ensure the secure storage of these items.

Kitchen/Dining Facility: The SPC's kitchen/dining facility would be renovated and expanded by approximately 5,000-sq. ft. to meet current building codes, to create an appropriately sized kitchen work space and dining area for employees, and to enable ICE to provide a diverse set of nutritional meals to detainees and employees. The current kitchen/dining facility is undersized, outdated, and is not energy efficient.

Wastewater Treatment Plant: Equipment currently used at the Wastewater Treatment Plant (WWTP) and lift station needs a variety of replacements and renovations to maintain function and avoid unexpected shutdowns. The proposed improvements would result in more efficient operation.

Conduit and Communications: Replacement and upgrade of network cabling and phone line cabling would occur on an as needed basis throughout the SPC to meet agency standards. Fire alarm systems would be updated in SPC buildings as needed to meet current building codes. The site's existing conduits would be repaired as issues are encountered. Any new conduits proposed would be placed from existing or new buildings to existing conduits that generally underlay the campus roads.

Fencing: Portions of deteriorating campus fencing would be repaired or replaced within their existing location.

Roads: Approximately 25,000 sq. yds. of roadway on five road sections within the SPC would be repaired within their existing footprint.

Firing Ranges: Berms at the SPC firing ranges would be tested for lead levels, lead will be removed if necessary, berms may be raised to a higher elevation to ensure safety of users, and new electronic equipment and shade structures may be installed.

Demolition: Under the Preferred Alternative, demolition of buildings that currently present a safety, health, and environmental hazard would occur. These vacant structures include Building 100, four single-family houses previously used for staff housing, and the former campus shoot house. Most of these buildings are located outside of the Port Isabel SPC secure area and are accessible to the public. Each structure is deteriorated to an extent where rehabilitation is not feasible.

Additional project activities that would occur under the Preferred Alternative include the renovation of the SPC laundry facility, areas within the Medical Building, and Building 55 (used for special operations equipment storage); replacement of the medicine dispensing modular building with a new modular building; and rehabilitation or demolition of Building 77 (used as a multipurpose building). Specific plans

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

have not yet been established for these projects; rather, the projects represent future needs at the Port Isabel SPC and would be fulfilled upon receipt of funding and the development of more precise details.

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Immigration and Customs Enforcement
Office of Asset and Facilities Management
500 12th Street SW, Stop 5703
Washington, DC 20536

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





U.S. Immigration and Customs Enforcement

August 21, 2018

Ernesto Reyes
U.S. Fish and Wildlife Service
Texas Coastal Ecological Service Alamo (Sub) Field Office
Santa Ana NWR
Alamo, TX 78516

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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U.S. Immigration and Customs Enforcement

August 21, 2018

Magdeleine Dallemagne
U.S. Environmental Protection Agency
Region 6 – NEPA Reviewer
1445 Ross Ave.
Dallas, TX 75202-2750

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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U.S. Immigration and Customs Enforcement

August 21, 2018

Osvaldo Longoria Jr.
U.S. Department of Agriculture - Natural Resources Conservation Service
Natural Resource Manager
2315 W HWY 83 RM 103
San Benito, TX 78586

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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U.S. Immigration and Customs Enforcement

August 21, 2018

U.S. Army Corps of Engineers - Regulatory Division
Galveston District
P.O. Box 1229
Galveston, TX 77553-1229

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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U.S. Immigration and Customs Enforcement

August 21, 2018

U.S. Army Corps of Engineers – Planning Environmental Center
Fort Worth District
819 Taylor St.
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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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Elizabeth Kennett
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Immigration and Customs Enforcement
Office of Asset and Facilities Management
500 12th Street SW, Stop 5703
Washington, DC 20536

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas



Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





U.S. Immigration and Customs Enforcement

August 21, 2018

Mark Milum, City Manager
City of Los Fresnos
200 N. Brazil
Los Fresnos, TX 78566

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





**U.S. Immigration
and Customs
Enforcement**

August 21, 2018

Gary Paris, Mayor
City of Bayview
104 S. San Roman Rd.
Bayview, TX 78566

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





U.S. Immigration and Customs Enforcement

August 21, 2018

René Oliveira
District 37 Representative
Texas State House of Representatives
855 West Price Road, Suite #22
Brownsville, TX 78520

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





U.S. Immigration and Customs Enforcement

August 21, 2018

David A. Garcia
County Administrator
Cameron County
1100 E. Monroe St.
Brownsville, TX 78520

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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**U.S. Immigration
and Customs
Enforcement**

August 21, 2018

Jaime Garza
Regional Director – Region 15
Texas Council on Environmental Quality
1804 W Jefferson Ave.
Harlingen, TX 78550-5247

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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Elizabeth Kennett
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Immigration and Customs Enforcement
Office of Asset and Facilities Management
500 12th Street SW, Stop 5703
Washington, DC 20536

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas



Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





U.S. Immigration and Customs Enforcement

August 21, 2018

Mark Wolfe
State Historic Preservation Officer (SHPO)
P.O. Box 12276
Austin, TX 78711-2276

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

Dear Mr. Wolfe,

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





U.S. Immigration and Customs Enforcement

August 21, 2018

Carlos Swonke
Director of Environmental Affairs
Texas Department of Transportation
125 E. 11th St.
Austin, TX 78701-2483

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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**U.S. Immigration
and Customs
Enforcement**

August 21, 2018

Carmen Cernosek
Director of Government Relations
Texas Water Development Board
1700 North Congress Ave.
P.O. Box 13231
Austin, TX 78711-3231

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

Dear Ms. Cernosek,

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U.S. Immigration and Customs Enforcement

August 21, 2018

George P. Bush
Commissioner
Texas General Land Office
1700 Congress Ave., Suite 935
Austin, TX 78701-1495

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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U.S. Immigration and Customs Enforcement

August 21, 2018

Lyman Guy
Chairman
Apache Trike of Oklahoma
P.O. Box 1330
Anadarko, OK 73005

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

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Your prompt attention to this request would be greatly appreciated. Please direct all correspondence, questions, and requests for additional information to me at the address below, or contact me by phone at (202) 732-6649 or by email at Elizabeth.L.Kennett@ice.dhs.gov.

Sincerely,

Elizabeth Kennett
Division Chief, Safety and Sustainability
Immigration and Customs Enforcement
Office of Asset and Facilities Management
500 12th Street SW, Stop 5703
Washington, DC 20536

Attachments:

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas



Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





U.S. Immigration and Customs Enforcement

August 21, 2018

Martina Callahan
Tribal Historic Preservation Officer (THPO)
Comanche Nation, Oklahoma
6 SW D Ave.
Lawton, OK 73502

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

Dear Ms. Callahan,

U.S. Immigration and Customs Enforcement (ICE) is the principal investigative arm of the U.S. Department of Homeland Security (DHS) and is the second largest investigative agency in the federal government. Created in 2003 through a merger of the investigative and interior enforcement elements of the U.S. Customs Service and the Immigration and Naturalization Service, ICE now has more than 20,000 employees in more than 400 offices in the United States and 46 foreign countries. ICE's primary mission is to promote homeland security and public safety through criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration. In effort to ensure ICE's primary mission is achieved, ICE is proposing to conduct facility improvements throughout the Port Isabel Service Processing Center (SPC).

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





U.S. Immigration and Customs Enforcement

August 21, 2018

Lauren Norman-Brown
Tribal Historic Preservation Officer (THPO)
Tonkawa Tribe of Indians of Oklahoma
1 Rush Buffalo Rd.
Tonkawa, OK 74653

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

Dear Ms. Norman-Brown,

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FIGURE 1
Port Isabel Secure Processing Center
Regional Location

0 2.5 5 10 Miles

Cameron County, Texas

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





U.S. Immigration and Customs Enforcement

August 21, 2018

Gary McAdams
Tribal Historic Preservation Officer (THPO)
(Wichita, Keechi, Waco, and Tawakonie), Oklahoma
P.O. Box 729
Anadarko, OK 73005

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

Dear Mr. McAdams,

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Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas





September 10, 2018

Elizabeth Kennett
Division Chief, Safety and Sustainability
Immigration and Customs Enforcement
Office of Asset and Facilities Management
500 12TH Street SW, Stop 5703
Washington, DC 20536

Re: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas.

Dear Ms. Kennett:

This letter is submitted in support of the preferred alternative listed for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas. However, Cameron County would be the correct jurisdiction since this location is outside the incorporated city limits of Los Fresnos, TX.

If you should need additional information, please contact me at (956) 233-5768.

Sincerely,

A handwritten signature in blue ink that reads "Mark W. Milum".

Mark Milum
City Manager

TEXAS HISTORICAL COMMISSION
real places telling real stories

September 27, 2018

Elizabeth L. Kennett
Division Chief, Safety and Sustainability
Immigration and Customs Enforcement
Office of Asset and Facilities Management
500 12th Street SW, Stop 5703
Washington, DC 20536

Re: *Preparation of an Environmental Assessment for Facility Improvements at the Port Isabel Service Processing Center, Cameron County (CBP/106, THC #201900082).*

Dear Ms. Kennett:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from Mark Wolfe, Executive Director of the Texas Historical Commission and the State Historic Preservation Officer.

The History Programs Division (HPD) review staff, led by Caitlin Brashear, and the Archeology Division (AD) review staff, have completed their review of the above referenced project, which proposes to prepare an Environmental Assessment for facility improvements to the U.S. Immigration and Customs Enforcement (ICE) Port Isabel Service Processing Center (SPC) in Los Fresnos, Texas. ICE intends to evaluate to alternatives for conducting these improvements including a No Action Alternative and the Preferred Alternative, which is detailed in the above referenced correspondence. As stated in your letter, the Preferred Alternative consists of new construction, infrastructure rehabilitation, and demolition of structures at the SPC. Our preliminary research indicates that the proposed project area was obtained from the Port Isabel Auxiliary Naval Air Station (PIANAS) for use as the Port Isabel Air Force Station (AFS) which became operation in 1959 and was decommissioned two years later.

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies, to take into account the effects of their undertakings on historic properties. Before we can complete our review of the project, and based on our preliminary research that indicates a potentially significant historic use of the proposed project area, a survey of the project area will need to be submitted for review. This survey should identify and assess for historic significance any buildings 45 years old or older that are located on or adjacent to the proposed project area.

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 federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review, or if we can be of further assistance, please contact Caitlin Brashear at 512-463-5851 or caitlin.brashear@thc.texas.gov.

Sincerely,



Caitlin Brashear, Historian, Federal Programs
For: Mark Wolfe, State Historic Preservation Officer





**U.S. Immigration
and Customs
Enforcement**



August 21, 2018

Mark Wolfe
State Historic Preservation Officer (SHPO)
P.O. Box 12276
Austin, TX 78711-2276

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

Dear Mr. Wolfe,

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Firing Ranges: Berms at the SPC firing ranges would be tested for lead levels, lead will be removed if necessary, berms may be raised to a higher elevation to ensure safety of users, and new electronic equipment and shade structures may be installed.

Demolition: Under the Preferred Alternative, demolition of buildings that currently present a safety, health, and environmental hazard would occur. These vacant structures include Building 100, four single-family houses previously used for staff housing, and the former campus shoot house. Most of these buildings are located outside of the Port Isabel SPC secure area and are accessible to the public. Each structure is deteriorated to an extent where rehabilitation is not feasible.

Additional project activities that would occur under the Preferred Alternative include the renovation of the SPC laundry facility, areas within the Medical Building, and Building 55 (used for special operations equipment storage); replacement of the medicine dispensing modular building with a new modular building; and rehabilitation or demolition of Building 77 (used as a multipurpose building). Specific plans

Subject: Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas

have not yet been established for these projects; rather, the projects represent future needs at the Port Isabel SPC and would be fulfilled upon receipt of funding and the development of more precise details.

No Action Alternative: The No Action Alternative assumes that no construction, improvement of infrastructure, or demolition would occur. Under this alternative, minor repairs would occur as needed, and maintenance and operation of the existing facilities would continue.

ICE respectfully requests that your agency or office provide information regarding any concerns or issues that it feels should be addressed in this EA. A copy of the draft and final EA will be made available online; please advise if your office requires a hard copy of the document. Please also inform ICE if someone else within your office other than yourself should be the point of contact for review of the Draft EA.

Your prompt attention to this request would be greatly appreciated. Please direct all correspondence, questions, and requests for additional information to me at the address below, or contact me by phone at (202) 732-6649 or by email at Elizabeth.L.Kennett@ice.dhs.gov.

Sincerely,



Elizabeth Kennett
Division Chief, Safety and Sustainability
Immigration and Customs Enforcement
Office of Asset and Facilities Management
500 12th Street SW, Stop 5703
Washington, DC 20536

Attachments:

- Figure 1 – Port Isabel Secure Processing Center Regional Location
- Figure 2 – Port Isabel Secure Processing Center Project Area and Vicinity
- Figure 3 – Port Isabel Secure Processing Center Project Site Map



TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

August 29, 2018

Elizabeth Kennett
Division Chief, Safety and Sustainability
Immigration and Customs Enforcement
Office of Assets and Facilities Management
500 12th Street SW, Stop 5703
Washington, DC 20536

RE: *Preparation of an Environmental Assessment (EA) for Facility Improvements to the U.S. Immigration and Customs Enforcement Port Isabel Service Processing Center in Los Fresnos, Texas*

Dear Ms. Kennett:

On behalf of the Commissioner, thank you for coordinating with the General Land Office (GLO) on the above mentioned project during the drafting phase of the Environmental Assessment. The GLO has many tasks, including the management of Coastal Public Land (submerged land) owned by the Permanent School Fund and the review of federal actions in the Texas coastal zone to ensure consistency with the goals and policies of the Texas Coastal Management Program.

At this time, based on the information provided, it does not appear that the project will involve Coastal Public Land (submerged land); therefore, a lease or easement would not be needed for the project. GLO staff will continue to monitor the project throughout the authorization process and will notify you or your representative if any portion of the project appears to be located on state land.

However, since this will be a federal action that will occur within the Coastal Management Zone, a Federal Consistency Review will be required. Below is the link to information about the Federal Consistency Review process:

<http://www.glo.texas.gov/coast/coastal-management/federal-consistency/index.html>

Please feel free to contact Jesse Solis at 361-886-1630 or jesse.solis@glo.texas.gov with any questions about the process and as a central point of contact. Also, please include the GLO personnel copied below on all correspondence.

Again, thank you for including the GLO in your preliminary coordination process.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Pollock for".

Greg Pollock
Senior Deputy Director
Coastal Protection

cc: George P. Bush., Commissioner
David Green; david.green@glo.texas.gov
Melissa Porter; melissa.porter@glo.texas.gov
Amy Nunez; amy.nunez@glo.texas.gov



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Texas Coastal Ecological Services Field Office
3325 Green Jay Road
Alamo, Texas 78516
Main: (956) 784-7560 Fax: (956) 787-8338



In Reply Refer To:
FWS/R2/ES/02ETCC00-2018-TA-2253

August 24, 2018

Ms. Elizabeth Kenneth
Division Chief, Safety and Sustainability
Immigration and Customs Enforcement
Office of Asset and Facilities Management
500 12th Street SW, Stop 5703
Washington, DC 20536

Dear Ms. Kenneth:

Thank you for your letter of August 21, 2018 requesting our review of the effects of the proposed facility improvements on federally listed species in Cameron County Texas. We also evaluated the project with respect to wetlands and other Federal trust fish and wildlife resources.

We understand that U.S. Immigration and Customs Enforcement (ICE) is preparing an Environmental Assessment (EA) for improvements throughout the Port Isabel Service Processing Center (SPC), including new construction, infrastructure repair and modernization, and demolition. Ice is evaluating two alternatives: The Preferred Alternative and the No Action Alternative. Ice requests comments on the Preferred Alternative as summarized below:

Alternative: This alternative consists of new construction, infrastructure rehabilitation, and of defunct structures at the SPC.

The proposed work is specified below:

Secure Housing Unit (SHU): ICE proposes the construction of an approximately 9,600-sq. ft. Secure Housing Unit (SHU) to house detainees. The existing SHU flooring is uneven and deteriorating in many locations. The SHU is not energy efficient, does not have a control room, and it has reached the end of its useful life. The existing SHU will be demolished.

Warehouse: The proposed new warehouse would consist of the construction of an approximately 16,800-sf building to address the SPC's need for additional storage and warehouse space, in part

Ms. Elizabeth Kenneth

due to updated emergency preparedness and files storage requirements, and to ensure the secure storage of these items.

Kitchen/Dining Facility: The SPC's kitchen/dining facility would be renovated and expanded by approximately 5,000-sq. ft. to meet current building codes, to create an appropriately sized kitchen work space and dining area for employees, and to enable ICE to provide a diverse set of nutritional meals to detainees and employees. The current kitchen/dining facility is undersized, outdated, and is not energy efficient.

Wastewater Treatment Plant: Equipment currently used at the Wastewater Treatment Plant (WWTP) and lift station needs a variety of replacements and renovations to maintain function and avoid unexpected shutdowns. The proposed improvements would result in more efficient operation.

Conduit and Communications: Replacement and upgrade of network cabling and phone line cabling would occur on an as needed basis throughout the SPC to meet agency standards. Fire alarm systems would be updated in SPC buildings as needed to meet current building codes. The site's existing conduits would be repaired as issues are encountered. Any new conduits proposed would be placed from existing or new buildings to existing conduits that generally underlay the campus roads.

Fencing: Portions of deteriorating campus fencing would be repaired or replaced within their existing location.

Roads: Approximately 25,000 sq. yds. of roadway on five road sections within the SPC would be repaired within their existing footprint.

Firing Ranges: Berms at the SPC firing ranges would be tested for lead levels, lead will be removed if necessary, berms may be raised to a higher elevation to ensure safety of users, and new electronic equipment and shade structures may be installed.

Demolition: Under the Preferred Alternative, demolition of buildings that currently present a safety, health, and environmental hazard would occur. These vacant structures include Building 100, four single-family houses previously used for staff housing, and the former campus shoot house. Most of these buildings are located outside of the Port Isabel SPC secure area and are accessible to the public. Each structure is deteriorated to an extent where rehabilitation is not feasible.

Additional project activities that would occur under the Preferred Alternative include the renovation of the SPC laundry facility, areas within the Medical Building, and Building 55 (used for special operations equipment storage); replacement of the medicine dispensing modular building with a new modular building; and rehabilitation or demolition of Building 77 (used as a multipurpose building). Specific plans have not yet been established for these projects; rather, the projects represent future needs at the Port Isabel SPC and would be fulfilled upon receipt of funding and the development of more precise details have not yet been established for these projects; rather, the projects represent future needs at the Port Isabel SPC and would be fulfilled

Ms. Elizabeth Kenneth

upon receipt of funding and the development of more precise details.

Ocelot/Jaguarundi

The endangered ocelot/jaguarundi could be found within your project area within the western part of your boundary where the dense Tamaulipan thornscrub habitat is located. The drainage ditch that runs along the lower central part of your compound between the existing facilities and the Tamaulipan thornscrub vegetation are good ocelot habitat. This ocelot habitat (Please see attached Ocelot Corridor map) is an important ocelot corridor where ocelots are known to use for denning, feeding, and travelling to and from Laguna Atascosa National Wildlife Refuge where a small population of 17 known ocelots are within the Refuge. The Service has worked with the Port Isabel SPC for many years and has established a good working relationship to avoid and minimize impacts to this ocelot corridor. Please see attached Best Management Practices (BMP's) for ocelot and jaguarundi.

A list of federally threatened and endangered species is attached for your project assessment to those species. We appreciate the opportunity to provide pre-planning information and if we can be of further assistance, please contact Ernesto Reyes at (956) 784-7560.

Sincerely,


for Charles Ardizzone
Field Supervisor

cc: Assistant Field Supervisor, U.S. Fish and Wildlife Service, Corpus Christi, Texas

Federally Listed as Threatened and Endangered Species of Texas

April 7, 2016

County-by-County lists containing species information is available at the U.S. Fish and Wildlife Service's (Service), Southwest Region, web site <http://www.fws.gov/Endangered>

This list represents species that may be found in counties throughout the state. It is recommended that the field station responsible for a project area be contacted if additional information is needed.

DISCLAIMER

This County by County list is based on information available to the U.S. Fish and Wildlife Service at the time of preparation, date on page 1. This list is subject to change, without notice, as new biological information is gathered and should not be used as the sole source for identifying species that may be impacted by a project.

Cameron County

Green sea turtle	(T)	<i>Chelonia mydas</i>
Gulf Coast jaguarundi	(E)	<i>Herpailurus yagouaroundi cacomitli</i>
Hawksbill sea turtle	(E w/CH I)	<i>Eretmochelys imbricata</i>
Kemp's Ridley sea turtle	(E)	<i>Lepidochelys kempii</i>
Least tern*	(E ~)	<i>Sternula antillarum</i>
Leatherback sea turtle	(E w/CH I)	<i>Dermochelys coriacea</i>
Loggerhead sea turtle	(T)	<i>Caretta caretta</i>
Northern aplomado falcon	(E)	<i>Falco femoralis septentrionalis</i>
Ocelot	(E)	<i>Leopardus pardalis</i>
Piping plover	(T w/CH)	<i>Charadrius melodus</i>
Red-crowned parrot	(C)	<i>Amazona viridigenalis</i>
Red knot	(T)	<i>Calidris canutus ssp. rufa</i>
South Texas ambrosia	(E)	<i>Ambrosia cheiranthifolia</i>
Texas ayenia	(E)	<i>Ayenia limitaris</i>
West Indian manatee	(E)	<i>Trichechus manatus</i>

INDEX

Statewide or areawide migrants are not included by county, except where they breed or occur in concentrations. The whooping crane is an exception; an attempt is made to include all confirmed sightings on this list.

- E = Species in danger of extinction throughout all or a significant portion of its range.
- T = Species which is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.
- C = Species for which the Service has on file enough substantial information to warrant listing as threatened or endangered.
- CH = Critical Habitat (in Texas unless annotated I)
- P/ = Proposed ...
- P/E = Species proposed to be listed as endangered.
- P/T = Species proposed to be listed as threatened.
- G = with special rule
- I = CH designated (or proposed) outside Texas

- ~ = protection restricted to populations found in the interior of the United States. In Texas, the least tern receives full protection, except within 50 miles (80 km) of the Gulf Coast.
- * = Conditional -This species only needs to be considered if wind related projects are within migratory route.

Best Management Practices (BMPs)

The following BMPs will be implemented as a part of these actions to avoid and/or minimize impacts to the federally-listed ocelot and jaguarundi.

General BMPs:

1. Prior to any construction activities, a kick-off meeting will be scheduled. One of the primary purposes will be to discuss the BMPs and education training for all on-site workers.
2. Individual federally listed animals found in the project area will not be harassed and will be allowed to leave on their own volition. An individual, with the authority to stop construction activities, will be on-site during construction activities, and will halt all activities immediately upon report of an ocelot or jaguarundi sighting. Contact the Service immediately at (956) 784-7560 if a federally-listed animal is seen in the project vicinity during normal business hours. After hours, please call (956) 784-7520 (Refuge Dispatch).
3. During construction activities, an environmental monitor, with authority to temporarily suspend construction at any time the appropriate BMPs are not being properly implemented, will be present on site. Duties of the monitor will include ensuring that activities stay within designated project areas, evaluating the response of individuals that come near the project site, and implementing the appropriate BMP.
4. Vegetation clearing beyond the design parameters needed for construction and maintenance and use will be avoided. The perimeter of all construction or maintenance areas will be clearly demarcated using flagging or temporary construction fence, and no disturbance outside that perimeter will be authorized.
5. Materials such as sand will be obtained from existing developed or previously used sources, not from undisturbed areas adjacent to the project area.
6. If new or improved access is needed, plans will be coordinated with the Service.
7. Tree and brush removal should be minimized and permanent loss will be restored with native vegetation.
8. Dispose of all food related trash items such as wrappers, cans, bottles, and food scraps in closed containers and remove daily from the project site to eliminate attraction of predators.
9. All equipment, materials, and vehicles will be staged in designated areas that are currently cleared and covered with aggregate.
10. Construction and maintenance activities will be conducted only during daylight hours to avoid noise and lighting issues at night. Noise levels should be minimized and all generators should be in baffle boxes (a sound-resistant box that is placed over or around a

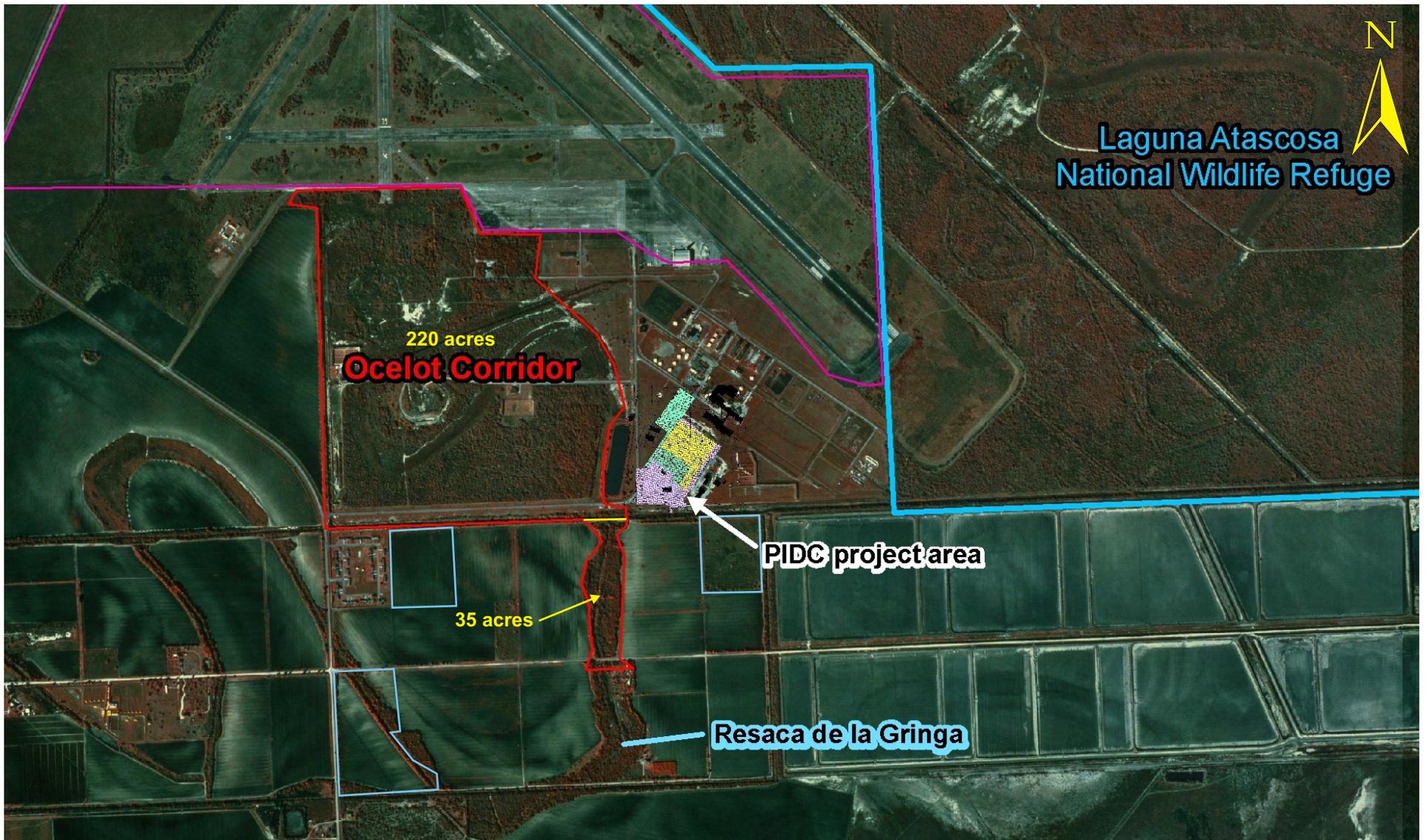
generator), have an attached muffler, or use other noise-abatement methods in accordance with industry standard.

11. Vehicle traffic associated with the project will remain on established roads and reduce speeds to the maximum extent practicable.
12. No fences or barriers should bisect or fragment jaguarundi or ocelot dispersal corridors or prevent access to fresh water.
13. All herbicides will be applied in the presence of an herbicide applicator licensed in the State of Texas.
14. Waste water (water used for project purposes that is contaminated with construction materials or water used for cleaning equipment and thus carries oils or other toxic materials or other contaminants in accordance with state regulations) should also be stored in closed containers on-site until removed for disposal.
15. The project management plan will provide for a report describing the implementation of the BMPs and their effectiveness. All personnel involved with the on-the-ground construction or maintenance for the proposed action will receive training in the affected species, the agreed upon BMPs, and the role of the construction monitor.

Species Specific BMPs for ocelot and jaguarundi:

1. During construction, a biological monitor with authority to temporarily suspend construction when appropriate BMPs are not being properly implemented will be present on site.
2. Removal of wetland habitat or riparian vegetation beyond the design parameters will be avoided. Removal of dense thorn scrub will be minimized and restricted to the design parameters. When removing scrub habitat, root systems will be left intact where possible.
3. Documentation of observed ocelots and jaguarundi in project and activity areas will be reported to the Service.
4. No restoration activities, including monitoring, will occur between November and December to avoid the peak reproductive season of Gulf Coast jaguarundi.
5. In order to minimize potential loss of felid prey species, the use of herbicides will be limited to the minimum amount necessary to achieve adequate control of Carrizo cane.
6. Downshield lighting to illuminate facility or parking areas and do not shine on surrounding vegetated areas as the ocelot and jaguarundi are usually active at night or at dawn and dusk.

7. Protect riparian areas or canals from construction and/or use, as these are areas that are used as travel corridors for cats; maintain a vegetative buffer.



APPENDIX C: STATE HISTORIC PRESERVATION OFFICER CONSULTATION

RECEIVED

OCT 16 2018

U.S. Department of Homeland Security
500 12th Street S.W.
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

October 16, 2018

**RE: Immigration and Customs Enforcement, Section 106 Review for Site Improvements
– Port Isabel Service Processing Center**

Mark Wolfe
State Historic Preservation Officer
Texas Historical Commission
108 W. 16th Street
Austin, TX 78701

Caitlin Brashear
Historian
P.O. Box 12276
Austin, TX 78711-2276

**NO HISTORIC
PROPERTIES AFFECTED
PROJECT MAY PROCEED**
by Caitlin Brashear
for Mark Wolfe
State Historic Preservation Officer
Date 11/5/2018

Dear Mr. Wolfe,

Thank you for your response regarding the Immigrations and Customs Enforcement (ICE) proposed action at the Port Isabel Service Processing Center in Los Fresnos, Texas. A letter from your office dated September 27, 2018 requested the submittal of a survey that will identify and assess for historic significance, any buildings 45 years old or older that are located on or adjacent to the proposed project area. Since receiving that letter, ICE has provided additional documentation via email attachments on October 5, 2018 and is submitting additional information with this letter.

This letter responds to your subsequent email response on October 10, 2018 requesting the detailed background summary for Section 106 consultation, history of the kitchen/dining facility and Building 100, additional site photos of structures built circa 1958 in their surrounding environment, and interior photos of the kitchen/dining facility and Building 100. This letter and its attachments include the information requested and described above, as well as previously submitted photos and documentation. In submitting this information, ICE is also submitting its determination for the proposed project. The determination is based on an evaluation of the area of potential effect for the proposed project, which ICE is considering to be the developed portion of the Port Isabel SPC and immediately adjoining properties.

ICE has conducted archival research and determined that structures greater than 45 years old on the Port Isabel SPC property are not eligible for listing on the National Register of Historic Places (NRHP). Based upon the review of available information, an evaluation for eligibility of structures on the subject property, cultural resources studies conducted for property near the SPC, and research for this project location, **ICE finds that no historic properties are affected**

pursuant to 36 CFR Part 800.4(d)(1). Information supporting this determination is provided in Attachments 1-4. In the unlikely event that unanticipated discovery occurs during the project activities, work will be immediately halted and the SHPO will be contacted.

We thank you for your comments thus far, and we respectfully request that you continue to respond to this request for review of our finding via email (pdf) to my colleague Joshua Gomez at josh.gomez@associates.ice.dhs.gov or in writing within thirty (30) days of its receipt in accordance with 36 C.F.R. § 800.3(c)(4). We are requesting that this review is expedited due to national security needs. Please continue to direct any questions or informational requests to Mr. Gomez at (202) 732-4322.

Please find enclosed a detailed project description, the known history of the project site, photos, and additional supporting information regarding ICE's determination.

Sincerely,



Elizabeth L. Kennett
Division Chief, Safety and Sustainability
500 12th Street SW, Stop 5703
Washington, DC 20536
Office: (202) 732-6649
Elizabeth.L.Kennett@ice.dhs.gov

Enclosed:

Attachment 1: Project Description and Determination Rationale

Attachment 2: Project Location Map and Photos

Attachment 3: Historic Aerial Image with Notes

Attachment 4: Historic Topographic Maps and Aerial Images

U.S. Department of Homeland Security
500 12th Street S.W.
Washington, DC 20536



**U.S. Immigration
and Customs
Enforcement**

October 16, 2018

**RE: Immigration and Customs Enforcement, Section 106 Review for Site Improvements
– Port Isabel Service Processing Center**

Mark Wolfe
State Historic Preservation Officer
Texas Historical Commission
108 W. 16th Street
Austin, TX 78701

Caitlin Brashear
Historian
P.O. Box 12276
Austin, TX 78711-2276

Dear Mr. Wolfe,

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Please find enclosed a detailed project description, the known history of the project site, photos, and additional supporting information regarding ICE's determination.

Sincerely,

Elizabeth Kennett

Elizabeth L. Kennett
Division Chief, Safety and Sustainability
500 12th Street SW, Stop 5703
Washington, DC 20536
Office: (202) 732-6649
Elizabeth.L.Kennett@ice.dhs.gov

Enclosed:

Attachment 1: Project Description and Determination Rationale

Attachment 2: Project Location Map and Photos

Attachment 3: Historic Aerial Image with Notes

Attachment 4: Historic Topographic Maps and Aerial Images

Attachment 1

**Immigration and Customs Enforcement
Section 106 Review for Site Improvements
Port Isabel Service Processing Center
Project Description and Section 106 NHPA Determination Rationale**

Project Description:

The Port Isabel Service Processing Center (SPC) is located at 27991 Buena Vista Boulevard, Los Fresnos, TX 78566. The proposed project will involve new construction, infrastructure rehabilitation, and demolition of structures as needed at the SPC campus. Specific site work proposed is detailed below. The majority of the proposed project activities are proposed in previously disturbed areas surrounding existing buildings. *Attachment 1* shows the location of all areas at the SPC where work is proposed.

New Construction: The proposed new Secure Housing Unit (SHU) would entail the construction of an approximately 9,600-sf building to house detainees. Three existing shed structures at this site area would be either moved or demolished. The proposed new warehouse would consist of the construction of an approximately 16,800-sf building south of the Cameron County airport and northwest of the existing kitchen/dining facility. The proposed parcel is currently vacant and mowed. The SPC kitchen/dining facility would be renovated and expanded to 5,000 sf. (*Attachment 2 – Relevant SPC Structure Photos*).

Infrastructure Repair/Improvements: Equipment currently used at the WWTP and lift station is in need of a variety of replacements and renovations to maintain function and avoid unexpected problems. Replacement and upgrade of network cabling and phone line cabling would occur throughout the SPC to meet agency standards. Fire alarm systems would be updated in SPC buildings as needed to meet current building codes. The site's existing conduits would be repaired as issues are encountered. Any new conduits proposed would be placed from existing or new buildings to existing roads. Portions of deteriorating campus fencing would be repaired or replaced. Approximately 47,900 square yards of roadway on five road sections within the SPC campus would be repaired (*Attachment 3 – Roads Proposed for Improvement*). Berms at the SPC firing ranges may be raised to a higher elevation; new electronic equipment and shade structures may be installed.

Demolition: Under the Preferred Alternative, demolition of six buildings that currently present a safety, health, and environmental hazard would occur. These structures include Building 100, four single-family houses previously used for staff housing, and the former campus shoot house (*Attachment 2 – Relevant SPC Structure Photos*). Building 100 is located at the north-central part of the developed parcel, just south of Veterans Airport Drive. This 6,500-sf building is currently vacant and confirmed to contain asbestos-containing materials (ACM). The staff housing units have been vacant for nearly 20 years and have decayed over time. ACM is present within the structures, which are considered a hazard.

Other project activities that could occur under the Preferred Alternative include renovation of the SPC laundry facility, areas within the Medical Building, and Building 55 (used for special operations equipment storage); replacement of the medicine dispensing trailer with a new modular building, and rehabilitation or demolition of Building 77 (used as a multipurpose

building). The 2,000-sf SPC laundry building was constructed in 1958. It is located between the kitchen/dining facility and the detainee dormitories. Specific plans have not yet been established for these projects; rather, they represent future needs at the Port Isabel SPC and would be fulfilled upon receipt of funding and the development of more precise details.

History of the Property and Historical Context:

The Port Isabel SPC site is located on a portion of a property that used to be a former military base used first in the 1940s by the U.S. Army Air Corps as a gunnery training facility and range. Then, the U.S. Navy and U.S. Air Force used the facility in the 1950s for defense and training activities. The undeveloped area of brush vegetation on the western half of the Port Isabel SPC was historically (mid-1900s) used as an open burn/open detonation area. Portions of the property are contained in the Formerly Used Defense Site (FUDS) program (identification number K06TX102003).

According to ICE documents that reference a 1997 Programmatic EA completed for the SPC in 1943, the U.S. Army Corps of Engineers (USACE) Galveston District (formerly known as the Galveston District CE) acquired approximately 6.4 acres in fee for a gasoline pumping station at the SPC. The acreage included 9,000 feet of roadway for a gas line, which ran north along Buena Vista Road from the pumping station to the Air Force's Laguna Madre Flying School. Fuel was apparently brought in by rail and off-loaded at the pump station. Gas pipelines in use at the facility were replaced with new PVC lines by Southern Union Gas Company.

In 1962, the site was closed as a military base due to realignment and base closures. The base's hangar and airfield runways were assigned to Cameron County and is now the Port-Isabel Cameron County Airport which borders the northern boundary of the SPC property. The former Immigration and Naturalization Service (INS) and Border Patrol received a portion of the property for use as a Border Patrol Training Academy and Detention Center. In 1962 and 1963, INS completed several major building renovations at the SPC site. In 1977, the Training Academy was relocated to the Federal Law Enforcement Training Center in Glynco, Georgia and many buildings were abandoned and eventually removed. The INS Detention Center remained at the site. In 1981, several buildings and major utilities at the site underwent renovations, and the Border Patrol Detention Center expanded to the center of the eastern side of the parcel. In 1997, the USACE managed the construction of four detainee dormitories on site.

In 2007, the facility was again updated, and an Administration building was added, with an attached processing and medical center. These attached buildings house administration, deportation, courts, training, muster room/computer lab, Intel office, male and female processing, and a health unit. In 2008, a new 750,000-gallon water tower was constructed at the site and new water lines were installed. The new water tower was sited in a new area and replaced a water tower that was removed from an area adjacent to the northwest corner of the dining/kitchen facility. Since 2009, continued maintenance and minor improvements have been made to infrastructure throughout the SPC, including roof repair, replacement of heating, ventilation, and air conditioning (HVAC) equipment, and updating security systems on an as-needed basis.

Structures within the Port Isabel SPC site known to be more than 45 years old include small office buildings (Building 55 and 100), a kitchen/dining building, the repair/maintenance

building, warehouses, the laundry building, and some storage structures. Other structures of unknown age include shade structures and utility infrastructure.

Table 1: Structures Older than 45 Years at Port Isabel SPC

Year Constructed	Purpose/Use
1958	Office (Building 100)
1958	Kitchen/Dining
1958	Repair/Maintenance Building
1958	Female Processing
1968	Warehouse
1958	Warehouse
1958	Warehouse
1958	Laundry
1958	Key Control/Bus Training
1958	Warehouse/Maintenance
1958	Office
1958	Maintenance
Unknown	Office
Unknown	Isolation Housing
Unknown	Shade Structure
Unknown	Cold Storage
Unknown	Utility
Unknown	Utility
Unknown	Storage
1967	Storage
Unknown	Storage
Unknown	Firing Range

Each of the buildings older than 45 years old has had improvements made to the building since its original construction. These structures appear to be standard plan structures and, as shown in the photos, are concrete, brick and/or cinderblock construction on slab. The kitchen/dining facility has been retrofitted with new equipment, as needed, over time and additions to the original building have been made to connect walk-in coolers and freezers with the capacity to support the current operation of the SPC. Additionally, new HVAC infrastructure has been added since the original construction of the building. Building 100 was used as office space, storage space, and training space at different times throughout ICE’s ownership of the building. Its interior is consistent with common carpeting, rubber baseboards, and painted walls of a standard office building. Photos of the interior of both the kitchen/dining facility and Building 100 are included in *Attachment 3*.

The adjacent Port Isabel-Cameron County Airport has also undergone improvements since it has been owned by Cameron County. These improvements were locally reported on by the Texas A&M Transportation Institute and the Brownsville Herald (references provided below). These local news sources reported that the airport was built in the 1940s as the Laguna Madre Sub-Base and was later used as a Navy Auxiliary Air Station; then the County took control of it in 1963. Major improvements were undertaken through the Texas Department of Transportation Routine Airport and Maintenance Program. Improvements are reported as having occurred in the late

2000s, and improvements are reported to have included: repairing runways, taxiways and aprons; installing lights and signs; constructing eight (8) new T-hangars; a new terminal; and replacing doors on the 1940s era main hangar, as well as some other upkeep of the older hangar.

Evaluation of Eligibility for Buildings Older than 45 Years

ICE conducted archival research and reviewed the National Park Service's National Register of Historic Places (NRHP) database to determine if any structures on the Port Isabel SPC grounds were listed on the NRHP. Based on the information available, no historic properties are located on the grounds or immediately adjacent to the SPC. Additionally, the Texas Historic Sites Atlas does not list any state or local designated historic places within or immediately adjacent to the Port Isabel SPC.

ICE evaluated the subject property to determine if any building or structure on the property met criteria to be eligible for listing on the NRHP. The buildings were evaluated against the National Register Criteria in relation to their past use as a 1940s U.S. Army Air Corps gunnery training facility and range and as a 1950s era U.S. Navy and U.S. Air Force defense and training activities center.

National Register Criteria "A": A Property is associated with events that have made a significant contribution to the broad patterns of our history.

The current SPC infrastructure does not meet criteria A for listing on the NRHP. The SPC is located on a parcel of land that used to be used for training and other defense purposes for WWI and WWII. However, archival research does not indicate that any discreet event or events occurred at this facility that have made a significant contribution to the broad patterns of history.

The buildings that are greater than 45 years of age at the SPC are warehouses, the kitchen/dining facility, and administrative space, but there are no known associations with any important specific historical events or broad patterns of history for any of these buildings. Additionally, the current SPC infrastructure does not possess characteristics that exemplify it being related to the U.S. Army Air Corps gunnery training facility and range and the U.S. Navy and U.S. Air Force use of the facility in the 1950s for defense and training activities.

National Register Criteria "B": Property is associated with the lives of persons significant in our past.

There are no known associations of the subject property with the lives of person(s) significant in our past; therefore, the subject property is not eligible under Criteria B.

National Register Criteria "C": Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.

Many of the SPC buildings and infrastructure are less than 45 years old. The components of the SPC that are greater than 45 years old do not embody any distinctive characteristics of a type, period, or method of construction that represent the work of a master, possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction. Photos of buildings greater than 45 years old are included in subsequent attachments. The subject property is not significant under this criterion.

National Register Criteria “D”: Property has yielded or is likely to yield information important in prehistory or history.

The majority of the subject property has been previously disturbed beginning in the 1940s and the SPC area has undergone numerous changes in buildings since that time. The SPC consists of buildings, parking lots, utility structures, fencing, open space, firing ranges, and other infrastructure consistent with a federal detention center and supporting administrative spaces. No known subsurface historic or prehistoric sites are location within the SPC property.

Area Field Studies

The Texas Department of Transportation Historical Studies Report titled Texas General Aviation has studied airports across Texas for historical significance. The report found that the Cameron County Municipal Airport still retained a World-War II-era, arched-roof hangar that utilizes distinctive Lamella trusses (Final Report WA 576 16 SH 004, 2008). The report recommends this hangar at the Cameron County Municipal Airport as eligible under Criterion C at a local level in the area of architecture.

The proposed project would not directly affect this non-ICE-owned building on the adjacent airport property. The proposed project could have an indirect affect to the building in terms of a visual impact. Most notably, the demolition of Building 100, construction of a new warehouse, and the kitchen/dining facility expansion and renovation would occur on portions of the SPC that border the airport property. However, proposed projects would not affect the viewshed of this building in a manner that would alter its character or the characteristic of the surrounding area. As noted, the SPC and airport have undergone major renovations, additions, demolitions, and changes throughout their use (buildings and infrastructure have been both removed and added).

Conclusion

For a structure or property to qualify for the National Register, it must meet at least one of the four National Register Criteria for Evaluation by being associated with an important historic context and also retain historic integrity of those features necessary to convey its significance. The Port Isabel SPC property has been significantly altered through the course of its use as an Air Force Base, Navy and Air Force Training Area, and a Service Processing Center. New buildings have been constructed and most original buildings no longer exist at the site. The Port Isabel SPC lacks the feeling of a 1940s era Air Force Auxiliary base and/or a WWII era training area for the Navy. The remaining buildings that are still existing from the 1950s do not have features that would convey their association or significance in relation to having been used in the past as 1940s era Air Force Auxiliary base and/or a WWII era training area for the Navy.

Due to these factors, ICE has determined that the buildings greater than 45 years old at the Port Isabel SPC lack integrity and are not eligible for listing on the NRHP.

Based upon the review of available information, an evaluation for eligibility of structures on the subject property, cultural resources studies conducted for property near the SPC, and research for this project location, **ICE finds that no historic properties are affected pursuant to 36 CFR Part 800.4(d)(1).** In the unlikely event that unanticipated discovery occurs during the project activities, work will be immediately halted and the SHPO will be contacted.

References

Draft Environmental Impact Statement (EIS) for the South Padre Island 2nd Access Project
<https://drive.google.com/file/d/0B1RnqRLFkRdVSVBQNHl0Tm1tOWs/view>

Evaluation of Cameron County Airport (Eligibility):

Texas General Aviation. Texas Department of Transportation, Environmental Affairs Division.
2008. <http://ftp.dot.state.tx.us/pub/txdot-info/env/toolkit/420-12-gui.pdf>

History of Radome Site at Port Isabel:

<http://www.radomes.org/museum/showpicture.php?site=Port+Isabel+AFS,+TX&id=645686>

Map Viewer:

<https://www.historicaerials.com/viewer>

National and State Registered Historic Properties:

<https://atlas.thc.state.tx.us/Map>

<https://npgallery.nps.gov/nrhp>

News Articles:

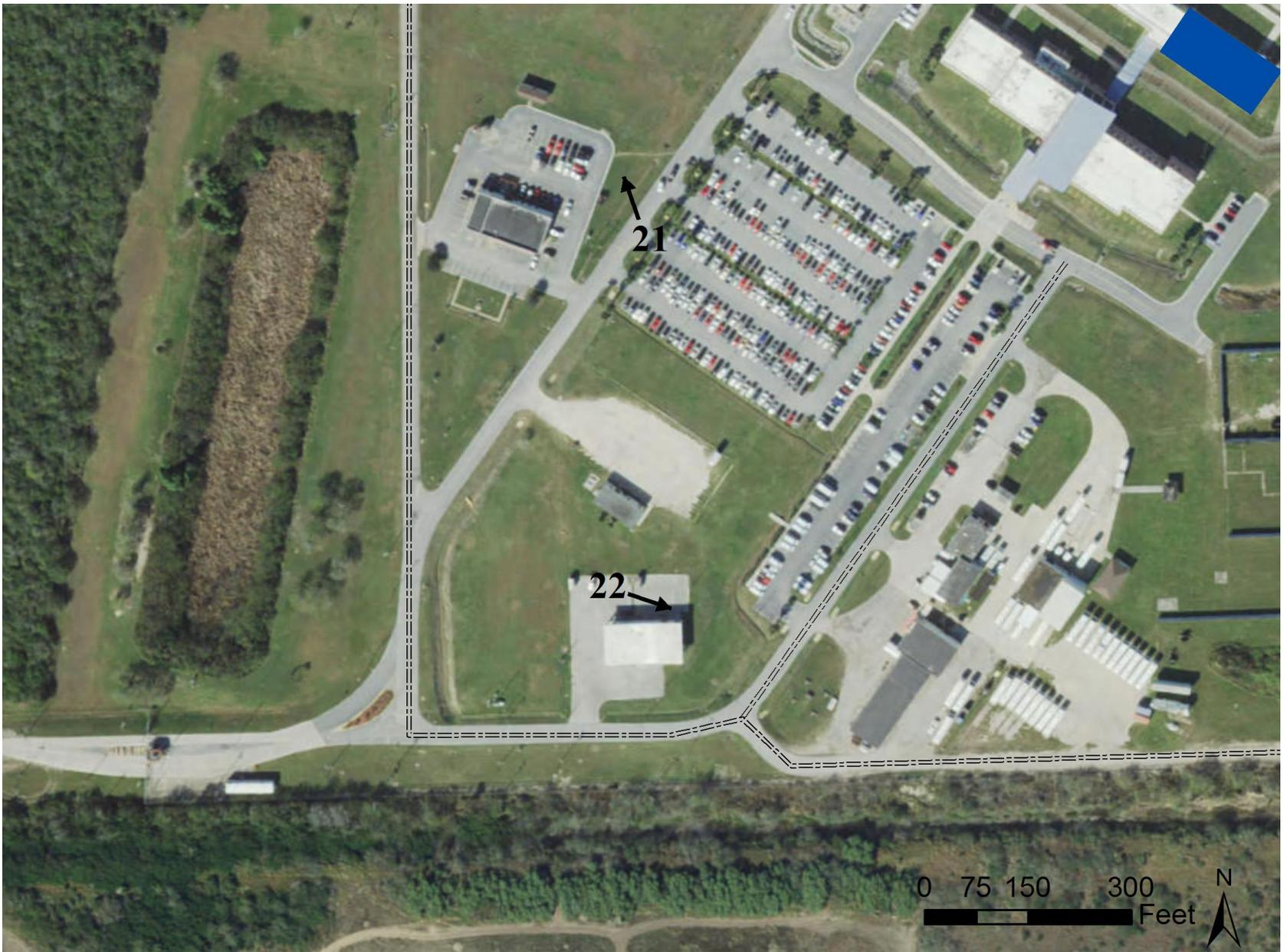
<https://groups.tti.tamu.edu/aviation/2013/10/21/flurry-of-improvements/>

https://www.themonitor.com/news/local/article_f9129590-dc62-11e2-9c68-0019bb30f31a.html

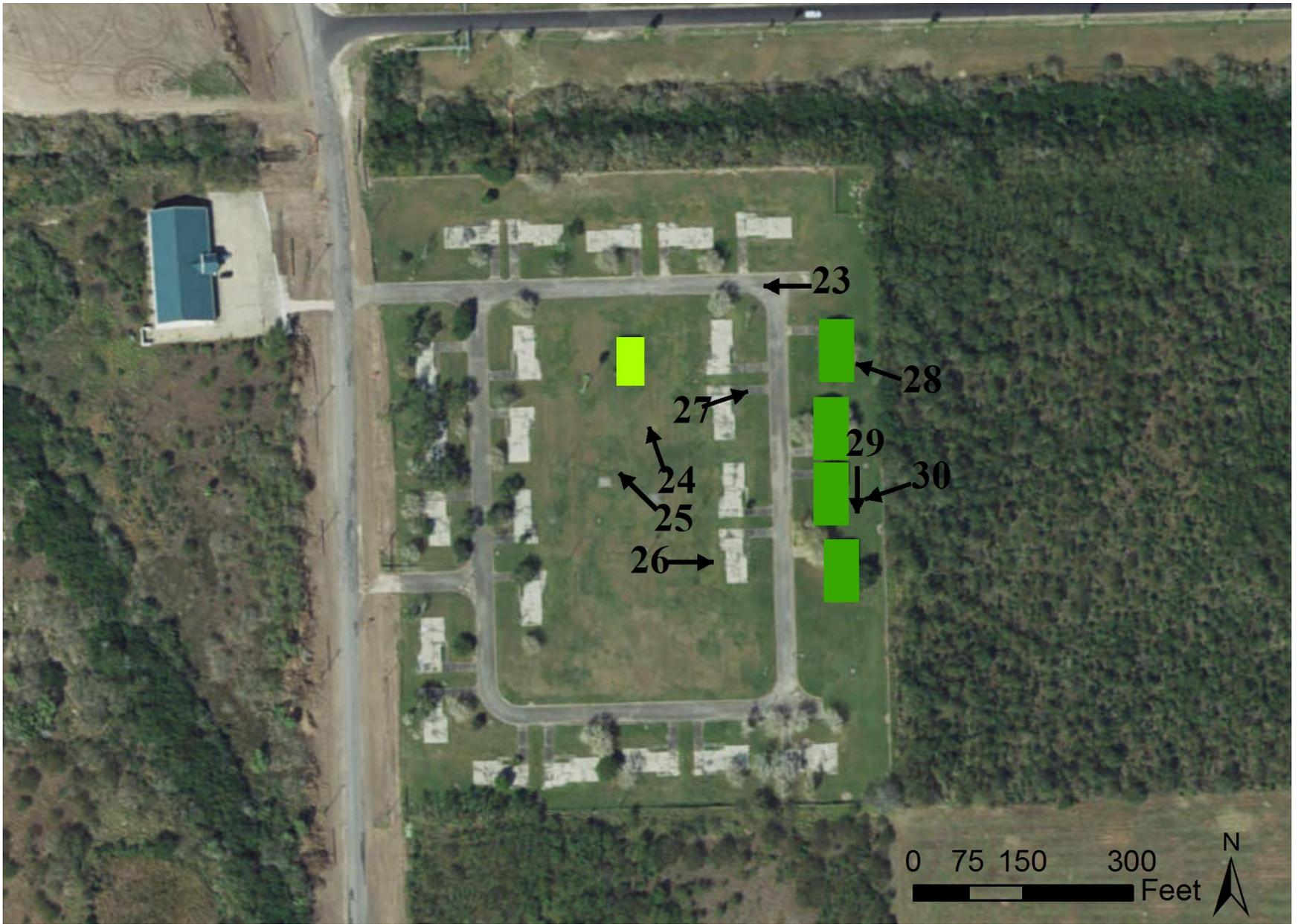
Attachment 2

Port Isabel SPC Maps and Photos

- Proposed Projects Location Map.
- Map/Index Showing Photo Locations #1-20.
- Map/Index Showing Photo Locations #21-22
- Map/Index Showing Photo Locations #23-30
- Photos 1-30 (showing exterior of buildings at Port Isabel SPC)
- Interior Photos of Dining Facility
- Interior Photos of Building 100



Map/Index Showing Photo Locations #21-22.



Map/Index Showing Photo Locations #23-30.

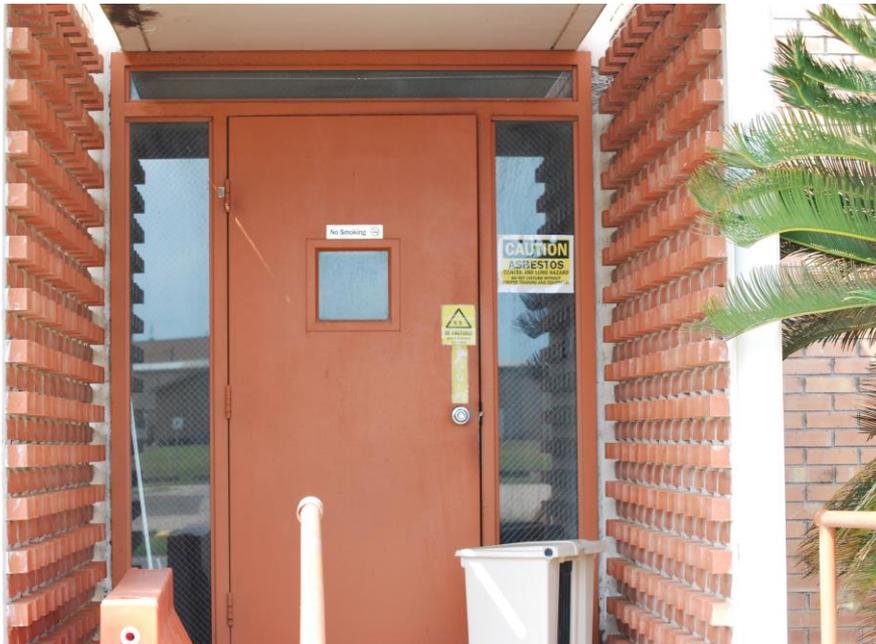


1. Facing Building 100 (Proposed for Demolition) that was built circa 1958.



2. Facing Building 100 (Proposed for Demolition) that was built circa 1958.

3. Facing Building 100
(Proposed for Demolition)
that was built circa 1958.





4. Facing Building 100 (Proposed for Demolition) that was built circa 1958.



5. Facing Building 55 (Proposed for Rehabilitation) that was built circa 1958.



6. Facing Building 55 (Proposed for Rehabilitation) which was built circa 1958 (left side of picture). The building on the right is a building built after 1995 on the Port Isabel-Cameron County Airport and is not ICE-owned.



7. Facing Port Isabel SPC facility grounds.



8. Facing warehouses on the Port Isabel SPC property that were built circa 1958.



9. Facing the Port Isabel-Cameron County airport hangar building located outside the fence line of the Port Isabel SPC.



10. Facing warehouses on the Port Isabel SPC property that were built circa 1958.



11. Facing shade structures on the Port Isabel SPC property (age unknown).

12. Facing water tower and warehouses. The warehouses were built circa 1958.





13. Facing shade structures on the Port Isabel SPC property (age unknown).



14. Facing the recreation building (less than 45 years old).



15. Facing lift proposed for replacement. The airport hangar and tower are located in the background of the photo outside of the Port Isabel facility fence line.



16. Facing the dining/kitchen facility (built circa 1958).



17. Facing the dining/kitchen facility (built circa 1958).



18. Facing the dining/kitchen facility (built circa 1958).



19. Facing the dining/kitchen facility with new additions for the HVAC, and refrigeration storage structures in the background.



20. Facing the storage sheds that are less than 45 years of age.
The dining facility is in the background.



21. Facing the water tower (less than 45 years old) and a warehouse that was built circa 1958.



22. Facing a storage building that was built circa 1958.



23. Facing non ICE property located outside of location where previous staff housing was located.



24. Facing shoot house proposed for demolition.



25. Facing area of previous staff housing.



26. Facing abandoned staff housing.



27. Facing abandoned staff housing.



28. Facing abandoned staff housing.



29. Facing abandoned staff housing.



30. Facing abandoned staff housing.

Interior Photos of the Kitchen/Dining Facility



Interior Photos of the Kitchen/Dining Facility

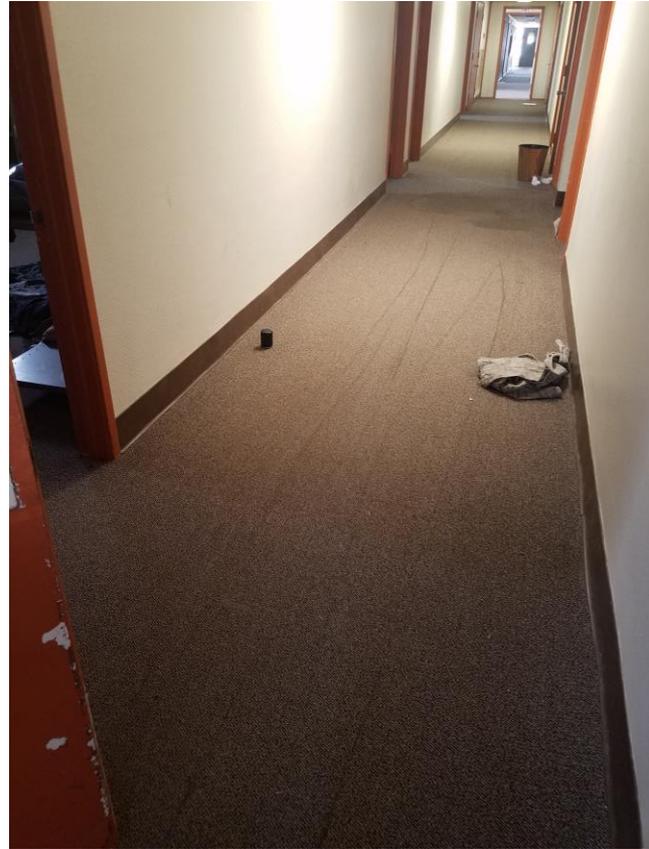


Interior Photos of the Kitchen/Dining Facility

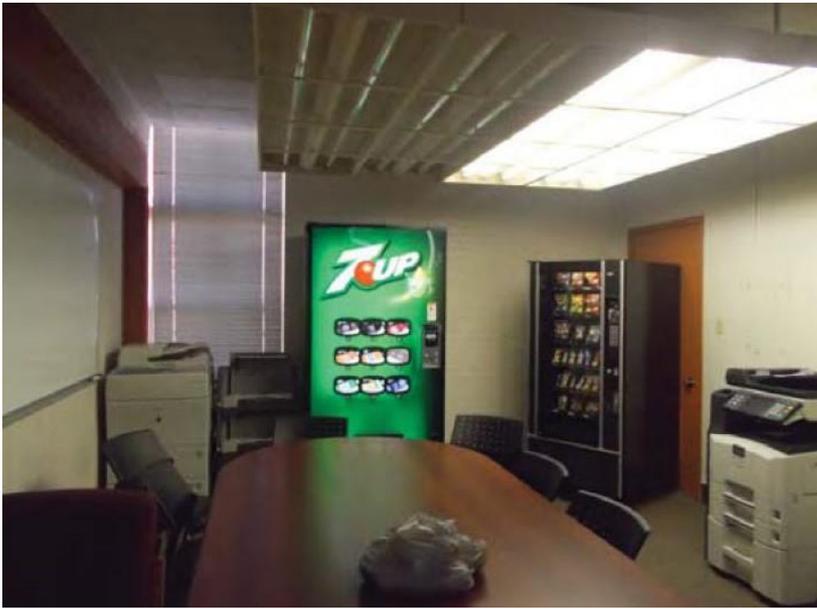


Interior Photos of the Kitchen/Dining Facility

Interior Photos of Building 100



Interior Photos of Building 100

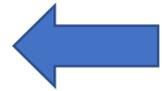


Interior Photos of Building 100



Interior Photos of Building 100

Attachment 3



North
(Approximate)



This photo is from the following website:

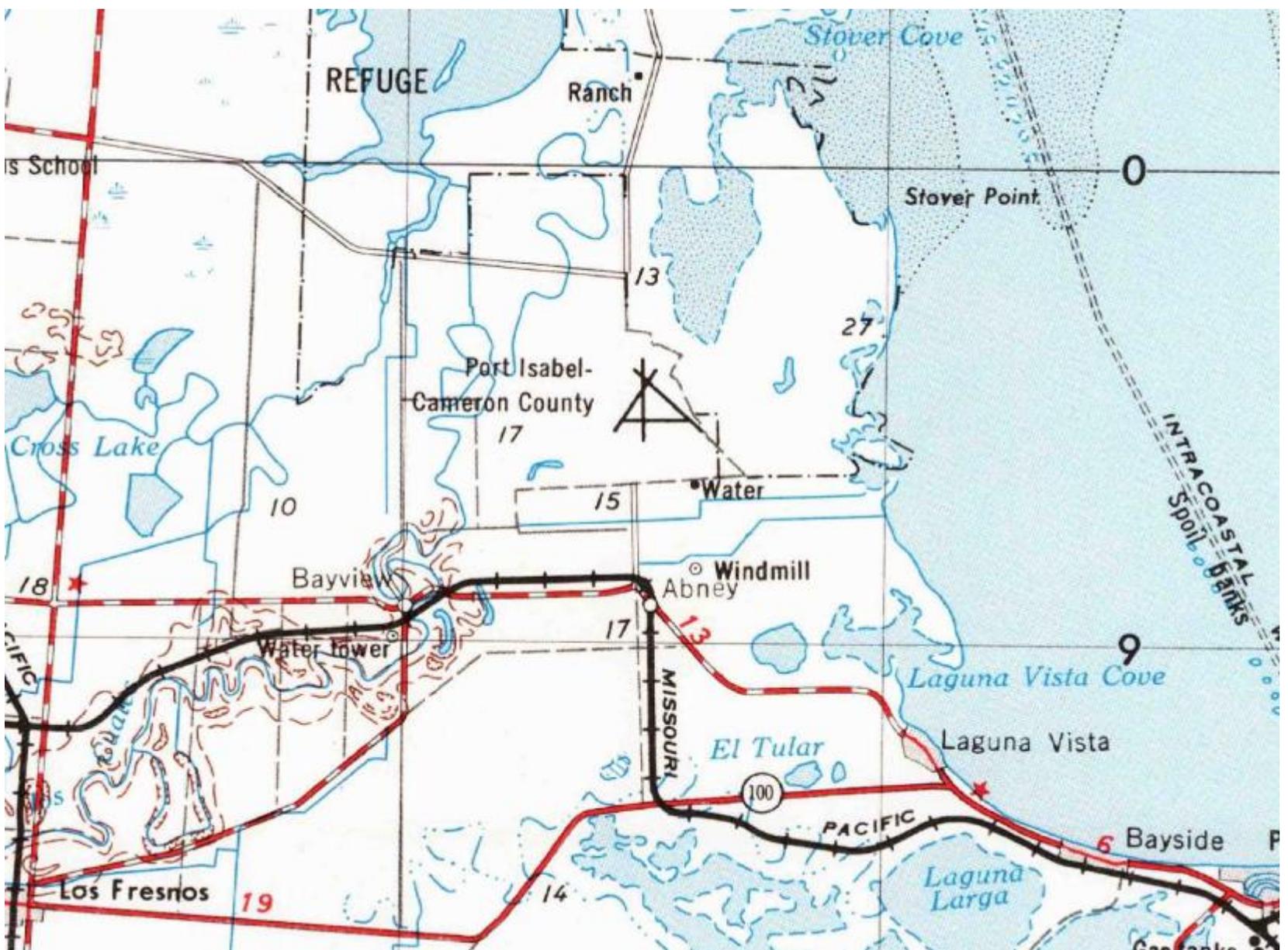
<http://www.radomes.org/museum/showpicture.php?site=Port+Isabel+AFS,+TX&id=645686>

The photo shows the Navy and Air Force base and facilities in the early 1950s. Where ICE has notes indicating what each structure was used for, ICE has labelled the photo.

The barracks, movie theater, and recreational areas have since been removed. There are new buildings located in place of some of the removed infrastructure.

Attachment 4

Attachment 4



Prepared by the U.S. Army Topographic Command (TPCKCBM), Washington, D. C. Compiled in 1958 by photogrammetric methods and from United States quadrangles, 1:24,000, 1:25,000, and 1:31,680, 1929-52; USC&GS Charts 1952-55. Planimetry revised from aerial photographs taken 1955. Photographs field annotated 1956. Revised by the U.S. Geological Survey 1969

Selected hydrographic data compiled from USC&GS Charts
This information is not intended for navigational purposes

Location of geodetic control established by government agencies is shown on corresponding 1:250,000-scale Geodetic Control Diagram

Transverse Mercator Projection. 10,000-meter Universal Transverse Mercator grid, zone 14. 100,000-foot grid ticks based on Texas coordinate system, south zone. 1927 North American Datum. To place on the predicted North American Datum 1983 move the projection lines 34 meters south and 27 meters east

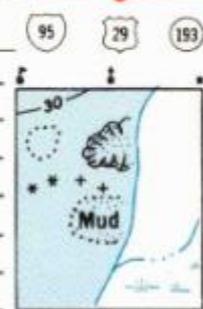
There may be private inholdings within the boundaries of the National or State reservations shown on this map

LEGEND

Figures in red denote approximate distances in miles between stars

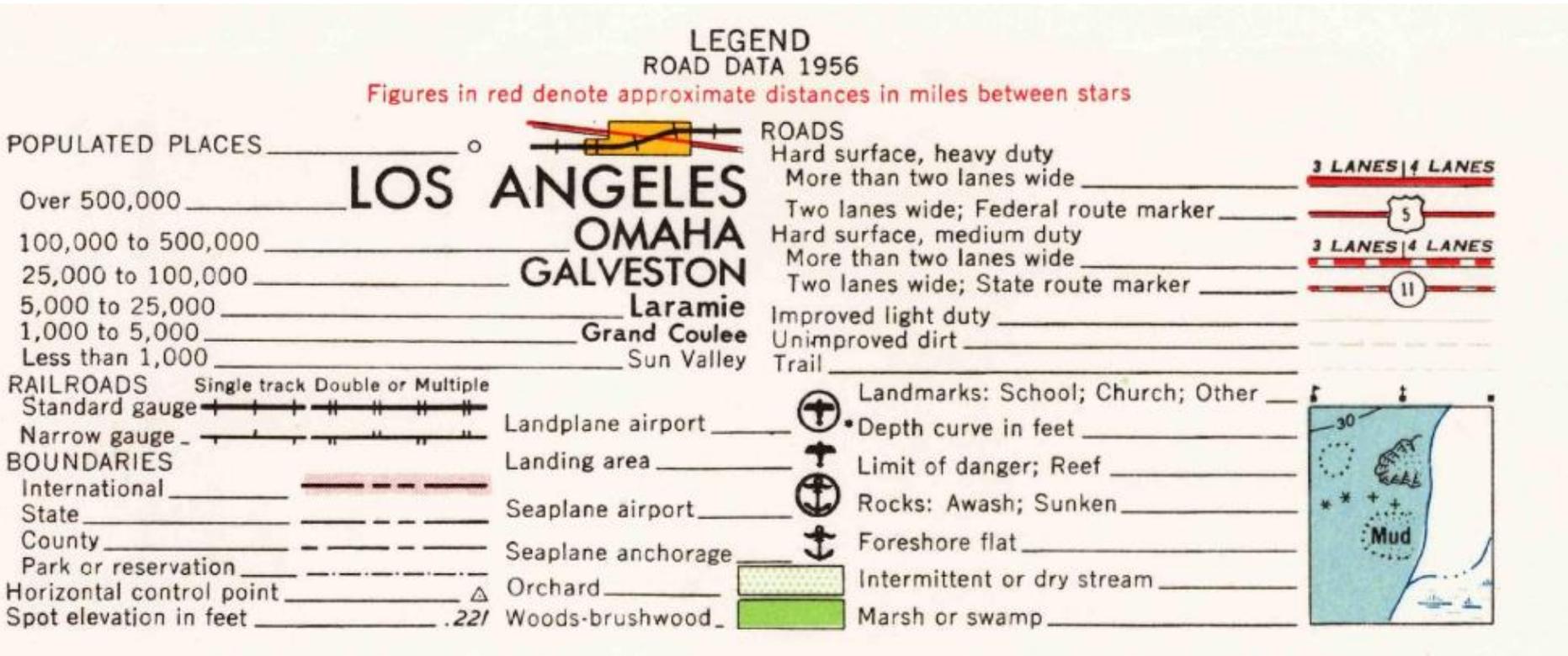
POPULATED PLACES	ROADS	Primary, all-weather, hard surface	_____
Over 500,000	Secondary, all-weather, hard surface	_____	_____
100,000 to 500,000	Light-duty, all-weather, improved surface	_____	_____
25,000 to 100,000	Fair or dry weather, unimproved surface	_____	_____
5,000 to 25,000	Trail	_____	_____
1,000 to 5,000	Interchange	_____	_____
Less than 1,000	Sun Valley	_____	_____
RAILROADS	Route markers: Interstate, U.S., State	_____	_____
Standard gauge	Landmarks: School; Church; Other	_____	_____
Narrow gauge	Depth curve in feet	_____	_____
BOUNDARIES	Limit of danger; Reef	_____	_____
International	Rocks: Awash; Sunken	_____	_____
State	Foreshore flat	_____	_____
County	Intermittent or dry stream	_____	_____
Park or reservation	Marsh or swamp	_____	_____
Spot elevation in feet			

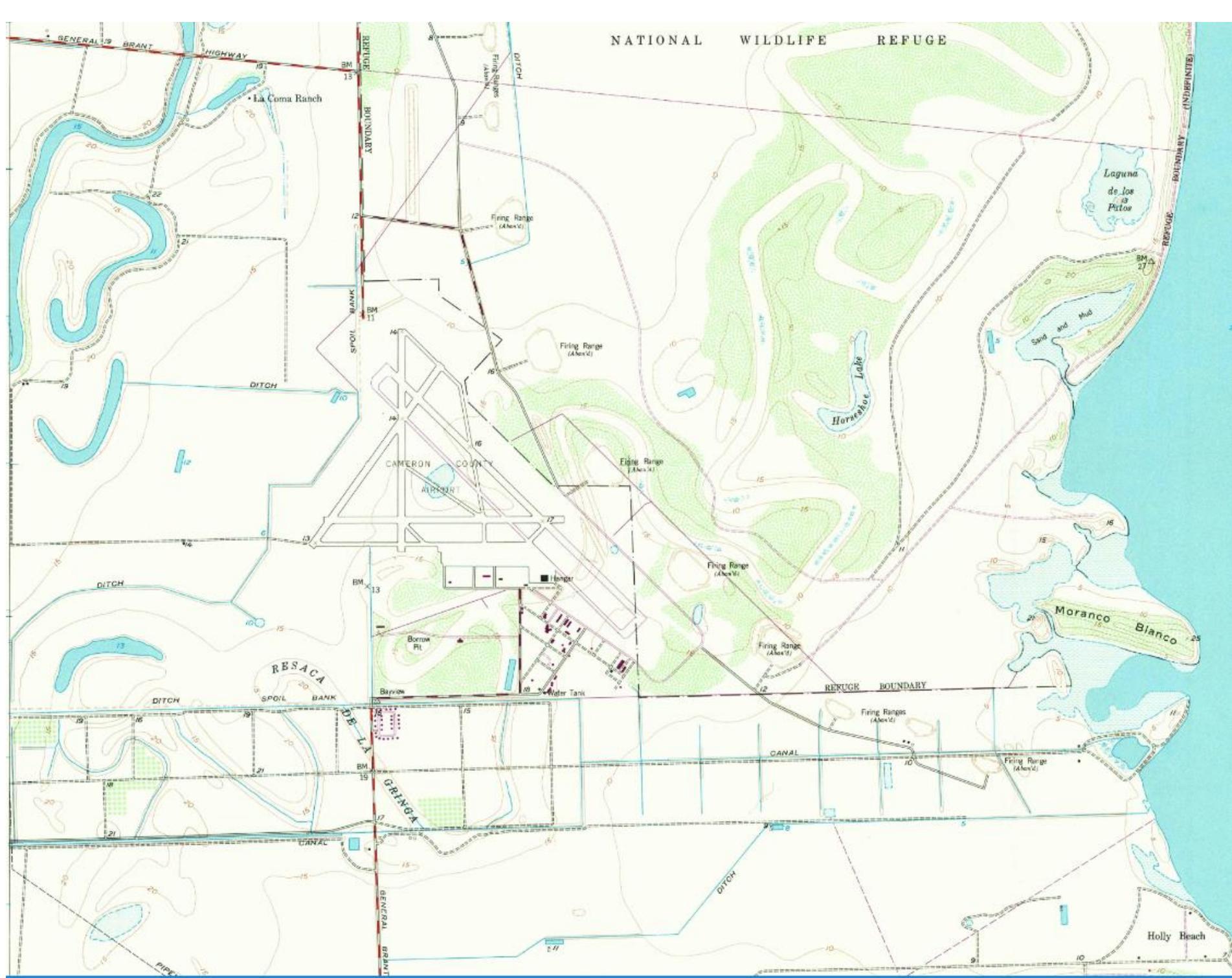
LOS ANGELES
OMAHA
GALVESTON
Laramie
Grand Coulee





Prepared by the Army Map Service (KCBM), Corps of Engineers, U. S. Army, Washington, D. C. Compiled in 1958 by photogrammetric methods and from: United States Quadrangles, 1:24,000, 1:25,000, 1:31,680; U. S. Geological Survey and Army Map Service, 1929-52; USC&GS Charts 1288, 1955; 1287, 1952. Planimetric detail revised by photo-planimetric methods. Control by USC&GS, USGS and CE. Photography field annotated 1956.





Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

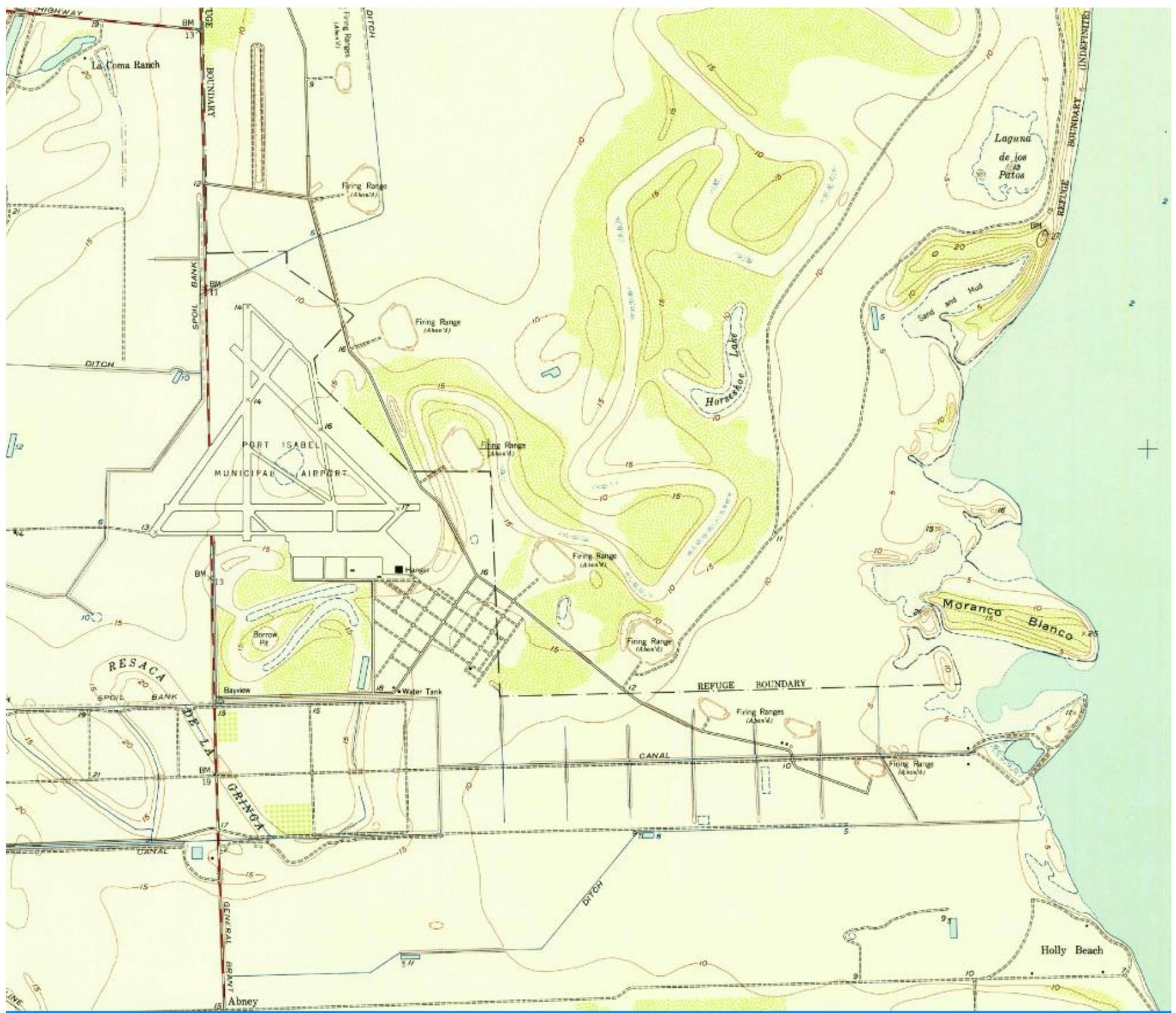
Hydrography compiled from USC&GS charts 897, 898, and survey T-9219

Culture and drainage in part compiled by U.S. Coast and Geodetic Survey from aerial photographs taken 1948-1950

Topography from 1929 map by USGS, revised by planetable surveys 1955

Polyconic projection. 1927 North American datum
 10,000-foot grid based on Texas coordinate system, south zone
 1000-meter Universal Transverse Mercator grid ticks, zone 14, shown in blue

Water stages in this area vary with meteorological conditions
 Approximate limits of occasional inundation shown by dashed blue lines where mean high water is undetermined for lack of visual evidence
 Dotted blue lines indicate the approximate limits of low water



Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Hydrography compiled from USC&GS charts 897, 898, and survey T-9219

Culture and drainage in part compiled by U.S. Coast and Geodetic Survey from aerial photographs taken 1948-1950

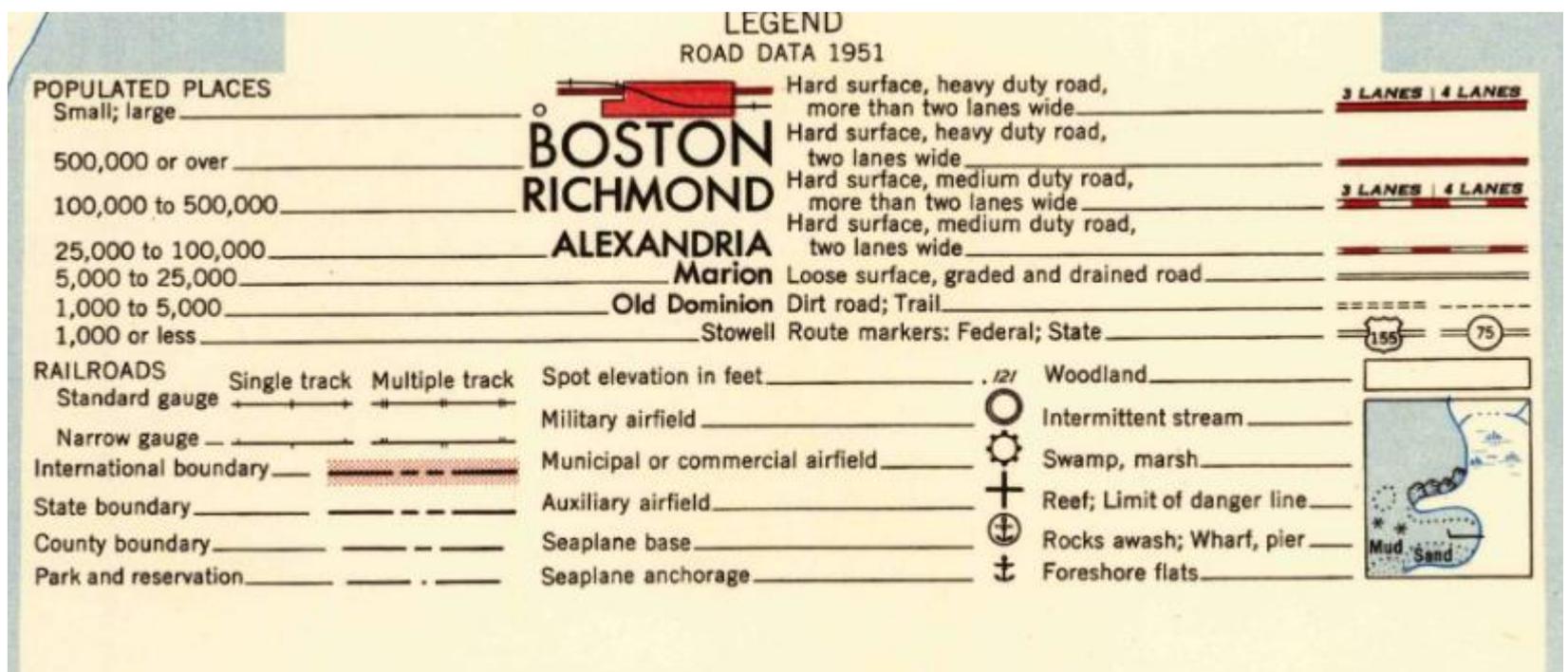
Topography from 1929 map by USGS, revised by planetable surveys 1955

Polyconic projection. 1927 North American datum
10,000-foot grid based on Texas coordinate system, south zone

Water stages in this area vary with meteorological conditions
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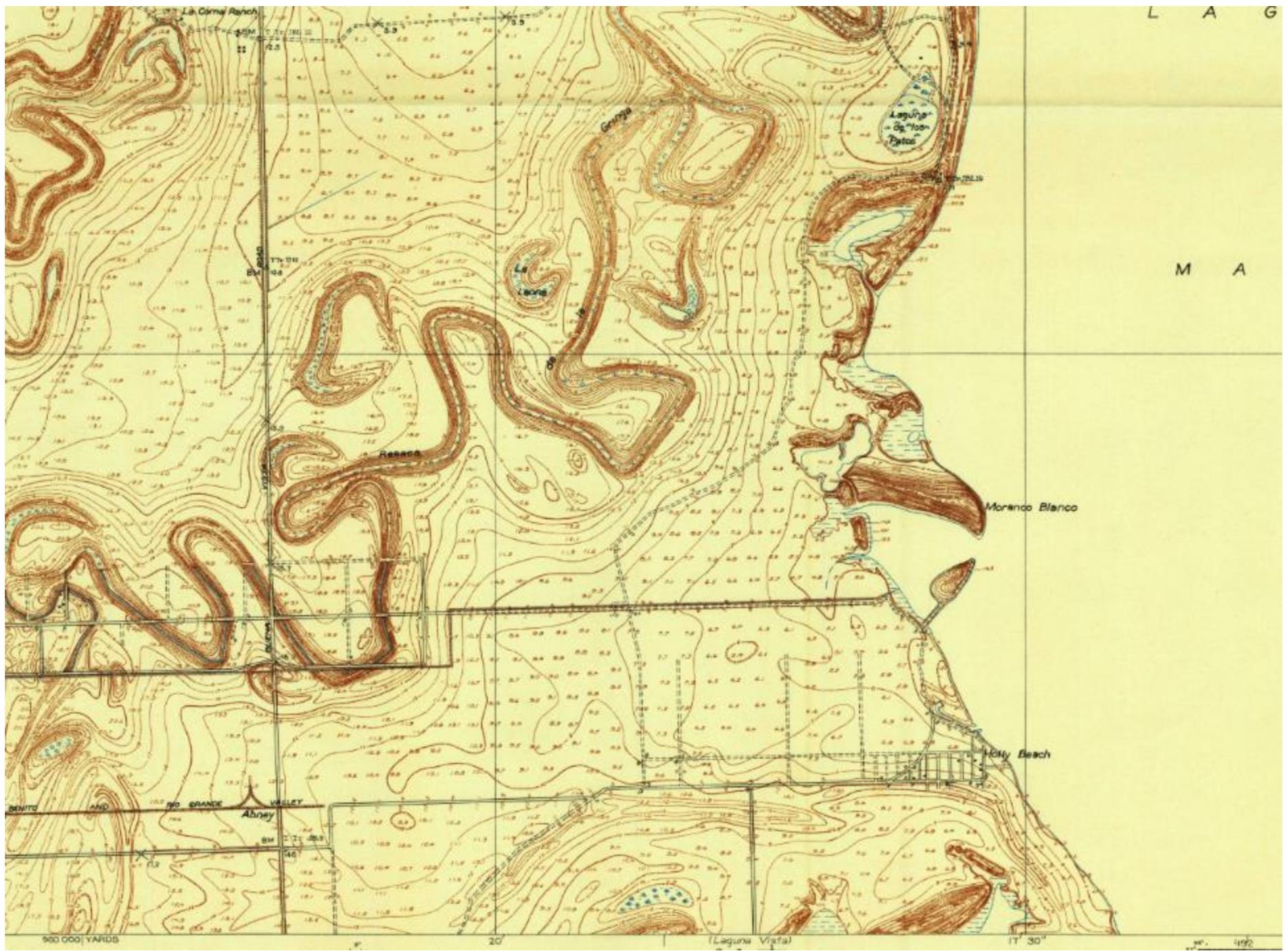
Prepared by the Army Map Service (AM), Corps of Engineers, U. S. Army, Washington, D. C. Compiled in 1949 from United States Quadrangles, 1:31,680-1:62,500, U. S. Geological Survey and Corps of Engineers, 1920-1930; AAF Preliminary Base, 1:500,000, 1945; U. S. Coast and Geodetic Survey, Charts No. 1287, 1288, 1941; County Highway Maps, 1948 and intelligence data to 1949. Planimetric detail partially revised by photo-planimetric methods. Aerial photography 1939-1943. Control by U. S. Coast and Geodetic Survey, U. S. Geological Survey, U. S. Engineers, U. S. Mexican Boundary Commission and Comisión Geográfica Survey. Road and railroad data in Texas verified by state authorities, 1949. Road classification in Mexico should be referred to with extreme caution.





Topography by R.H.Reineck and H.S.Milsted
Culture and drainage in part compiled from aerial photographs
Control by U.S.Geological Survey and
U.S.Coast and Geodetic Survey
Surveyed in 1929

STATE HY. 100. 1
SAN BENITO 22 MI. P



Glenn S. Smith, Division Engineer
 Topography by R.H. Reineck and H.S. Milsted
 Culture and drainage in part compiled from aerial photographs
 Control by U. S. Geological Survey and
 U. S. Coast and Geodetic Survey
 Surveyed in 1929

